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PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, FIRST SESSION

SENATE—*Thursday, October 7, 1993*

(Legislative day of Monday, September 27, 1993)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

PRAYER

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

Let us pray:

Except the Lord build the house, they labour in vain that build it: except the Lord keep the city, the watchman waketh but in vain.—Psalm 127:1.

Eternal God, Lord of Heaven and Earth, we live in the most beautiful city in the world. Yet it has become the murder capital of the Nation. It is the most powerful city in the world. Yet it seems powerless to control the crime and the violence, the broken homes, and the abuse of children. Obviously, human effort, at its best, has its limitations.

Make real to us the wisdom of the Psalm, "* * * except the Lord keep the city, the watchman waketh but in vain." Give us grace to learn dependence upon Thee, to take prayer as seriously as legislation, to live in the light of a transcendent reality which, when taken seriously, enables human nature to fulfill its destiny.

In the name of the Lord we pray and for His glory. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 7, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

DEPARTMENT OF JUSTICE

NOMINATION OF WALTER DELLINGER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The Senate resumed the consideration of the nomination.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and resume the consideration of the nomination of Walter Dellinger, of North Carolina, to be an Assistant Attorney General, which the clerk will report.

The assistant legislative clerk read the nomination of Walter Dellinger, of North Carolina, to be an Assistant Attorney General.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. Mr. President, I find it ironic that the nomination of Walter Dellinger is on the floor of the Senate at this time. It is ironic because Americans woke up this week and turned on their television to the sight of bodies of American soldiers being dragged through the streets of Mogadishu. This morning they woke up to the news that yet another American was killed last night in a mortar attack. They woke up wondering why in the world this country was involved in a civil war in an area of the world where we have no vital interests. They did not wake up wondering about the status of Walter Dellinger's nomination.

For those who simultaneously hope that the disaster in Somalia will take Senators' minds off of the seriousness of the Dellinger nomination and take the public's mind off of the administration's bankrupt policy or lack thereof in Somalia, I say shame on you.

Mr. President, George Bush sent troops to Somalia initially for one purpose and one purpose only, to feed the people that were starving there, those people that we saw night after night on our television screens, thousands of them, that were starving. That has been done. The job was finished. The rains came. Somalia is now actually an exporting nation of food products.

But Bill Clinton, in his wisdom or lack thereof, changed what President Bush did, and now Americans are dying, dying at the very hands of the people we saved from starvation. We completely reversed our policy there from feeding the starving to correcting their form of government. That is not what we went for, and that is not our business.

Bill Clinton has put American troops and American foreign policy under the command of Third World leaders. American soldiers, who swore allegiance to the United States of America, are now being killed under the U.N. flag. That is not what the American people believe when they take the oath to join the military, that they are going to be commanded by military leaders of Third World nations.

I might add that this is not a partisan issue. It cuts across party lines. A no less constitutional authority than Senator ROBERT BYRD, of West Virginia, has called for our withdrawal from Somalia. Senator BYRD last night on the floor called for our withdrawal. Yesterday in our office a thousand people called the office to ask that we withdraw from Somalia. There is not

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

anybody that wants us there but the administration.

If Bill Clinton had listened to Senator BYRD almost a month ago, we would not have the blood of dead Americans on our hands that has occurred since Senator BYRD first called for a withdrawal.

Mr. President, Bill Clinton seems eager to send American troops around the world under any command, under the command of the United Nations, to fix what appears to be standing and insolvable problems.

Now, we have tried this all over the world from Asia to South America to fix problems with other nations. We have spent billions and billions of dollars. We have killed thousands and thousands of American troops, and we have not solved problem one yet.

He has already announced that he wants to send troops to Haiti. In fact, he is sending them to Haiti under the U.N. command. Now, if ever there was a country with a history of nongovernment or dictatorial government, it is Haiti. From Francois Duvalier to the current time, the country has been chaotic as far as government is concerned. But now we are sending 600 American troops there to attempt to right a wrong, and we are not even sure where the wrong is.

He is talking about sending troops to Bosnia. I do not know what course of action this Senate would take on sending troops to Bosnia, but I know what I would take. I would be 100 percent against it.

What does it say about our Commander in Chief, Bill Clinton?

Mr. President, in this century, many historians have come to refer to this as the American century. The United States has led the free world. The great military leaders in this American century have always insisted on having a clear military objective before committing our troops. That has been the history of this Nation—that we did not blatantly and cavalierly send troops into foreign countries without two things, two primary criteria: One, we had a clearly defined objective; and, the next, we went in with the ability to bring an overwhelming force to bear on the enemy. In Somalia, we have done neither.

Bill Clinton has no clear military objective. And we learned yesterday morning that he has given the troops there so little reinforcement that it took 9 hours—9 hours—for the downed Americans to get help, and we still left hostages behind.

To make matters worse, he is not taking responsibility for this. Even after this disaster, he is still leaving American boys under the command of the United Nations. It is ironic that President Clinton, who tried so hard to dodge the draft and succeeded in avoiding military service, is now perfectly prepared to send young men and women to do the fighting and dying that he, himself, was afraid to do.

Mr. President, I find it ironic that the nomination of Walter Dellinger has been brought to the floor at this time for a second reason.

It was reported today that Secretary Les Aspin denied the request last month of Gen. Thomas Montgomery, the senior United States commander in Somalia, for a battalion of armed troops to protect the light infantry already there. There seems little doubt that, had he supported the decision of the field commander, there would have been fewer or no casualties last weekend.

If the administration's policy in Somalia were defensible, then the administration could easily defend sending the equipment and manpower necessary to execute that policy. The truth, Mr. President, is we do not have a policy in Somalia. We are just out there, and we have troops out there, and we have pretty much abandoned them without the backups and the equipment to do the job that they have been assigned to by a President who has not supported them.

Therefore, I have to conclude that Mr. Aspin is either unable to defend the administration's policy or that Mr. Aspin places his judgment above that of the commander in the field.

Mr. President, I have no doubt that many others will be engaging Les Aspin directly in a discussion about the efficiency of his Somalia operation. My concern is that Mr. Aspin has chosen to place his judgment above that of the field commanders. Certainly those people in Somalia, the field commanders, have a better feel of what we need to be doing and what we should have been doing than Secretary Aspin does here.

Given Mr. Aspin's role as one of the architects of this country's Vietnam strategy in Robert McNamara's Defense Department, I cannot help but be disturbed by the fact that he appears to have discarded the lessons of that attempt to micromanage a war zone from Washington.

As the video accounts of Somalia—literally dancing on the bodies of slain Americans—testified, attempts to substitute the judgment of politicians who have never served in uniform for that of the military commanders in the field has proven a disaster in times gone by and it will also prove to be disastrous in the future. Unless and until United States forces are withdrawn from Somalian war zones, those forces deserve to have every advantage the military men on the ground believe to be necessary.

Mr. President, the American people will not tolerate the likes of Bill Clinton, Les Aspin, and Walter Dellinger substituting their strange brand of logic to the common sense and principles of the American people that made this Nation great.

Until Bill Clinton comes clean with the American people and with the brave men and women of the military that he has said that he loathes, the ill-timed and ill-advised nomination of Walter Dellinger should be set aside.

Mr. President, now I wish to speak directly to the nomination of Walter Dellinger. Walter Dellinger has been nominated by the President to be Assistant Attorney General for the Office of Legal Counsel at the Department of Justice. But before we can get to the President's nomination of Dellinger to the Assistant Attorney General position, we have to deal with another appointment of Mr. Dellinger, and that appointment of Mr. Dellinger by the President and the Attorney General.

Mr. Dellinger has already been appointed on an acting basis to fill the job he is waiting for confirmation on. While such an appointment may sound a little strange, the reason for this appointment is more than strange. It is more than dangerous to the Constitution of the United States.

This is the answer we got for why the appointment was made. The Department of Justice says that the President and Attorney General made this appointment, and I quote them, was because "We were tired of waiting for the Senate to confirm Mr. Dellinger, so we went ahead and appointed him."

Now this is some bureaucrat in the Justice Department saying this. "We were tired of waiting for the Senate." We were tired of waiting for the Senate to confirm Mr. Dellinger, so, in our all-powerful authority as hired bureaucrats, we went ahead and appointed him.

This is an intentional, outrageous, arrogance of attitude for any administration to adopt with regard to the constitutional responsibilities of the U.S. Senate. It is the epitome of arrogance, of lack of regard for the 100 elected people in this body.

Mr. President, as a newcomer to this body, I believe I have a far-beyond-the-beltway attitude toward our most sacred and fundamental governmental institutions. The Senate, as one of the foremost of these institutions, has always been respected throughout this great country because of the tremendously important constitutional responsibilities which the body bears. One of the most important of these is the Senate's responsibility to confirm the President's nominees to various senior executive branch positions. I would, therefore, like to take this opportunity to read a legal analysis which deals with the appointment of Walter Dellinger to be an Acting Assistant Attorney General at the Department of Justice. I want to note, however, that the Department of Justice made this appointment without any previous consultation or announcement, and has been unwilling to release the documents which were prepared in connection with this appointment.

The appointment was made on August 11. Twenty-eight Senators have now joined the two Senators from North Carolina—incidentally, the State from which Walter Dellinger comes—in signing a Freedom of Information Act request to the Attorney General seeking the documents on the appointment, explaining why they found the arrogance to appoint the man without Senate confirmation, the feistiness of making the appointment without the approval of the Senate, and of saying the Senate was too slow.

In signing a Freedom of Information Act request to the Attorney General to seek these documents this body should and will take seriously any disregard of its constitutional duty by the administration. The Senate will be kept informed of the status of this request to the Attorney General.

I would like to read the legal analysis I mentioned. On August 11, 1993, Walter Dellinger was appointed without notification as Acting Assistant Attorney General, Office of Legal Counsel, by Attorney General Janet Reno. The Justice Department made no public announcement of his appointment, and certainly for understandable reasons they did not make the announcement—but the obvious one being he was awaiting confirmation by the U.S. Senate. So they simply, in their own words, did not have time to wait.

When asked to state the reason for the Attorney General's action, it is back to this same statement, "We were tired of waiting, so we went ahead with the appointment."

Attorney General Reno's action appointing Mr. Dellinger to this position prior to his confirmation may be more than unprecedented. It may also fall short of being unconstitutional by only the slimmest of legal technicality.

According to the U.S. Constitution, article II, section 2, clause 2, the Senate is required to provide its advice and consent for certain Presidential appointments. Senior Justice Department positions, such as Assistant Attorney General, have been included in this category by statute. This clearly was meant by the Framers of the Constitution as a check on the otherwise unrestrained political power of the President to appoint important executive officials, and to give the Senate of the United States and the Congress an opportunity to take a second look at them.

Traditionally, no executive branch efforts to curtail this legislative branch function have been honored. Never has the Senate's role been intentionally ignored. This appears to be, and is exactly what has happened in the case of Walter Dellinger.

The statutory provision which governs the appointment of senior executive officials to acting capacity, when the most senior executive position in a particular office becomes vacant, such as commonly occurs in a change of administration, is the Vacancy Act. Under the Vacancy Act, an official may be appointed to serve as head of an office, such as Department of Justice, Office of Legal Counsel.

The first manner in the Vacancy Act under which Mr. Dellinger could have been appointed is if he had been serving as the first assistant of the Office of Legal Counsel when a vacancy occurs in the position, that is the position of Assistant Attorney General, Office of the Legal Counsel. This is not the case with Mr. Dellinger. He was not an employee. He was not in the Justice Department. To be detailed to another position, he had to first be hired, and he had never been hired, confirmed, or anything. He simply was hired as acting. He had been a consultant but that is not being hired. That simply means he was technically not even an employee of the Department, but rather an independent contractor doing jobs, or duties on a per diem basis. He, therefore, does not fit into this first manner of valid appointment under the Vacancy Act.

The second manner in which Mr. Dellinger could have validity in his appointment to the position of Acting Assistant Attorney General is if he had been appointed to this position by virtue of a Presidential detail. But this type of appointment certainly presupposes that the detailee has been working for the Government and he is simply changing assignments; detailed from his ordinary duties to special duties at the request of the President. But in this case Mr. Dellinger did not have a job. He was not detailed. We simply made him one. This is not applicable to Mr. Dellinger since he was not an employee of any department.

Additionally, he certainly has never been an executive department employee, he has never undergone Senate confirmation as the Constitution requires—by the statute. The Department of Justice has refused to furnish copies of Mr. Dellinger's appointment papers of August 11, 1993. We have, therefore, been forced to request them under provisions of the Freedom of Information Act. It is impossible, therefore, to determine whether, for instance, Mr. Dellinger was appointed as a special employee of some kind, and then placed into the acting position. There have been rumors that Mr. Dellinger may have first been made a Deputy Attorney General in the Office of Legal Counsel, so he could immediately be appointed to fill the Assistant Attorney General's slot in an acting capacity. If this was the case it clearly is a tortured usage of the statute to achieve a political end. This is totally a political end that they are seeking to achieve.

This would be doubly true if the appointment was made without an expiration date, or if it would allow an indefinite circumvention of the confirmation process. Even if this were not the case, however, it is still highly unclear how this appointment could be valid in any manner. The Department of Justice states that Mr. Dellinger was appointed under the provisions of 28 U.S.C.—United States Code, sections 509 and 510. These are the standard, broad delegations of authority to the Attorney General which are common, boilerplate language, and which have never been used nor were they intended as a means by which the President and Attorney General can circumvent the constitutional duty and role of the Senate to advise and consent.

It is clear the administration's stated attitude that "we were tired of waiting for the Senate so we went ahead and appointed him" is a total encroachment and disregard for the clearly established and constitutionally mandated role of the Senate in the confirmation of senior executive branch officials.

The arrogance of the Justice Department in a word.

We hope you will join us in opposing this blatant breach of Senate prerogative and resist the confirmation of Walter Dellinger. Let us send a signal to the administration that this body will not tolerate abuse of its authority.

Mr. President, I would now like to read the full text of the Freedom of Information Act letter sent to Attorney General Janet Reno, signed by 31 Senators.

Hon. Janet Reno,
Attorney General of the United States, U.S. Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: In accordance with the provisions of the Freedom of Information Act 5 U.S.C section 552 we hereby request any and all documents concerning the appointment of Walter Dellinger to the position of Acting Assistant Attorney General, Office of Legal Counsel on or about August 11, 1993.

This Freedom of Information Act request should be construed broadly to include but not limited to any and all documents prepared by the Department of Justice which contained the formal approval for the change of Mr. Dellinger's status to that of Acting Assistant Attorney General, the legal basis and justification for such change and Mr. Dellinger's status prior to his confirmation by the Senate; any and all documentation as to the length of Mr. Dellinger's appointment as Acting Assistant Attorney General prior to his Senate confirmation; any analysis or analyses of the Department or other procedure for such an appointment originating from within the Department of Justice or from any other Federal agency or department; any document which directed you to take the action of appointing Mr. Dellinger as Acting Assistant Attorney General prior to his Senate confirmation; any communication whether from an executive branch or legislative branch source which urged, directed, or otherwise said appointment of Mr. Dellinger prior to his Senate confirmation.

In view of the need for a thorough review of all documentation relating to the aforementioned appointment of Mr. Dellinger

prior to his consideration for confirmation by the full Senate, we urge you to expedite the response of this request.

This letter is signed by Senator JESSE HELMS, the senior Senator from North Carolina and myself and 29 other Members of the Senate.

Mr. President, as Senator HELMS noted last evening, the Justice Department quietly appointed Mr. Dellinger as acting just days after the Senate failed to take up and confirm his nomination prior to departing for the August recess. The Department tried to get Mr. Dellinger's confirmation before the Senate went out for the August recess and failed. So they subverted the advice-and-consent clause of article 2, section 2 of the Constitution and arrogantly put Mr. Dellinger on the job without the Senate's confirmation.

See what is going on here, Mr. President. As Senator HELMS said last evening, they are simply thumbing their noses at the Senate. They are testing us. They are determined to find if there is backbone in the people sitting in this Chamber. They want to see how much they can get away with, how far they can go in overriding the constitutional powers of this Senate.

When asked why the Department took this high-handed action, a Justice Department official replied—and I want to repeat this until there is not anyone who does not know it—"We were tired of waiting for the Senate to confirm him."

This is a bureaucrat in the Justice Department. We were tired of waiting for the Senate to confirm him so we just went ahead and appointed him and bypassed the Senate.

So much, Mr. President, for article 2, section 2 of the U.S. Constitution.

So, Mr. President, I have asked my staff to ask the experts over at the Congressional Research Service for their reaction to this high-handed maneuver. The experts at the Congressional Research Service came back and told us the Congressional Research Service determined that to their knowledge there is no precedent for appointing Mr. Dellinger as acting under the circumstances. In other words, this administration under President Clinton acted without any precedent, rhyme, or reason. They simply wanted this man. They determined the Senate of the United States was not fast enough for them so they did it on their own. In some circles this is known as acting on the excitement plan.

But just to make sure, Senator HELMS asked his staff to contact former Justice Department officials who served during previous administrations. One who in fact was appointed acting before being confirmed reassured us that what Justice had done is a first.

It is true that the Bush Justice Department made certain officials acting prior to confirmation but the situation was opposite to the Dellinger case. The nominee, No. 1, was not controversial. The Department called around to all interested Senators first to get clearance for making the acting appointment and even with these precautions the Department made the appointment full well knowing they were stepping over the bounds that there was a possibility their action would garner opposition from Senators when the nomination came to the floor.

In the case of Mr. Dellinger it certainly has. But in no case, Mr. President, could this official or could any official or the Congressional Research Service identify an incident where, as in the case of Mr. Dellinger, the nominee was highly controversial and known before his appointment that he was going to be highly controversial.

Efforts by the Department to obtain confirmation prior to the appointment had failed. In no other case has this happened where the nominee failed to gain confirmation, and yet he was appointed acting. In response to the nomination running into trouble in the Senate, the Department went ahead and installed the nominee on the job, however, in an acting capacity hoping that this would expedite and overwhelm the Senate and he will be confirmed. I tell you, Mr. President, it is going to have the exact opposite effect.

No, this action is unprecedented. Never before has an administration undertaken this blatant affront to the advice and consent powers of the Senate.

On top of this, the Department refuses to share with Senator HELMS and me or the remainder of the Senate the details of the appointment. It will not tell us how long the appointment is for, nor even give us copies of the appointment papers.

We do not know what Walter Dellinger is doing down at Justice, and neither does the American public. But why should the taxpayers know? Why should the taxpayers know? They are only working 12 and 14 hours a day, paying taxes, living hard, and picking up the bill for the bureaucrats and the Walter Dellingers of Washington. So they really do not have any right to know. We want them to get back and go to work and make more money so we can hire more Walter Dellingers.

But as Senator HELMS asked last night, maybe the chairman of the Judiciary Committee knows. The Washington Post reported on September 23 that the Justice Department's Office of Legal Counsel reversed a Bush administration policy supported overwhelmingly by both Houses of Congress calling for the death penalty for drug kingpins. We have been trying to find out what Dellinger's roll in this was. The Justice Department refuses to give out any information.

But also from the Washington Post article, it is suggested that Mr. Dellinger was behind this decision to oppose the death penalty for drug kingpins. We know that Dellinger opposes the death penalty, which I support, and most of the people in North Carolina support.

The man has not even been confirmed to the job by the Senate, and he is already over there making decisions allowing drug kingpins to get off the hook and run free.

Mr. President, allow me to read the article:

At the request of Attorney General Janet Reno, congressional Democrats have dropped controversial provisions for a broad anticrime bill that would impose the death penalty on drug kingpins and add stiff mandatory minimal sentences for drug and gun offenses. Reflecting popular sentiment to crack down on drug and gun violence, these measures have been overwhelmingly approved by both Chambers in the past, and were included in the House-Senate conference report that failed in the waning days of the last Congress.

But the Justice Department's Office of Legal Counsel—

Once again, "But the Justice Department's Office of Legal Counsel"; that is, Mr. Dellinger—

reversing a position taken under the Bush administration, challenged the constitutionality of the drug kingpin measure. The office cited the 1977 Supreme Court's decision Culver v. Georgia, that struck down the death penalty for the crime of rape when no murder had occurred. Among the most hotly debated of all death penalty proposals, the drug kingpin measure would have permitted the head of a large-scale drug organization to be executed merely for drug trafficking activities even without proof the individual caused any deaths.

Anybody that does not think drug dealing causes deaths, and many of them, is living in Never-Never Land.

The Department was concerned that imposing the death penalty in cases where no life had been taken was inconsistent with Supreme Court decisions,

said the Department spokesman, Carl Stern. Stern said the Department's new position was purely a result of legal analysis—

Legal analysis by Walter Dellinger—

and did not reflect Reno's oft-stated personal opposition to capital punishment.

I cannot separate what you believe and stated for 30 years from what you do.

The Department did not object to about 50 other death penalty provisions in the bill, but congressional aides said the Department's request appeared to be part of the last-minute attempt by Reno to influence the shape of an administration-backed crime bill that has been put together largely without her input.

New versions of the measure are slated to be introduced today by House Judiciary Committee Chairman Jack Brooks of Texas, and Senate Judiciary Committee Chairman Joseph Biden of Delaware. The Justice Department also asks, and Brooks and Biden agree, to drop about a dozen provisions that would impose new mandatory minimal sentences, mostly for repeat offenders and those who use guns in the commission of drug or violent crime.

Congressional aides described the Department's request as limited, while Reno completes a broader study of the effects of mandatory minimal sentences now on the books. But Representative Bill McCollum of Florida, a sponsor of the drug kingpin proposal, described the Department's request as part of a larger administration retreat in the drug war. "I do not have any idea why the Justice Department would take this kind of liberal position," he says.

I can tell him why the Justice Department took that kind of liberal position: Because of the likes of the Walter Dellingers there, that represent the ultimate in liberalism. What else would you have expected?

There is plenty of constitutional basis for imposing the death penalty in those circumstances, he said.

Mr. President, I hope the Senator from Delaware can tell us later what role Dellinger had in putting our Government on the side opposing the death penalty for drug kingpins because we cannot get the information from the Justice Department. They will not tell us a thing about the Dellinger nomination, which is why Senator HELMS and I yesterday sent to the Attorney General a Freedom of Information Act request. Twenty-nine Senators, in addition to Senator HELMS and myself, signed the request, which I now read:

DEAR ATTORNEY GENERAL RENO: In accordance with provisions of the Freedom of Information Act, U.S. Code, section 552, Freedom of Information Act, we hereby request any and all documentation concerning the appointment of Walter Dellinger to the position of Acting Assistant Attorney General, Office of Legal Counsel, on or before or about August 11. This Freedom of Information Act request should be construed broadly to include, but not to be limited to, any and all documents prepared by the Department of Justice which contain the formal approval for the change of Mr. Dellinger's status to that of Acting Assistant Attorney General, the legal basis justification for such change in Mr. Dellinger's status prior to his confirmation by the United States Senate, and any and all documentation as to the length of Mr. Dellinger's appointment as Acting Assistant Attorney General prior to his Senate confirmation; any analysis or analyses of the departmental or other procedures for such an appointment prior to the Senate confirmation, while such precedent originates from within the Department of Justice, or from any other Federal agency or department; any documents which direct you to take the action of appointing Mr. Dellinger as acting Assistant Attorney General prior to his Senate confirmation; and any communication, whether from an executive branch or legislative branch source, which urged, directed or otherwise supported said appointment of Mr. Dellinger prior to his Senate confirmation.

In view of the need for a thorough review of all documentation relating to the aforementioned appointment of Mr. Dellinger prior to his consideration for confirmation by the full Senate, we urge you to expedite the response for this request.

This is signed by 31 Members of the Senate.

Mr. President, at the very time the Justice Department is stonewalling us on our request for information regarding the Dellinger appointment, President Clinton and Attorney General Reno have announced what the administration claims is a new standard for openness in the implementation of the Freedom of Information Act.

At the very time they are refusing to release this information to us, with great bravado they claim a new standard for openness in the implementation of the Freedom of Information Act. It was President Clinton in his October 4 statement who announced that openness in Government is essential to accountability. I guess this does not apply to the Dellinger nomination or to any other matter about which the administration does not want the American people to know.

(Mr. CAMPBELL assumed the Chair.)

Mr. FAIRCLOTH. If ever there was a man who needed to start practicing what he has been preaching, it is President Clinton.

Mr. President, I will now read the President's statement:

Memorandum for Heads of Departments and Agencies.

From the White House, October 4.

Subject: The Freedom of Information Act.

I am writing to call your attention to a subject that is of great importance to the American public and to all Federal departments and agencies: The administration of the Freedom of Information Act, as amended. The act is a vital part of the system of Government. I am committed to enhancing its effectiveness in my administration. For more than a quarter of a century now, the Freedom of Information Act has played a unique role in strengthening our democratic form of Government. The statute was enacted based upon the fundamental principle that an informed citizenry is essential to the democratic process, and that the more the American people know about their Government, the better they will be governed. Openness in Government is essential to accountability, and the act has become an integral part of that process.

This is the President talking, the one that will not release the information to us.

The Freedom of Information Act, moreover, has been one of the primary means by which members of the public inform themselves about their Government. As Vice President Gore made clear in the National Performance Review, the American people are the Federal Government's customers.

If the American people are the Federal Government's customers, not many of them will be back for repeat shopping.

Federal departments and agencies should handle requests for information in a customer-friendly manner.

These customers are the same people that make contributions every April 15.

The use of the act by ordinary citizens is not complicated, nor should it be. The existence of unnecessary bureaucratic hurdles has no place in its implementation.

I will repeat: "The existence of unnecessary bureaucratic hurdles has no place in its implementation." If 31 Senators send a request and get ignored, what can the general public expect to get?

I, therefore, call upon all Federal departments and agencies to renew their commitment to the Freedom of Information Act—

I wonder if Attorney General Reno got this letter—

—to its underlying principles of government openness, and to its sound administration. This is an appropriate time for all agencies, including the Justice Department, to take a fresh look at their administration of the act, to reduce backlogs of freedom of information requests—

I do not know where we stand in the backlogs—

—and to conform agency practices to the new litigation guidance issued by the Attorney General, which is attached. Further, I remind the agencies that our commitment to openness requires more than merely responding to requests from the public. Each agency has a responsibility to distribute information on its own initiative—

What he failed to mention in here was that each agency has the responsibility to distribute information on its own initiative that we want the public to see. That which we do not want them to see, we will keep hidden—

—to enhance public access through the use of electronic information systems.

Well, we will take it any way we can get it, even written on a brown paper bag. We just want it.

Taking these steps will ensure compliance with both the letter and spirit of the act.

Today, President Clinton and Attorney General Reno are announcing a new standard for openness in the implementation of the Freedom of Information Act by rescinding a 1981 rule that encouraged Federal agencies to withhold information whenever there was a substantial legal base for doing so, and adopting in its place a presumption of disclosure.

I cannot imagine what a presumption of disclosure would turn out to be. The amount of Government information made available to the public will be substantially increased. The President's statement calls for all Federal departments and agencies to renew their commitment to the Freedom of Information Act and its underlying principles of Government openness, to take a fresh look at how they comply with the law, and so reduce backlogs.

This letter and this direction we are talking about is from Attorney General Janet Reno. These are the same people we are fighting with to get the information as to how and why Dellinger was appointed. The Attorneys General's statement advises Federal departments and agencies that the Department of Justice will defend against lawsuits for nondisclosure only when it is reasonably foreseeable that disclosure would be harmful. I have to assume that the disclosure in Mr. Dellinger's case would be harmful. In addition, the Attorney General strongly encourages each agency to make discretionary disclosure of technical, exempt information whenever possible,

instructs Justice Department personnel to review pending Freedom of Information Act litigation to implement the new policy, orders a review of all forms and correspondence used by the department in responding to Freedom of Information requests to make them more clear, consistent and complete.

Please do not hesitate to contact this office if you have any question about the new Freedom of Information policy or any other matter.

SHEILA ANTHONY,
Assistant Attorney General.

We have a lot of questions and none of them have we been able to get answered.

Memorandum: For Heads of Departments and Agencies.

Subject: The Freedom of Information Act.

President Clinton has asked each Federal department and agency to take steps to ensure it is in compliance with both the letter and spirit of the Freedom of Information Act, 5 U.S. Code.

The Department of Justice is fully committed to this directive and stands ready to assist all agencies as we implement this new policy.

First and foremost, we must ensure that the principle of openness is applied to each and every disclosure and nondisclosure decision that is required under the act.

Therefore, I hereby rescind the Department of Justice 1981 guideline for the defense of agency action and Freedom of Information Act litigation. The department will no longer defend an agency's withholding of information merely because there is a substantial legal basis for doing so.

If the Justice Department will no longer defend an agency's withholding of information merely because there is a substantial legal basis for doing so, if the Justice Department is not going to give it out, who do you go to to get it?

Rather, in determining whether or not to defend a nondisclosure decision, we will apply a presumption of disclosure. To be sure the act accommodates, through its exemption structure, the countervailing interests that can exist in both disclosure and nondisclosure of Government information. Yet while the act's exemptions are designated to guard against harms of the Government and private interests, I firmly believe that these exemptions are best applied with specific reference to such harm and only after consideration of reasonable expected consequence of disclosure in each particular case.

In short, it shall be the policy of the Department of Justice to defend the assertion of a Freedom of Information exemption only in those cases where the agency reasonably foresees the disclosure will be harmful to an interest protected by that exemption.

Where an item of information may technically or arguably fall within an exemption, it ought not to be withheld from a Freedom of Information requester unless it has to be.

There is no reason to withhold the information on Walter Dellinger.

It is my belief that this change in policy serves the public interest by achieving the act's primary objective, the maximum responsibility, response building disclosure of information while preserving essential confidentiality. Accordingly, I strongly encourage your Freedom of Information officers to make discretionary disclosures whenever possible under the act.

Discretionary disclosures. That means giving out what you want them to have.

Such disclosures are possible under a number of Freedom of Information exemptions especially when only a governmental interest would be affected.

The exemptions and opportunities for discretionary disclosure are discussed in the discretionary disclosure and waiver section of the Justice Department's guide to the Freedom of Information Act.

As that discussion points out agencies can make discretionary Freedom of Information disclosures as a matter of good public policy without concern for future waiver consequence for similar information. Such disclosure can also readily satisfy an agency's reasonable segregation obligation under the act in connection with marginal items of information and can lessen an agency's administrative burden to all levels of the administrative process and in litigation. I note that this policy is not intended to create any procedural or rights enforceable at law.

In connection with the repeal of the 1981 guidelines, I am requesting that the Assistant Attorneys General for the Department's civil and tax divisions, as well as the United States Attorney, undertake a review of the merits of all pending Freedom of Information cases handled by them according to the standards set forth above.

That is encouraging to note—that they are going to take a look at all cases before them. As to the one signed by the 31 Senators that went out of here sometime ago, maybe they will take a look at it also when they are looking at cases.

The department's litigating attorneys will strive to work closely with your general counsels and their litigation staff to implement this new policy on a case-by-case basis. The department's Office of Information and Privacy can also be called upon for assistance in this process, as well as for policy guidance to agency Freedom of Information officers.

In addition, at the Department of Justice we are undertaking complete review and revision of our regulations implementing the Freedom of Information Act, all related agencies pertaining to the Privacy Act of 1974, as well as the department's disclosure policies generally. We are also planning to conduct a departmentwide Freedom of Information form review. Envisioned is a comprehensive review of all standard Freedom of Information forms and correspondence utilized by the Justice Department's various components.

Here is an opportunity to create some new forms. The Federal Government does not have enough.

These items will be reviewed for their correctness, completeness, consistency and particularly for their use of clear English. As we understand this review, we will be especially mindful that Freedom of Information requesters or users of a Government service participant in administrative process and constituents of democratic society. I encourage you to do likewise at your departments and agencies.

A wonderful idea, if they will just begin to do it.

Finally, I would like to take this opportunity to raise with you the longstanding problem of administration of backlogs under the Freedom of Information Act. Many Federal departments and agencies are often unable to meet the act's 10-day time limit for processing Freedom of Information requests from such agencies, especially those dealing with high volume demands for particularly sensitive records and maintain large Freedom of Information backlogs greatly exceeding the mandated time period. The reason for this may vary, but principally it appears to be a problem of too few resources in face of too heavy a workload.

This is a common problem in Washington. We do not have enough bureaucrats, and he is suggesting here that we get some more, that they are overworked, heavy lifting.

This is a serious problem, one of growing concern and frustration to both Freedom of Information requesters and Congress and to adequate Freedom of Information officers as well.

It is my hope that we can work constructively together with Congress and the Freedom of Information requesters' community to reduce backlogs during the coming years to ensure that we have a clear and current understanding of the situation.

I am requesting that each of you send the Department's Office of Information and Privacy a copy of your agency's annual Freedom of Information Report to Congress for 1992. Please include with this report a letter describing the extent of any present freedom of information backlogs, Freedom of Information staffing difficulties, and any other observations in this regard that you believe would be helpful.

In closing, I want to reemphasize the importance of our cooperative effort in this area. The American public's understanding of the workings of its Government is a cornerstone of our democracy. The Department of Justice stands prepared to assist all Federal agencies as we make Government throughout the executive branch more open, more responsive, and more accountable.

Signed, "Janet Reno."

I hope that Ms. Reno will do something the President has not done, and that is practice what she is preaching and make the information we have requested available and available quickly. The backlog exists.

So, Mr. President, there you have it. They tell us one thing to the public, while they are doing another.

And, Mr. President, it ties into what this whole nomination is about. Are we going to allow the administration, the Attorney General, and this nominee to trample over the Senate of the United States or are we going to force them to follow the rules as they are written and the laws as they are?

I see that Senator BROWN is now here. I previously told him that I would yield to him for 2 minutes and that, upon the conclusion of his remarks, I be rerecognized.

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

Mr. HELMS. Will the Senator yield to me for a couple of minutes?

Mr. BROWN. I yield to the Senator.

Mr. HELMS. I thank the Senator.

Mr. President, I want to say to my distinguished colleague that he really has his feet wet now, and I am proud of

him. He has made an excellent address on a significant subject and he has done it well. I am proud that he is in the Senate and I am honored to serve with him.

Having said that, Mr. President, let me have a moment or two to explain to the media who, by habit, might be saying something like this: That FAIRCLOTH and HELMS are delaying consideration of the desperate situation in a faraway land.

The reason we are on this nomination in the Senate on this Thursday morning is because of a disagreement on the Democratic side.

Now, I happen to be a strong supporter of the legislation prepared by the distinguished President pro tempore of the Senate, Mr. BYRD, of West Virginia. But the majority leader did not want that legislation considered until he, the majority leader, is ready for it to be considered. So the 2-day rule figured into it and there was no way that that dispute, friendly as it may be, could be resolved. So, therefore, this nomination became the pending business of the U.S. Senate.

I do not want anybody to say that Senator FAIRCLOTH or Senator HELMS is delaying consideration of the foreign policy question, because it simply is not so. I want to proceed with the defense bill. I have said that over and over again. It is not the Republicans, it is not Senator FAIRCLOTH, it is not Senator HELMS who is delaying. It is a disagreement on the Democrat side of the aisle.

I thank the Senator for yielding, and I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado, [Mr. BROWN], has the floor for 2 minutes.

Mr. BROWN. Thank you, Mr. President.

I ask unanimous consent to proceed as if in morning business.

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

SOMALIA: ANOTHER POLITICAL WAR

Mr. BROWN. Mr. President, appearing in the Wall Street Journal on the 6th of October was an article with the headline, "Plea Last Month for Armor in Somalia Was Ignored in U.S., Army Aides Say." Thomas Ricks and David Rogers, the Journal's staff reporters, state that the United States commander of our forces in Somalia had requested additional armored protection for his troops. Specifically, General Montgomery had asked for a battalion of armored troops. A battalion of armored troops contains up to 55 tanks, armored personnel carriers, Bradley fighting vehicles or a combination of tanks or personnel carriers.

The purpose of that request was to protect the troops and infantry already in Somalia. The request was made in early September, according to the Journal, then forwarded to the Secretary of Defense. And, according to this story, Secretary of Defense Aspin turned the request down.

A 7-hour tragedy resulted when, in a raid on General Aideed's headquarters, U.S. helicopters were shot down, and other U.S. troops could not get assistance to the 100 Rangers who were pinned down by enemy fire. Whether you believe the report in the Wall Street Journal that talks about a 7-hour wait or other reports that discuss a 10-hour wait, it appears that U.S. Army Rangers were simply hung out to dry from 7 to 10 hours without our forces coming to their aid. Apparently a significant factor was that our forces did not have available armored personnel carriers or tanks. At least, that is the report in the Wall Street Journal. Finally, Malaysian armored forces and Pakistani armored forces came to the rescue, after many of our combat troops were killed or injured.

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

Mr. BROWN. Mr. President, I ask unanimous consent for an additional 5 minutes.

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

Mr. BROWN. Thank you, Mr. President.

Mr. President, being concerned about that report, and knowing as all of us do that these reports are not always accurate or do not always include the full details, Senator D'AMATO and I wrote to the Secretary of Defense yesterday. We inquired as to the facts, took note of the story and requested his version of it.

I must say I think the refusal of a field commander's request for armored support and the resulting military disaster is a very serious incident. I believe it parallels some of the negligence that past Secretaries of Defense exhibited when dealing with the needs of U.S. troops. I look forward to the Secretary's answer. I believe the country is deeply concerned that we have not done what we should to defend Americans who were in a combat situation.

Mr. President, not far from here is a memorial. It rises from the ground. It is made of black stone. It is called the Vietnam War Memorial. It is a memorial to the over 50,000 Americans who gave their lives in that struggle.

And it is a sad memorial. It is sad because it is different from our other memorials. It is not just that the United States lost that war. It is the way it was lost. It was lost not by the men and women who fought in Vietnam, but it was lost by the political leadership of this country that did not have the courage to make a decision. They did not have the courage to decide to win the war, and they did not have the courage to admit they were not going to pursue victory and withdraw.

And so in the leadership's inability to act, they stood by and watched Americans get killed without giving them adequate combat support and protection. In fact, these politicians tied our troops' hands behind their backs at times. Bridges were placed off limits, supply depots were placed off limits, important areas around Hanoi were placed off limits and Hanoi itself was placed off limits. Americans were forced to fight a war that they could not win. American troops were simply hung out to dry.

What bothers me deeply about yesterday's Wall Street Journal report is that it appears that the lessons of the past have not been learned. And what I am most concerned about is the fact that this country seems to have forgotten that it, too, has an obligation to the men and women who wear this uniform.

We talk so often about the obligation that our troops have to us—they are required to follow orders, to go into combat, to risk their very lives, if we demand it. Yet we forget sometimes the obligation the rest of us have to them, our fighting men and women. Cap Weinberger spelled out clear principles as to where and when U.S. troops should be committed, and when they should not be. I spoke out in opposition in December when President Bush first sent troops to Somalia because we had not clearly spelled out the mission. And while President Bush committed to bring those troops home after 30 to 60 days, it is clear President Clinton has not followed that guideline. Once again, U.S. troops are hung out to dry by a political leadership unwilling to take the necessary measures to protect them and unwilling to make the tough decisions that would save them.

Yesterday I talked to three Colorado wives: Deborah Bryant, Tina Fischler, and Chris Heaton. Their husbands are in Somalia. The men were taken over, believe it or not, as carpenters, to build outhouses. They wonder why their husbands are there. They wonder what mission their husbands are there to defend. They wonder why their husbands' lives are at risk. I wonder too, Mr. President.

Tragically we seem to be repeating the mistakes of the past. For this Senator, I say: Never again. Never again should politicians be so callous that they are willing to risk the lives of Americans in combat and not stand behind them, and not give them the vehicles and the armored equipment they need to protect themselves. Never again should politicians be so crass as to assign them to a mission they will not even spell out.

We need clear, definitive, achievable goals and objectives before we commit troops to combat. We need a political leadership that is willing to stand up

and make tough decisions. In December, I asked this Congress to hold hearings on Somalia. I asked the Foreign Relations Committee to act. I asked in December, and in January. No hearings were held. As a matter of fact, no high Government officials have ever come to hearings before the Foreign Relations Committee. We had an Under Secretary of State come a few weeks ago. But the fact is, this Congress has not done its job and the political leadership, including the President, has not done their job. Meanwhile, Americans continue to die because of the neglect of the political leadership.

It is wrong and it must end.

Mr. President, I ask unanimous consent that the letter to Secretary Aspin, the Wall Street Journal article, and another article that appeared today in the Washington Times written by Bill Gertz be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, October 6, 1993.

Hon. LES ASPIN,
Secretary of Defense, The Pentagon, Washington, DC.

DEAR MR. SECRETARY: We write today seeking information concerning a published report that the U.S. commander in Mogadishu was denied armor he requested to better protect his troops. This critical question demands a quick, clear, and forthcoming answer as soon as possible.

Specifically, The Wall Street Journal reported today that Army Major General Montgomery, the commander of U.S. forces in Somalia, had requested an additional battalion of armored troops, including 55 tanks or armored personnel carriers. The paper further states that you ". . . declined at the time to send the armored troops. . . ." Furthermore, the article notes that it was only after Sunday's fighting, which more than doubled total U.S. casualties in Somalia, that the Pentagon acted to fulfill the earlier request.

You reportedly denied the commander's request, fearing some kind of "backlash" from Congress or the public. If this report is accurate, did you consult with any of your former colleagues in Congress before reaching such a conclusion?

Did the U.S. commander in Somalia ask for armored reinforcements? What did he ask for, specifically? Did his request reach your desk? Did you make a decision on the request? What was that decision? If you denied the request, why did you deny the request?

If that was the U.S. commander's request then, how does deployment of a smaller force now, under clearly more dangerous circumstances, meet the force protection needs he identified?

Is it true that it took more than ten hours from the beginning of the Rangers' raid to the time the relief force reached their position?

We appreciate your kind attention to this important matter and look forward to receiving your written responses to these questions as soon as possible.

Sincerely,

HANK BROWN,
U.S. Senator.
ALFONSE D'AMATO,
U.S. Senator.

[From the Wall Street Journal, Oct. 6, 1993]

PLEA LAST MONTH FOR ARMOR IN SOMALIA WAS IGNORED IN THE UNITED STATES, ARMY AIDES SAY

(By Thomas E. Ricks and David Rogers)

WASHINGTON.—U.S. casualties in Somalia this week might have been far lighter if a request made last month by the U.S. commander there for additional armored protection had been acted on by Defense Secretary Les Aspin, Army officials said.

In early September, Army Maj. Gen. Thomas Montgomery, the deputy commander of the United Nations military force in Somalia and commander of the U.S. contingent there, told his superiors in the U.S. that he needed a battalion of armored troops—that is, about 500 to 800 personnel carriers—to protect the light infantry already there. The request, in somewhat reduced form, was relayed by Marine Gen. Joseph Hoar, head of the U.S. Central Command, which oversees Somalia, and forwarded to the Joint Chiefs of Staff.

The disclosures could aggravate Congress's already sour mood over the Somalia situation. The Senate Appropriations Committee Chairman Robert Byrd has vowed to press for a vote this week on a cutoff of funds for this mission. The Clinton administration is anxious for more time, and the president is scheduled to meet today with top national security advisers and military leaders in the expectation of announcing a policy decision soon.

While Gen. Montgomery's request for armored troops was never formally rejected, it wasn't acted on either, despite extensive discussions down the chain of command. Frustrated by the inaction, senior Army officers at least once informally prodded the staff of the Joint Chiefs for action, an Army officer said. Mr. Aspin declined at the time to send the armored troops after receiving conflicting advice from Gen. Colin Powell and other members of the Joint Chiefs, a Pentagon official said.

Others familiar with the situation said there was little sense of urgency at the Pentagon when the request arrived. And the need for the armored vehicles wasn't as clear last month as it is now, partly because the forces of Somalia warlord Mohamed Aidid hadn't yet begun to show how adept they could be at shooting down U.S. helicopters. In addition, they said, commanders on the ground always ask for more resources than they really need.

However, in the wake of Sunday's fighting, which more than doubled the number of U.S. combat deaths in Somalia, the Pentagon acted quickly to fulfill Gen. Montgomery's request. Mr. Aspin ordered the deployment of four heavy tanks and 14 Bradley Fighting Vehicles and other equipment making up about one-third of what the general asked for last month.

Mr. Aspin's failure to act on Gen. Montgomery's request is already provoking members of Congress, irate over the seven-hour delay that occurred Sunday before a group of U.S. troops were rescued in downtown Mogadishu. The bulk of the nearly 100 casualties that the U.S. forces suffered in the Somali capital occurred during those seven hours before U.N. forces were able to rescue a group of 90 U.S. Army Rangers pinned down under heavy fire without armored protection. The U.S. was forced to rely on Pakistani and Malaysian armored vehicles to rescue the Rangers because it had no tanks of its own. About 70 of the 90 rangers were killed or wounded in the firefight.

The nervousness in Congress was evident yesterday afternoon during a crowded closed-door Capitol briefing with scores of lawmakers and high administration officials. Defense Secretary Aspin and Secretary of State Warren Christopher intended to consult with Congress on the Somalia policy, but the format and lack of specific answers only angered members and reinforced the perception that the mission's goals remain unclear.

The pressure now is for the White House to narrow the American mission in order to expedite withdrawal. Another alternative, calling for a larger buildup, is favored by some prominent lawmakers who fear the U.S. would otherwise be seen as deserting the U.N. But this would require a consensus and resolve that didn't show itself yesterday.

"Either have a buildup or get out as soon as possible," declared Rep. John Murtha (D., Pa.), chairman of the House Appropriations defense subcommittee. Senate Majority Leader George Mitchell said: "I'd be amazed if the Senate voted for an immediate withdrawal as long as we have hostages over there."

Among Republican conservatives, there was open hostility. And while Senate GOP Leader Robert Dole argued to give Mr. Clinton until Oct. 5 to spell out his goals rank-and-file members were clearly frustrated.

"Not a chance," said Rep. Harry Johnston (D., Fla.), who heads the House Foreign Affairs Africa subcommittee, when asked if a majority in the House would vote to sustain funding for the Somalia mission.

[From the Washington Times, Oct. 7, 1993]

CLINTON MAY UP THE ANTE IN SOMALIA: ASPIN UNDER FIRE FOR SAYING NO TO EARLIER ARMS REQUESTS

(By Bill Getz)

Gen. Colin Powell twice last month asked Defense Secretary Les Aspin for tanks and armored vehicles to protect U.S. forces in Somalia but was rebuffed for political reasons.

Defense officials close to the decision said yesterday that military leaders wanted to deploy the armor in early September but Pentagon civilians opposed it because they feared Congress' reaction.

"It was politics, pure and simple," said one official.

Meanwhile in Mogadishu, the Army major who is the chief spokesman for the U.N. mission in Somalia said U.S. forces have switched from peacekeeping to a "fugitive hunt" for Somali warlords—a job they are not trained for.

"We have this fugitive hunt—this is not a military operation," said Maj. David Stockwell. "So the military winds up taking casualties and looking inept. If there is a problem, maybe it is a problem with the mission."

In a telephone interview that echoed with the sound of automatic-weapons fire in the background, Maj. Stockwell said U.S. forces needed tanks and armored personnel carriers Sunday to speed up the rescue of two downed helicopters and 70 Army Rangers pinned down by Somali gunfire and rocket attacks.

"If U.S. forces had armor, they could have reacted more quickly, since they have common communications, training and tactics," the major said. Instead, they had to wait four hours for Pakistani and Malaysian armored vehicles.

On Capitol Hill yesterday, members of Congress criticized Mr. Aspin for not sending the armor. Sen. Alfonse M. D'Amato, New York Republican, called the inaction "unconscionable," while Rep. James T. Walsh, New York Republican, called on Mr. Aspin to resign.

Military officials close to the operation said Army Maj. Gen. Thomas M. Montgomery, deputy commander of U.N. forces and commander of U.S. forces in Somalia, sought tanks and armored vehicles for his troops in early September.

Gen. Montgomery sent the request to Gen. Joseph P. Hoar, commander of the Central Command, who relayed it to Gen. Powell.

Gen. Powell, who retired last week as chairman of the Joint Chiefs of Staff, appealed to Mr. Aspin that the tanks and armored vehicles were needed as part of force-protection operations, military officials said.

"Powell brought the request to Aspin's attention on two separate occasions," one official said.

An Aspin spokesman declined comment yesterday.

Pentagon officials told reporters Tuesday that Mr. Aspin deferred a decision on the matter because he received conflicting advice from his advisers. Air Force Maj. Tom LaRock, a Pentagon spokesman, said deployment decisions "are classified and come to Secretary Aspin on a daily basis."

"He bases his decisions on the best military and diplomatic information available at the time," Maj. LaRock said.

But Pentagon sources said military leaders, including Gen. Powell, pressed for the armor.

An Army official said Pentagon civilians—including Deputy Undersecretary of Defense Frank Wisner, designated Assistant Defense Secretary Morton Halperin and other Aspin aides—opposed the military's request because they feared it "would appear too offensive-oriented."

"A month later you wonder why it wasn't already there," the official said. "General Montgomery obviously saw this coming."

Maj. Stockwell said that the first group of 14 armored vehicles began arriving in Mogadishu yesterday. Four tanks also will be sent.

He said the military's mission in Somalia needs to be changed or clarified to avoid a repeat of Sunday's costly events.

Twelve U.S. soldiers were killed and 78 wounded in a Somali guerrilla attack. The remains of two soldiers are in Somali custody, and one U.S. helicopter pilot has been captured. At least six other soldiers are missing.

The U.N. spokesman's unusually blunt comments are likely to spur demands in Congress that the Clinton administration clarify its Somalia policy and set a deadline to bring troops home.

Maj. Stockwell said "we are undertaking efforts" to retrieve Army Chief Warrant Officer Michael Durant, a helicopter pilot captured by Somalis on Sunday. But no contacts with the Somalis holding him have been made. U.N. forces also are trying to recover the remains of the two soldiers displayed on videotape, he said.

Maj. Stockwell said a rescue force had to shoot its way into the sites of the downed aircraft and stranded Rangers and it suffered a number of casualties in the process.

"The Rangers, who are pinned down, took most of their casualties early on and fended off fire that was unbelievably thick," Maj. Stockwell said. "We resupplied them with water, ammunition and food and supplied air cover. There must have been several hundred militias firing at 70 guys."

The Rangers had surrounded the downed helicopter and informed the U.S. commander that they did not require immediate evacuation from the scene, Maj. Stockwell said, adding that gave Gen. Montgomery time to organize the rescue force.

Maj. Stockwell, an Army Ranger, defended Gen. Montgomery's quick action to mount the multinational operation that fought its way through Mogadishu for several hours to rescue U.S. servicemen.

Under the U.N. command structure, none of the multinational forces are required to take part in dangerous "quick reaction" missions and they cannot be ordered to do so, Maj. Stockwell said.

The U.N. forces have "all the responsibility but very little authority," he said.

Sunday's rescue force had to blast through Somali street barricades and overcome heavy fire from small arms, machine guns and grenade launchers en route to the two crashed helicopters.

The helicopters were shot down during a "search and seizure" operation to nab aides to Somali warlord Mohamed Farrah Aidid. Two of his top aides and 17 other Aidid guerrillas were captured.

NOMINATION OF WALTER DELLINGER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The Senate continued with the consideration of the nomination.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The time of the Senator has expired.

The Chair informs the Senator from California, the Senator from North Carolina has not relinquished the floor and still has the time yielded, several minutes, to the Senator from Colorado.

The Senator from North Carolina.

Mr. NICKLES. Will the Senator from North Carolina be kind enough to yield the Senator from Oklahoma, say, 5 minutes?

Mr. FAIRCLOTH. I will be delighted to yield to the Senator from Oklahoma, but at the conclusion of his remarks, I would like to be rerecognized.

The PRESIDING OFFICER. The Chair will notify Senators that we are in executive session.

The Senator from Delaware is recognized.

Mr. BIDEN. Reserving the right to object, I have no objection to people speaking on whatever issues they would like to, but I will object if we are going to continually move off of this nomination. This is a debate that, understandably, other national issues have impacted on. I understand that. But I will object to a Senator having the floor, yielding the floor to someone else on condition the floor be returned to him on conclusion of those remarks.

So I do object.

The PRESIDING OFFICER. Objection is heard.

The Senator from North Carolina has the floor.

Mr. FAIRCLOTH. I am willing to yield the floor——

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. FAIRCLOTH. To the Senator from Oklahoma.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise as a member of the Judiciary Committee to support the nomination of Walter Dellinger. I rise as a Member of this Senate, as one who is for the death penalty, as one who is for the death penalty for drug kingpins whose dealings result in the death of an individual. I rise as one who supports a balanced budget amendment, and as one who does not believe that our country's flag should be burned. I also rise, notwithstanding his positions on these issues, in support of Walter Dellinger and his nomination to serve as Assistant Attorney General.

I also note, as has been pointed out by the distinguished chairman of the committee, that Mr. Dellinger is supported unanimously by the Judiciary Committee.

One might ask, why is he supported unanimously by the Judiciary Committee? The reason is relatively simple. He is supported by the Judiciary Committee unanimously because he is well qualified to serve as legal counsel for the Department of Justice.

In addition to the Judiciary Committee's members, many prominent and respected North Carolinians also support Mr. Dellinger's nomination: Former Gov. Terry Sanford; former State Attorney General Robert Morgan; the present Attorney General of North Carolina, Mike Easley, and Mr. Dellinger's own Congressman, Representative DAVID PRICE.

Why? Walter Dellinger is one of the Nation's leading constitutional scholars and teachers. He has had a distinguished career. He attended Yale where he was editor of the Yale Law Journal. After teaching civil rights law from 1966 to 1968 at the University of Mississippi, he became law clerk to Justice Hugo Black for the 1968–69 term of the U.S. Supreme Court.

He joined the faculty of Duke University in 1969 and is a renowned professor, acclaimed for a series of courses at Duke University given over the past 24 years. He is a prolific writer and he has contributed to many distinguished legal journals, as well as to periodicals and newspapers. Anyone who is a prolific writer, anyone who has views on controversial subjects, is obviously going to encounter those who differ with his views. We hear some of that here today.

It is legitimate to differ with someone's views. For me, I recognize that there are those who believe in the death penalty and those who do not. It does not mean if you do not, that you are not qualified to serve the President of the United States and the Attorney General. This issue is at the center of a legitimate, major, public policy debate in our Nation.

There are distinguished scholars and not so distinguished scholars on both sides of this debate. But, nonetheless, it is a legitimate point of public policy debate.

Mr. Dellinger also earned great respect and admiration as a principal draftsman of North Carolina's criminal code. In that regard, I would like to read a letter, or a portion of a letter from the former Attorney General, Mr. Robert Morgan, who as Attorney General of North Carolina at the time, asked the former dean of Duke University to chair a Criminal Code Commission to determine what could be done. Mr. Morgan writes that the dean:

Brought with him a young professor of law from Duke University, Walter Dellinger. For more than 7 years, Walt Dellinger served as consultant, draftsman, and reporter for that commission. It met one weekend every month for years and years. It was one of the most dedicated and hard-working commissions I have ever known.

Professor Dellinger was a very vital part of the recodification of our code.

I knew all the members of the Commission and appointed most of them. They tell me he was very knowledgeable and very helpful. He has a very high regard for the Constitution of the United States. That is reflected throughout the criminal code of North Carolina, which was adopted by legislature. We found that Professor Dellinger was a strong advocate for his beliefs but at the same time was willing to listen to reason and to the logic of others. He usually came down in a very reasonable position that was acceptable to most members of the Commission and an overwhelming majority of the North Carolina legislature.

In my opinion he can neither be classified as a liberal or a conservative. I would classify him as a lawyer who believes in the rule of law.

Mr. President, it sounds to me like this is a pretty good nominee to lead the Office of Legal Counsel of the Department of Justice.

What else has Mr. Dellinger done? He has been a counsel to Members of this Congress. He has served as counsel of record for both Republican and Democratic Members of the U.S. Senate and the House of Representatives who filed an amicus brief in the U.S. Supreme Court in support of challenges to restrictive abortion laws.

Now, this may be—I do not know—the heart of the debate. There is no question that there have been efforts in the courts to restrict a woman's right to choose. There is no question that there have been efforts to erode the 1973 Supreme Court case Roe versus Wade. And Mr. Dellinger was a counsel to Members of the House and the Senate who came together to support opposition to the further restriction of a woman's right to choose, restrictions which we know, of course, have been imposed.

Mr. Dellinger has been a frequent Hill witness, and he has testified on a number of constitutional and legislative proposals, including the Freedom of Choice Act, which he supports, and flag desecration. In that context, he explained that the Supreme Court might sustain a narrowly drawn statute, but that a broad amendment probably would not pass constitutional muster, a position I gather much like that taken by Judge Robert Bork.

He also has testified before Congress on campaign finance reform and Constitutional Convention procedures.

So Walter Dellinger is a leading oral advocate, and he is a trial strategist.

He is also a distinguished appellate lawyer. He represented Alaska, for example, in a $2 billion suit brought by Atlantic Richfield, Standard Oil, and Exxon against the State, and helped develop a constitutional theory that successfully defended the State's taxation of oil profits against a challenge that the State had violated State and Federal equal protection guarantees.

So this is a man who clearly has been around. He has counseled against some of the problems of a balanced budget amendment. I support a balanced budget amendment, a specific amendment which sets a time that enables the Congress and the President to reach a balanced budget, not an arbitrary one that cannot be carried out. And what Mr. Dellinger has counseled is that in the event of an arbitrary balanced budget amendment, we may run into some very real problems that would be counterproductive to the entire budget process. This is not unrealistic advice. It is prudent advice, because we all know about the impoundment of public funds, which becomes a possibility in a balanced budget debate. I believe, similarly, that his views on school prayer are moderate and thoughtful.

These are some of the controversial issues with which a distinguished constitutional scholar as well as a legal advocate may grapple. But I have found, Mr. President, that when you have broad issues of public policy debate, it is wise to listen to bright people. It is wise to consider the counsel of scholars and, indeed, Walter Dellinger is a scholar.

It is not happenstance that this nomination was unanimously approved by the Judiciary Committee. Many matters are not. Many appointments are not. This one was. And it can be for only one overwhelming reason. We have before us a distinguished scholar, a brilliant legal mind, and a man who is fully qualified to head the Office of Legal Counsel of the Department of Justice.

I thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Who seeks recognition?

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mrs. HUTCHISON], is recognized.

Mrs. HUTCHISON. I would like to get unanimous consent to introduce a bill as if in morning business, if the Senator from Delaware will allow that.

The PRESIDING OFFICER. Is there objection?

The Senator from Delaware.

Mr. BIDEN. Mr. President, reserving the right to object, how long does the distinguished Senator from Texas plan on speaking on the introduction?

Mrs. HUTCHISON. Ten minutes.

Mr. BIDEN. I have no objection.

The PRESIDING OFFICER. Without objection, the Senator from Texas is recognized for 10 minutes.

Mrs. HUTCHISON. I thank the Senator from Delaware and the Senator from North Carolina for giving me the opportunity to introduce this very important piece of legislation.

(The remarks of Mrs. HUTCHISON and Mr. SHELBY pertaining to the introduction of S. 1524 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

NOMINATION OF WALTER DELLINGER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The Senate continued with the consideration of the nomination.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. WALLOP], is recognized.

Mr. WALLOP. Mr. President, on the subject of the nomination at hand, we find once again the peculiar irony of politics in America. The Senator from California, in remarks about the nominee, said that because one differed with his views, that was no reason to oppose his nomination. Yet this very same Walter Dellinger, because he differed with the views of Robert Bork, saw fit to orchestrate the savaging of one of the great legal intellects of our time. Because he differed with his views, this same Walter Dellinger took it upon himself to attack not only the character and integrity, but also the scholastic ability of Judge Bork. Now we are being asked to take that all in stride and allow Dellinger to become the Assistant Attorney General of the United States and to set our differences with his views aside.

Mr. President, this is a harvest. This man is reaping from a crop that he sowed. For the life of me, I cannot understand what it is about America's left wing that all righteousness is theirs and all conflict is somebody else's—it is redneck, it is reactionary, it is un-American, it is uncalled for. The left can savage whomsoever it pleases for whatever purposes it pleases because its views are sacrosanct. Its views are beyond reproach. The views of the left are sympathetic and sensitive and caring. The views of the right are to be rejected out of hand.

I think, to begin with, that I criticize an administration that would put a person in place as Acting Attorney General knowing of the controversy that surrounds him and ignoring the set of procedures that this Constitution has put in place, which allows the Senate a say. It is funny, as we watch this administration in action, the endless number of events in which they seek to deny a role for Congress.

I spoke on the floor last night. The Department of Defense is telling the widows and the families of the hostages that are in Mogadishu, and the people that have died, that they are not to talk with their elected representatives. They are not allowed to do that. Somehow or another, their tranquility may be poisoned if they talk to somebody who actually represents them in the Congress of the United States.

The Secretary of the Interior has put in place a broad sweep of administrative changes in the management of the public lands, some of which are in violation of Federal land management policy acts. Former President Carter writes the Secretary of the Interior a letter saying the way to bypass Congress is to use the Antiquities Act, then you do not even have to consult with them. This man is acting without the Senate having been given the respect of its due say.

So I rise to point out the irony in life in modern American politics.

The Biblical expression of "as you sow, so shall you reap," apparently does not apply to the left, only to the right. It was after all, was it not, Robert Bork's writings that Mr. Dellinger orchestrated the fight against. The Senator from California said that any time somebody has written so much and taught in so many places, they are bound to have expressed some views that arouse controversy. And so they should, and so they may. That is not by itself a reason to reject him, unless you happen to be Walter Dellinger and the victim is Robert Bork. If you happen to be Walter Dellinger and have written some things with which other people find controversy, that is to be understood, because after all, he was teaching.

Judge Bork had been teaching. The double standard is unacceptable.

Mr. President, on another subject, I ask unanimous consent that I might proceed as in morning business for not to exceed 10 minutes.

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

COMMENDATION FOR TEACHER VICKI HANFT

Mr. WALLOP. Mr. President, there are certain people who respond to tragedy with uncommon valor. Teacher Vicki Hanft of Sheridan, WY, is one of those people.

I would like to read from a letter sent to the local paper by two gentlemen who witnessed a tragic scene that thrust this small, tranquil community into the national limelight.

> During any crisis or emergency, there seems to be one or more individuals who, without thinking about their personal safety or the consequences of their actions, seem to rise to the occasion and do things that under normal conditions you might not even realize that they are there.
>
> Such were the actions of Vicki Hanft, the P.E. teacher during the crisis at [Central Middle School] on Friday morning, Sept. 17.
>
> Without thought to personal safety, this outstanding teacher calmly moved the students out of harm's way and even went in front of the person doing the shooting to help one of the injured students.

Mr. President, for reasons never to be known, an obviously disturbed and deranged young man took vengeance on the town's innocent 11- and 12-year-old students when he stepped onto a playing field during P.E. class and began spraying bullets. There was one adult who assured those children in that moment of terror and confusion that not all in their world had gone wrong. Vicki Hanft, a P.E. teacher at Central Middle School, deserves commendation for her courageous actions that went way beyond the boundaries of her ordinary job description.

Mr. President, I would also like to praise school district No. 2 for designing a practical crisis plan which recognized the fact that unthinkable situations like this actually could arise, even in this small rural area. The entire district, including school board members, principals, counselors, administrators, teachers, police, and emergency officials, were assigned functions to carry out once word of a problem reached them. The plan worked beautifully. A chaotic situation was swiftly brought under control to the benefit of the students and their concerned parents.

Mere logic cannot explain what happened that day. But, Ms. Hanft, school district No. 2, and the residents of the town of Sheridan, WY, proved that human instinct can serve us in ways we never imagined. I trust that same instinct will aid in healing those who suffered this nightmarish situation.

HEALTH CARE—RHETORIC VERSUS REALITY

Mr. WALLOP. Mr. President, I will talk one moment to discuss rhetoric versus reality.

Over the course of time, I will have some comments to make about the health care program that has been presented to us. The President proclaimed in his speech before Congress:

> We propose to give every American a choice among high quality plans. The choice will be left to the American citizens that work, not the boss, and certainly not some government bureaucrat.

The President either did not read, or hoped that we would not read, what the plan they published in the White House states. It says:

> In the event that more consumers apply to enroll in a particular health plan than its capacity allows, alliances develop a process of random selection for us in determining which new applicants may enroll.

That is not choice, Mr. President. That is not what the President said we would do.

The President also proclaimed in the speech before Congress:

> I think that those who don't have any health insurance should be responsible for paying a portion of their new coverage. There can't be any something for nothing * * * this is not a free system.

The published plan says:

> Health plans may not terminate, restrict, or limit coverage for the comprehensive benefit package for any reason, including nonpayment of premiums.

So I do not have to ask what the purpose of paying a premium in the first place might be. There was one last interesting thing.

Senator ROCKEFELLER from West Virginia proclaimed:

> This isn't going to be a bureaucracy. It is going to be a free enterprise with Government as a backup, as a watch dog, monitoring, not deciding, not negotiating, not collecting money, and not making decisions.

The President says:

> When the national board notifies the Secretary of Health and Human Services that a State has failed to comply with Federal requirements, the national board shall also notify the Secretary of the Treasury, and the Secretary of the Treasury will impose a payroll tax on all employers in the State. The payroll tax shall be sufficient to allow the Federal Government to provide health coverage to all individuals in the State and to reimburse the Federal Government for the costs of monitoring and operating the State system.

Mr. President, the rhetoric and the substance do not match. I will just note one other thing. I mentioned how they have this penchant for bypassing Congress—it is not that the Congress imposes the payroll tax, but the executive branch of Government. For goodness sakes. Is that voluntary? Is that not a very domineering Federal bureaucracy? Is not that something that we have not gotten used to in America?

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Connecticut [Mr. DODD] is recognized.

Mr. DODD. Mr. President, I ask unanimous consent that I be allowed to address the Senate as if in morning business.

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

The Senator is recognized.

THE NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. DODD. Mr. President, I rise today to speak in favor of the North American Free-Trade Agreement and

to urge my colleagues to join me in supporting it.

I have spent the last several months reviewing all the relevant information about this trade agreement, discussing the matter with my constituents, and coming to a decision about which course of action would be best for the people of my State of Connecticut and best for the people of the United States of America.

I have concluded that the debate comes down to one between the future and the past. The North American Free-Trade Agreement represents the future, and by adopting it Americans can demonstrate their willingness to meet squarely the challenges ahead.

To reject this agreement, I have concluded, would be to hide from the future and pretend that the world has not changed during the last 30 years and is not changing radically before us.

I see three principal arguments for establishing the free trade area: First, it will create jobs in the United States; second, it could serve as the first step toward the creation of a powerful, hemisphere-wide trading bloc; and third, it could help guide the nations of Latin America and the Caribbean further down the path of democracy and prosperity. I will expand on each of these points in a moment.

Let me also say that this agreement is not perfect. It is not the agreement I would have negotiated if given the opportunity. But to vote against NAFTA because it does not fit exactly with my vision of the perfect free-trade agreement would be, in my opinion, shortsighted and self-defeating.

THE AMERICAN SPIRIT

Throughout our history, we Americans have been at our best when we have risen to face difficult challenges. We built a new nation on the shores of the American wilderness. After decades of gut-wrenching debate and a civil war, we abolished slavery. We fought two world wars to keep the yoke of tyranny off of Europe. We put a man on the Moon.

This is the America I know. This is the America I revere: An America of courage and stamina; an America that walks into its trials with its head held high and facing forward.

But now we hear from the opponents of NAFTA that this trade agreement represents a challenge we Americans simply cannot meet. Listen to what they tell us. They tell us that the United States of America—the country that tamed the wilderness, the country that defeated Nazism—cannot compete with Mexico, a poor nation with a gross domestic product one-twentieth of our own.

The Nation that put a man on the Moon and won the cold war will lose all of our jobs if we try to compete on a level playing field with Mexico. We can create an economy that remains the envy of the world, but opening that economy up will destroy it.

The opposition to the trade agreement is largely characterized by a timidity not in keeping with the great traditions of this Nation. I say this not to denigrate those who oppose this pact. Many of them live in my own State of Connecticut and have let me know of their concerns through thousands of letters, postcards, and phone calls over the last several months.

I suggest that the opposition to NAFTA is characterized by timidity not to impugn the agreement's opponents but to say that I sympathize with their concerns.

UNDERSTANDABLE ANXIETIES

I understand the fears of the many Americans who oppose this agreement. They have seen their wages stagnate during recent years. They have seen factories close their doors and jobs disappear. My own State of Connecticut has lost nearly 200,000 jobs since the beginning of this recession.

For more and more American workers, the American dream is receding further and further into the distance. People are hurting, and their pain cannot be lessened by a smoothly worded position paper or a neatly drawn graph or some vague promises about tomorrow.

Working people have seen Congress—a Democratically controlled Congress, I might add—fail to act on critical legislation to prevent the hiring of replacement workers during strikes, to raise the minimum wage, to strengthen OSHA. They have seen management hire temporary workers instead of full-time people making a decent wage. They have seen their own pay cut while top executives take home astronomical bonuses.

These are all real concerns, and each in its own way has contributed to the erosion of the standard of living of American workers. I have stood with labor on these issues. The Committee on Political Education of the AFL–CIO has given my voting record ratings of higher than 90 percent for each of the last 4 years. I have been a friend of labor, and I will continue to be one.

So I suggest that the anxiety felt by American workers is real but that the translation of this anxiety into opposition to this trade agreement is mistaken and misguided.

NAFTA AND JOBS

The fact is that rather than destroying jobs in this country and eroding our standard of living, the North American Free-Trade Agreement should create jobs and increase our standard of living. I think the evidence on this point is clear: The United States can and will compete in this new, international marketplace.

I would hope, Mr. President, in the ensuing weeks that people would focus on the facts in this debate. Too much emotion, too much rhetoric has been associated with this discussion, and people are not listening. NAFTA is becoming a mantra. But people need to pay attention to the facts, and I plan to take a few moments here to address those facts.

Our trade with Mexico is already creating jobs in this country. Since Mexico began its economic reforms in 1986, American exports to that country have more than tripled. We had a trade deficit with Mexico in 1987. After 6 years of freer trade, we now enjoy a trade surplus with Mexico of $5.4 billion.

This demonstrates, I think, that when the rules are made more fair, the United States remains second to none in economic competition. We have a trade surplus with Mexico despite the fact that Mexican tariffs on American goods are on average 2½ times higher than American tariffs of Mexican goods. Our exports to Mexico already support 700,000 jobs in this country, and these are good jobs that pay better than the average hourly wage.

NAFTA, in my view, will put us in a better competitive position than we find ourselves in today. The tariff system is stacked against us now. Under this trade agreement the tariffs will be eliminated and the field will be made truly level.

Nearly every major unbiased study has concluded that this trade agreement will increase employment in the United States. These are not studies, I would point out, conducted by the Government of Mexico, or the Clinton administration, or the Bush administration, or anyone else with a stake in seeing this agreement pass.

These were studies conducted by disinterested, respected third parties. I urge my colleagues to read those studies, to look at them carefully before drawing any definitive conclusions.

My own State of Connecticut is particularly well positioned to excel in this new international environment and I think the North American Free Trade Agreement will create jobs in a State where they are sorely needed. Connecticut exported $280 million in goods to Mexico in 1992. That is up 140 percent since 1987. Exports to Mexico now support, in my State, almost 8,000 jobs directly.

As the Hartford Courant pointed out in a recent editorial endorsing the trade agreement, "There would have been no recession in Connecticut had the rest of the economy enjoyed growth remotely similar to the growth in trade with Mexico and Canada."

These Connecticut exports to Mexico cut across many industries. They include chemical products, electronic equipment, paper products, industrial machinery and computers, transportation equipment, and food products.

Let me share with you a couple of specific examples of Connecticut firms that are exporting products to Mexico

and creating jobs at home. Environmental Systems Products [ESP], located in East Granby, designs and manufactures motor vehicle emissions testing and inspection systems.

In July 1992 ESP won the emissions inspection and maintenance contract for Mexico City, the world's largest metropolitan area. This translated into $10 million in new sales for ESP.

Can you imagine, by the way, if, in Hartford or Miami, there had been a contract that had been awarded to a Mexican firm to come in and do these things, the outrage we would have heard?

And yet, a Connecticut firm in East Granby, CT, wins the contract in Mexico City, the largest metropolitan area in the world. I do not think it would have happened a few years ago had we not seen the reduction in the barriers that had existed to U.S. firms doing business in that country.

ESP also won a similar contract with the city of Guadalajara valued at $500,000. To meet its new-found demand in Mexico, ESP has hired 25 new employees at its Connecticut facilities.

Such scenarios are being played out across Connecticut as our State's firms adjust to the global marketplace and recognize the export opportunities available to them in Mexico. Connecticut peach and apple farmers and corn growers expect exports to Mexico to pick up considerably if the trade agreement goes into effect. Manufacturers of consumer goods, like American brands, Duracell and Nestle, are gearing up to increase sales to the Mexican market.

Connecticut's insurance industry, one of the largest employers in the State—roughly 50,000 people in my State employed in that industry—is eagerly awaiting the opening of a $3.5 billion market in Mexico. Aetna Life & Casualty has already formed a joint venture with a Mexican firm to sell insurance in Mexico. Connecticut telecommunications firms like GTE and General Signal stand to gain if NAFTA is adopted, as do construction and engineering firms like Stone & Webster Engineering and Combustion Engineering.

The list goes on and on and on. There are hundreds of Connecticut firms who will benefit from the opening of Mexico's markets that free trade will bring about. And each of these firms creates jobs in my State.

NAFTA AND WAGES

Much has been said by critics of the trade agreement about the difference in wages between Mexico and the United States. There will be a giant sucking sound—as one pundit put it—we are told, because NAFTA will encourage American firms to move to Mexico in search of cheap labor. Like much of the criticism of the free trade pact, this argument oversimplifies the complexities of economic decisions.

I would note the presence on the floor of our distinguished colleague from North Carolina, a businessman who knows the complexities of economic decisionmaking.

The fact is that companies do not base their decisions on where to locate on wages alone. That is an oversimplification. If that were the case, then Bangladesh and Haiti and other countries that have absolutely abysmal wage rates would be expert juggernauts.

Instead, firms take into account a wide range of factors in deciding where to establish operations.

To illustrate this point, I would like to share with my colleagues the experiences of Quality Coils, Inc., a manufacturer of electromagnetic coils in Bristol, CT. This company's story was recently told on the pages of the Wall Street Journal.

In 1989, Keith Gibson, who runs the company, shut down operations in Connecticut and moved them to Ciudad Juarez in Mexico, where wages were one-third those he was paying his workers in Connecticut. So far, I suppose, this story sounds like one straight from a NAFTA nightmare.

But, instead, moving the factory to Mexico turned into a nightmare for Mr. Gibson and Quality Coils. The firm's production facilities there lost money hand over fist. Absenteeism was high and productivity was low.

Rather than keep his plant in Mexico and continue losing money, Mr. Gibson moved his operations back to Connecticut in April of this year. And he rehired many of the workers laid off when he closed the plant in 1989.

Mr. Gibson, reflecting on this experience, said, "I can hire one person in Connecticut for what three were doing in Juarez."

The experience of Quality Coils illustrates a very important point. Wages are just one of many factors firms take into account when deciding where to locate their operations. Other factors include worker productivity, physical infrastructure, access to technology and access to markets.

Let me point out the fact that they had a bad experience there. Others have had good experiences. I do not want anecdotes to necessarily become the way in which we decide these issues, but I think it is important to point out that those who would suggest that this entire argument comes down to wages alone need to pay more attention to the other factors involved when a firm decides where to locate.

By all these standards, the United States in general and Connecticut in particular are ready and able to compete with Mexico and the rest of the world.

CREATION OF REGIONAL TRADING BLOCS

The American economy is now part of the world economy. Whether we like it or not, this is an indisputable fact. Given this fact, we can pursue three courses of action, in my view. We can dramatically increase tariffs, withdraw from global commerce, and retreat to fortress, America. Second, we can muddle along as we are now—and that is all you could describe it as, it is muddling—pursuing a middle course between free trade and protection while our competitors assemble themselves into powerful trading blocs.

Or finally, we can embrace the world and its challenges, which is the American tradition. We could open our markets to our neighbors and demand that they do the same in reciprocal arrangements. I see this as the wisest course for us to pursue and the surest means of establishing an America of prosperity.

I envision the creation of an inter-American economic coalition, a free trade zone extending from the Yukon to Tierra del Fuego and encompassing every nation of the hemisphere. Free trade among the United States, Mexico, and Canada would already create the biggest market in the world.

But we can go further. We can do better. We can create a trading bloc of three-quarters of a billion consumers. An alliance powerful enough to meet the Europeans and the Pacific rim countries together head on and prevail.

Just as the 20th century has been characterized by nationalism, I believe the 21st century will be a time of regionalism. The nations of the world will gather themselves into powerful trading blocs that will compete with each other in the global market. This process is already under way in Europe, and the Pacific rim countries will likely follow very shortly.

Such a scenario presents the United States with a choice. We can reject NAFTA and the possibility of forming a hemisphere-wide trading bloc. If this happens, the United States will find itself increasingly isolated in the global market.

The growing consumer markets of Mexico, Central America, and South America will be there for the Europeans and the Japanese and other Pacific rim countries to take advantage of. Distribution networks will be established, have no doubt about it; business relationships will gel, have no doubt about it; consumer loyalties will be created, have no doubt about it. American firms will increasingly find themselves at a disadvantage.

We should not fool ourselves on this point. If we reject the trade agreement and close our doors to the economies of our neighbors, they are not going to sit on their hands and wait for us to have a change of heart. They will not set themselves up to have their hopes dashed again.

Instead, they will form alliances with the Japanese, with the European community, with any other economic power willing to trade with them on fair terms. The countries of Latin America and the Caribbean want to

join with the United States in a common endeavor to enrich the hemisphere, but if the United States says no, they will look elsewhere, they will do it immediately, and we will lose a historic opportunity to lead in the creation of a powerful, unified hemisphere of opportunity.

It is as simple as that. This train is leaving the station, and it is leaving whether the United States is on board or not.

IMPLICATIONS FOR LATIN AMERICA, CARIBBEAN

Over the years, I have given countless speeches on Latin America. There were probably times when my colleagues groaned when they saw me approaching the floor to talk about El Salvador, or Nicaragua, or one of the other nations of the region. And the fact is that Americans and the U.S. Congress did focus on Latin America during the 1980's. Why? Because large parts of the region were in crisis. It has often been said that the United States only cares about its southern neighbors when there is a war on down there.

But now most of the wars of the 1980's have ended. The curtain has been drawn on Latin America's encounter with the cold war, and I think the people of the region are universally glad to see that era go.

But just as the conflicts of Latin America have dissipated, so too has American interest in the region. We just finished discussing foreign aid to Russia. We have witnessed the White House signing of a monumental peace agreement between Israel and the Palestinians. We have troops on the ground in Somalia, and there is talk of sending more to Bosnia. President Clinton has already visited Japan.

It seems that we are focusing on every corner of the world now but our own. And yet it is with Latin America and the Caribbean that our fate in many ways is linked. And it is in Latin America and the Caribbean that the hopes of a post-cold war world organized around the principles of democracy, human rights, and unfettered trade are most within reach. This point bears repeating. There are more democratically elected governments in the Western Hemisphere now than at any time since the Spaniards first set foot here more than five centuries ago.

The free market is on the march throughout Latin America and the Caribbean. A region that used to be one of dictators, coups and civil wars, is on the verge of becoming one of democratic stability and peace.

And the nations of the region are already joining with each other to cement their gains and lay the groundwork for more. They are forming their own minitrading blocs. Argentina, Brazil, Paraguay, and Uruguay plan to create a southern cone common market that will create a free trade zone among those nations by the end of 1994.

The Andean nations of South America are negotiating a free-trade agreement. Colombia and Venezuela hope for such a pact with Mexico. Chile has already signed one.

The Central American countries, long the focus of discussion in this body because of the civil strife there, are discussing a free trade zone, and the English-speaking nations of the Caribbean have formed an economic community.

I should mention here that we have to be aware of the legitimate concerns of our friends in Central America and the Caribbean who may be put at a trade disadvantage by NAFTA at the outset. In the time before the creation of a hemisphere-wide free-trade agreement, we should work to address these concerns.

Things are happening fast now in the hemisphere, and the time has come for the United States to join this process. The historical ties, the geographic ties, the political ties, the economic ties are all there already.

This is a unique moment in history. The window is open but it will not stay open forever, if we do not take advantage of this wonderful opportunity that is being presented to us.

The foundation of a long-term productive relationship is in place. We need only put up the frame and complete the structure.

ALREADY A LUCRATIVE MARKET

Latin America and the Caribbean are already among the fastest growing markets for U.S. exports. Between 1991 and 1992, U.S. exports to the region grew by $12.4 billion, from $63.4 billion to $75.8 billion. That was a 19.5-percent increase in just 1 year. U.S. exports to the rest of the world increased by only 4 percent during that time. We now enjoy a $7 billion trade surplus with our neighbors in the Americas.

This region is now the United States' third largest trading partner, surpassed only by Canada and Western Europe. We have spent a lot of time and energy talking about trade with Japan in recent years, but how many of us know that we now do more business with Latin America and the Caribbean than with Japan?

If the United States signals that it is turning its back on the hemisphere by rejecting free trade with Mexico, the repercussions in Latin America and the Caribbean will be severe. I have lived in this part of the world, I have traveled extensively in it, and I am in contact with citizens of this region on almost a daily basis.

My colleagues know that I have not been vocal about every single corner of the world over the years. I have not claimed special expertise on Europe or Africa or Asia. I do, however, know this hemisphere. And I can tell my colleagues today that the eyes of the entire hemisphere are on this body, the U.S. Congress. Do not kid yourselves, a rejection of the North American Free-Trade Agreement will have grave foreign policy repercussions throughout Latin America. It is critical that we understand the implications of our decision.

A rejection of NAFTA will not only be interpreted as a rejection of Mexico, it will be seen as a slap in the face to the entire process of reform in Latin America. For too long, American actions have not lived up to American rhetoric when it comes to this part of the world. We have often said one thing and done exactly the opposite.

A rejection of the trade agreement and the possibility of a hemisphere-wide free-trade area that it brings will be seen as part of this historical pattern. For years, we have been urging and begging our southern neighbors to embrace democracy, to embrace free-market principles. We have urged them to open up their economies to international trade. We have urged them to free their markets and join the world community.

And now, as history would have it, most of the countries of the region have moved toward democracy and free markets. They have recognized that this is the course they must pursue if they ever hope to create prosperity, stability and justice for their people. In short, countries throughout the region, from Mexico to Bolivia, from Argentina to Jamaica, have followed our advice. They have done everything we have been asking of them for decades.

MEXICO'S TRANSFORMATION

Mexico has led the way in this area. Mexico's transformation since the mid-1980's has indeed been dramatic. We must remember that we are talking about a country with a long history of protectionism and state control of the economy. As recently as 1982, Mexico nationalized its banks.

Mexican President de la Madrid steered the country onto a different course in 1985, and Carlos Salinas de Gortari, who became President in 1988, has continued that course. More than 80 percent of Mexico's 1,155 state-run enterprises have been privatized or closed under President Salinas' leadership.

He has been a great friend to our country and a great modernizer to his own.

We are talking about major industries privatized, like TELMEX, the National Telephone Co., and Aeromexico and Mexicana, the two national airlines.

President Salinas has ordered government agencies and the remaining state enterprises to end discrimination against foreign firms. Tariff walls have crumbled in the past 6 years. Price controls and technical rules that favored Mexican firms at the expense of foreign competitors are being laid aside.

The other nations of the hemisphere are doing many of the same things. The trend is moving in our direction. Like Mexico, they are discovering the benefits that can come from a responsible

free market system. They have pursued the path recommended to them for years by the United States.

CONSEQUENCES OF NAFTA DECISION

And what will the nations of the region get in return? If we pass NAFTA and begin to negotiate new trade agreements to link the entire hemisphere, they will become part of the most powerful trading bloc on Earth. They will have the opportunity to continue down the road of democracy and prosperity in the context of a two-continent-wide sphere of trade and cooperation.

The gains of recent years will be solidified and become the platform from which future success will be launched.

On the other hand, if we reject the agreement and bar the doors just when our neighbors have come knocking, we will be seen as the hypocrites of the hemisphere—the country that talks about lowering barriers to trade but maintains its own, the country that sings the tune of the free market but refuses to submit itself to one.

If this happens, if the United States refuses to match its words with its deeds, the nations of the region will either look elsewhere for partners, as I have suggested or, even worse, the entire reform process throughout this part of the world could be jeopardized.

If these countries that have gone down the road to democracy and free markets are rejected when they seek to institutionalize the reform process and link themselves with their brothers throughout the Americas, they may come to question whether they have gone down the proper road. Instead of continuing to open themselves to the outside world, they may close their doors once again. An outward gaze we see today may be replaced by an inward fixation.

We should not allow this to happen. We must pass the North American Free-Trade Agreement and begin work on a larger and better agreement that will link all of the Americas. We must seize on this challenge dealt to us by history. We must not flinch at just the moment when courage and resolve are demanded of us.

LEGITIMATE CONCERNS

A number of legitimate concerns have been raised about the trade agreement's impact on the environment and labor standards. There are also worries about the economic dislocation this pact could cause in certain parts of the economy.

In my view, the concerns about environment and labor standards have been met by the supplemental agreements signed by the United States, Mexico, and Canada last month. These are the first labor and environmental agreements ever negotiated to accompany a trade agreement.

Under these agreements, a new Commission on Labor Cooperation will work to make sure that all three nations enforce their labor laws. That is a historic achievement that ought not to be lost on us. The Commission's enforcement powers will have teeth: fines and trade sanctions would be levied against a country that fails to enforce its laws. That works to our benefit. That is in favor of the United States.

Similarly, a new Commission on Environmental Cooperation will have the power to ensure that each nation enforces its own environmental laws. Again, this agreement provides for sanctions to be applied against a country that violates it.

Instead of hurting the environment, many United States environmental groups such as the National Wildlife Federation believe NAFTA will go a long way toward improving the environment in Mexico. Just last month, Mexico and the World Bank signed a $4 billion agreement to clean up the border area. More such efforts are planned. That should be applauded by all of us.

In essence, these supplemental agreements on labor standards and the environment should ensure that no party to this agreement will seek to attract business by taking advantage of its workers or spoiling its environment. These agreements establish the rules of the trading game, and they will ensure that these rules are not broken.

Finally, there is much legitimate concern about the impact of NAFTA on certain vulnerable sectors of our economy. It is important to reiterate that, or balance, this trade agreement will create jobs in this country. Nearly every serious economic analysis of the agreement has clearly demonstrated this.

Some people, however, will inevitably lose their jobs due to trade with Mexico. To say otherwise would be foolish. Most of these jobs will be lost whether the North American Free-Trade Agreement takes effect or not, but we nonetheless have a serious responsibility to assist these people and help them adjust to the changing economy.

That is why we must push for a major retraining initiative to lend a helping hand to those who find themselves out of work as the result of the changing global economy.

We must also invest in our own physical and human infrastructure so that we will be in the best possible position to compete in the new global marketplace. We must invest in our roads and railways, we must rejuvenate our schools and rebuild our cities. We must make sure that the American workers are second to none when it comes to the skills necessary for the creation of the high-wage economy of the future.

CONCLUSION

In closing, this is the future I see for the United States. A future of prosperity built on trade and cooperation with the countries of our hemisphere, a future of skilled workers filling high wage jobs.

This is an opportunity for us to create the most remarkable trading relationship ever envisioned. It would dwarf those that exist in Europe or in the Pacific rim. This is in our self-interest. This is not to be done because it is a favor to our neighbors to the south. It is assistance to them, but, first and foremost, it is in our interest to pass this trade agreement. We must fashion this trade bloc and provide opportunities for Americans of future generations, a future in which the United States faces its challenges and overcomes its fears, the same kind of America that accomplished the great feats of this past century. We can start, in my view, building this future by approving the North American Free-Trade Agreement, and I urge my colleagues to be supportive of this effort.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I compliment my colleague from Connecticut. I have listened to a lot of speeches on the North American Free-Trade Agreement, and I have found none to be as comprehensive and as well thought out, well organized and logical as that of the distinguished Senator from Connecticut.

I compliment him because he is a powerful voice in this area, and he should be listened to. He is absolutely right.

Just a few years ago, I went down to visit President Salinas. He told me at that time I was the first United States Senator to visit the President of Mexico in 15 years. I think that is an incredible indictment of all of us for not paying more attention to this hemisphere and the problems that exist in this hemisphere and the friendships that can be engendered just by simple efforts.

The Senator is right. We would create the largest trading bloc in the world—700 million people. These people are our third largest trading partners; in manufactured goods the second largest trading partner. They are helping us in the antidrug effort like never before. They are cooperating with our DEA and others like never before. They have fought for democracy and for free market systems like never before. They are privatizing like never before. They are changing their whole system down there and bringing their people into a position of more self-empowerment. And they are the example for all the rest of the hemisphere, along with President Menem down in Argentina.

If we do not do this, we will set back Mexican-American relations at least 60 years and we will hurt this whole hemisphere, as the distinguished Senator from Connecticut said, a hemisphere that is watching us like hawks.

I do not wish to go on any further, but I compliment the distinguished

Senator because I think it is one of the best set of remarks on the North American Free-Trade Agreement I have heard. He certainly speaks with authority and with power, and I appreciate it personally.

Mr. DODD. I thank my colleague.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I have two sets of remarks that I would like to give, but I notice the distinguished Senator from Wisconsin on the floor. I understand the distinguished Senator from Wisconsin only needs 3 minutes. I would be happy, without losing my right to the floor, to yield so that he can give his statement.

Mr. KOHL. I thank my colleague from Utah for yielding to me for a brief period.

NOMINATION OF WALTER DELLINGER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The Senate continued with the consideration of the nomination.

Mr. KOHL. Mr. President, I rise to speak in support of the nomination of Prof. Walter Dellinger to be Assistant Attorney General for the Office of Legal Counsel. I am very confident that Professor Dellinger possesses the requisite professional background and character to serve as the head of that office. It is difficult for me to believe that his nomination is being contested at all because he is one of the most talented—and likeable—nominees I have ever met.

Walter Dellinger is exceptionally—and perhaps uniquely—qualified to examine the constitutionality of legislation on behalf of the Attorney General, the White House and the President. Professor Dellinger has devoted much of his career to the indepth study of the Constitution, and he is recognized as one of the Nation's leading legal scholars. Since February of this year, he has served as Associate Counsel to the President, and then as a consultant at the Department of Justice. Simply put, we should have confirmed him months ago.

Furthermore, Professor Dellinger has distinguished himself in front of the Supreme Court and perhaps he may even sit on the Supreme Court one day. But most importantly, Professor Dellinger has continually displayed a keen ability to remain objective while considering highly charged issues.

Last, I would like to comment on the Walter Dellinger I have personally come to know. He is among the brightest of all the Clinton nominees and he is among those most dedicated to public service. In discussions with Professor Dellinger what pleased me most was that his views are so moderate. In fact, when he told me that in some instances we ought to limit punitive damages, I knew then this was a man I liked, and that I could support.

Mr. President, throughout his professional and personal life, Professor Dellinger has exhibited the qualities required to head the Office of Legal Counsel. I expect him to be confirmed and I wish him well in his new position.

I thank you. I yield the floor.

WALTER DELLINGER (OPPOSE)

Mr. HATCH. Mr. President, I initially supported the nomination of Walter Dellinger to be Assistant Attorney General for Legal Counsel. Professor Dellinger is a very bright and able scholar, with whom I disagree on a number of issues.

Despite my disagreements with Professor Dellinger, I supported his nomination in the committee. I do not believe a President is entitled to a blank check in nominating individuals to executive branch positions, let alone to life-tenured judgeships. A President, is, in my view, however, entitled to some deference in choosing members of his or her administration, although considerably less deference is due with respect to life-time judicial appointments. Indeed, I have opposed one nominee to the Department of Justice, whose nomination was withdrawn by the President before the committee acted on her nomination. I have also opposed other nominations by President Clinton.

Moreover, my vote in favor of a nominee for a position in the executive branch does not signify I would support that nominee for a life-tenured position.

But, while I was prepared to cast my vote in favor of Professor Dellinger earlier this year, I will not do so now.

On August 11, 1993, Professor Dellinger assumed the position to which he had been nominated, on an acting basis. This was done despite the very clearly and plainly expressed opposition to the nominee by two Senators on this side of the aisle, the Senators from North Carolina. In my view, the administration has thumbed its nose at the Senate, a Senate controlled by the President's party. This nomination could have been called up for disposition. And until the Senate acted on the nomination, Professor Dellinger should have remained a consultant at the Department of Justice, and not assumed the active leadership of the division. It was not a wise decision by him to accept the advice he was given to assume this position on acting status in the face of what he understood to be strong opposition by two Senators.

Pending nominees have assumed their positions on an acting basis before. But in many cases, the nominee was a deputy in the office in question, on the day of his or her nomination. In other cases, there was no controversy or expressed opposition to the nominee who assumed acting leadership in the position for which he or she was nominated. But many nominees have served as consultants and awaited Senate action while a deputy became acting head of the office in the meantime.

Now I understand Professor Dellinger was switched from consultant to Deputy Assistant Attorney General for the very purpose of making him acting head of the office.

I am not suggesting that the Attorney General exceeded her legal authority here, but it seems to me a decent regard for the constitutional role of the Senate would have led the administration to await Senate action on this nominee in the face of opposition to the nominee in the Senate. This is at least the case, in my view, when the President's party controls the Senate. It is not this side which has declined to take up the nomination. And, it is no answer to say that one or more opposing Senators declined to grant consent to a time agreement; that is the prerogative of any Senator on either side of the aisle on any nominee or piece of legislation.

If the President wanted Professor Dellinger's nomination to be acted on so badly, it would have been called up. This is not intended in any way as a criticism of our distinguished majority leader, who is my friend. I well understand the time pressures on him. My criticism is aimed at an administration which, in the face of opposition in the Senate, refused to wait until the Senate disposed of the nomination, put the nominee into place on an acting basis, and thereby, together with the nominee, flaunted the Senate.

The fact that the two Senators are from the home State of the nominee is not central to my point, which is the larger one of flaunting the Senate's role in the advise and consent process. But, while not central, and even though this nomination is not for a state-based position such as district judge, U.S. attorney, or U.S. marshall, the fact that both home State Senators opposed the nomination and wished to be heard before confirmation carries weight with this Senator. To me, it means that Senate action comes first, placement in the position comes second. I think we set a bad precedent if an administration whose party also controls the Senate schedule can put a person into a position on an acting basis in the face of known opposition in the Senate. Here, the opposition is from both home State Senators. It does not matter what the vote was in committee. Many controversial matters on the floor have breezed through committee. The administration was aware of opposition to this nominee—that is why they could not get a vote on the nominee before the August recess. So, they installed him anyway.

Throughout this process, I want to be clear that I have had no reservations

about this nominee's qualifications for the job or about his character and integrity. I do believe he and the administration made a misjudgment, and since that misjudgment—which was readily avoidable—impinges on the prerogatives of this body and, in particular, my two colleagues from North Carolina, I will oppose this nomination.

Let me add one more point because I want the record to be clear. Our distinguished chairman made reference to rumors or concerns brought to our attention. I will reiterate the chairman's remarks. Any concerns about the nominee brought to our attention were thoroughly checked out in a bipartisan fashion. There was not even a shred of evidence to support these concerns. My vote is not based on any other points than the ones I have mentioned earlier.

In my view, this controversy has absolutely nothing to do with any of the concerns referenced by the chairman last night.

Mr. President, these are important matters. This is important in my view. I believe that there are good people on both sides of this issue. As I said, Professor Dellinger has the credentials to fulfill this position. But I also think that the approach to the Senate has to be given some consideration as well.

TRAGEDY IN SOMALIA

Mr. HATCH. Mr. President, this morning brought more grim news from Somalia. Another American has been killed, this time by a mortar attack on the airport at Mogadishu.

I mourn this loss, as well as the loss of the other Americans who have died and who have been injured in Somalia. It is a tragedy. What is worse is that it is a needless and a pointless tragedy.

As one who knows what it is like to lose his only brother in a war, having lived through that tragedy, my heart and my prayers go out to the families who have lost their loved ones.

This military operation has been badly bungled by the Clinton administration and by the United Nations.

Where did this mission go wrong? It did so last March when President Clinton shifted the mission of our forces in Somalia from the humanitarian mission of delivering food to prevent mass starvation to the much larger mission of establishing security in Somalia and nation building.

Let us be clear. President Bush deployed forces to Somalia on a humanitarian mission that most of us supported. The forces we sent were sized and configured for opening roads for the delivery of food in the absence of organized resistance. And our forces achieved that mission.

But President Clinton changed that mission. At the bidding of the United Nations, he shifted the mission to building up a new Somali Government. Even this week Secretary of State Christopher has said that we will not leave until a "secure environment has been established." Yesterday, President Clinton said that American forces must stay to complete "the job of establishing security in Somalia."

What the administration did not do—and this represents its major policy failure—is reconfigure our forces for the new mission. We cannot pacify Somalia, or even Mogadishu, with the 4,000 troops we have in Somalia. If the President is serious about his new nation-building mission—and I want to express deep reservations about its wisdom—he must ask Congress to send the vastly larger forces needed to achieve that mission.

It is a simple question of means and ends. If the President wills these ends, he had better will the means. Otherwise, he will pointlessly sacrifice American lives and, I might add, the mission will inevitably fail.

The mistake of shifting missions without changing the forces is at the root of the tragic loss of American lives in recent weeks. Yet, unbelievably, the administration still does not see its error.

It is now sending another 1,000 troops and a few armored vehicles. But this will not create a force sufficient to establish security in Somalia. That is nowhere near enough. The new deployments may enhance the security of American troops in Somalia—and that is important in and of itself—but the only mission our forces will be able to achieve is the mission of defending themselves.

I would like nothing more than to be able to arrest Aideed and punish him for the actions of his forces. If we can do that with a surgical strike, I am in favor of it. But I am under no illusions about the massive deployments of troops that will be needed to achieve the mission of stabilizing and establishing security in Somalia.

The administration's basic inability to match mission and forces is deeply disturbing. Even more disturbing are the reports that the administration turned down the requests by commanders in the field for reinforcements and equipment needed to defend themselves. I will not prejudge these decisions, but a serious congressional inquiry into this tragic matter is imperative.

Mr. President, it seems more and more that it is amateur hour in American foreign policy. We sacrifice the lives of our troops to patrol the streets of Mogadishu, but we impose an embargo to the United Nations that prohibits the victims of genocide in Bosnia even to buy arms to defend themselves. We support a political role for the Khmer Rouge in Cambodia, but we hunt down General Aideed in Somalia. We use the United Nations for nation-building in Somalia, but we allow the United Nations to facilitate the brutal partition of a nation in Bosnia.

We are told that our policy is one of "assertive multilateralism." In fact, it is incoherent multilateralism.

It is time that this administration ends its excessive, and dangerous, reliance on the United Nations as a vehicle for American foreign policy.

We must stop allowing the international bureaucrats at the United Nations to treat the United States as their personal 911 emergency number. We should participate with other U.N. military missions, but only when U.S. forces are under U.S. command, and only when the operation serves vital American interests. No such interest exists in the streets of Mogadishu. No more American troops should die there.

Mr. President, I add that no more American troops should be taken hostage. We should do everything in our power to remedy that situation.

Mr. President, I sincerely hope that the administration will come to its senses and return to the Bush plan in Somalia. Our mission is complete. Our forces should be withdrawn. The United Nations should be tasked with pursuing a political—not military—solution to the internal conflict in Somalia.

Most of all, the administration must learn the lesson that the United States should put its troops in harm's way only if our vital and critical interests are at stake and should send enough forces so that they can achieve their mission rapidly and with the least risk to American lives.

Mr. President, I yield the floor.

SOMALIA

Mr. D'AMATO. Mr. President, first of all, I want to concur in the sentiments expressed by my good friend, the Senator from Utah [Mr. HATCH], as it relates to the United Nations literally taking command of our troops and our forces. I think that raises very serious questions—questions that we should be discussing as to when, how, and under what circumstances. Basically, I say they should not have command and control over U.S. forces.

Second, the fact that we have changed the mission in Mogadishu, in Somalia, where we once undertook a mission of mercy, for feeding starving people—and everyone could sympathize and support that effort; I did, and I think most of the American people did, as did Congress—we have gone from that humanitarian mission, where we put in 28,000 troops to guarantee the safety of the U.N. personnel undertaking that mission. Thereafter, we draw down that 28,000 to some 4,000 U.S. troops—most of them support, 1,200 Rangers. The fact of the matter is that by that draw down, and then a change of the mission from one which was of humanitarian nature but yet had sufficient fire power to assure that those

charged with the responsibility of carrying this out could be protected, to one that we call—it is a wonderful sounding name—"nation building." That sounds like a political process: "nation building."

Mr. President, it is not a political process. It is not a political process if you have to use armed personnel and U.S. troops to go in and seek out people. It is not a political process if you are having fire fights with different segments, whether it is Aideed or anyone else. It is not a political process in the terms that we generally think about it. It is a much more aggressive one. It is a policy that departs from sending food in. A policy of seeking out and hunting down people who are armed and dangerous. By its very nature, it is much more dangerous.

What do we do? We withdraw support for the young men and women who we send over there in basically a humanitarian effort. And now, under the aegis of the United Nations, it has been changed, and it is much more a military action. That is what it is. Nation building is a military action.

Senator BROWN and I sent a letter to Secretary Aspin yesterday in which we requested from him confirmation or denial of those reports that we have read in a number of the media, in which it has been said that Secretary Aspin denied the request of General Montgomery to send armored personnel support tanks to Somalia for defensive purposes.

Let me read to you a report from Knight-Ridder, in the Albany Times Union:

"Defense Secretary Les Aspin twice spurned requests from General Colin Powell to send additional tanks and troops to Somalia to defend American soldiers—before a dozen died in last week's fire fight," Pentagon officials said Wednesday. Officially, Aspin and the Pentagon decline to discuss the episode, saying that such matters are classified. Privately, Aspin aides acknowledged that the Secretary never acted on the request, made twice over a 3-week period. "The Defense Secretary was mulling this request when the mission blew up over the weekend," one said.

In addition, it has been reported that the civilian advisers to Secretary Aspin said they feared there might be a political backlash from the Congress and the American people.

Since when has Congress ever, ever engaged in that kind of second-guessing of what was necessary for the defense of our young men and women? How dare those political bureaucrats make that assumption? And how dare the Secretary of Defense turn down that kind of request? Incredible.

Indeed, we have a right to these answers. Why did Secretary Aspin turn down a request that came from the field and that was approved by none other than Colin Powell, Chairman of the Joint Chiefs, to see that the kind of support necessary, that the tanks and equipment necessary to defend our young men were not made available?

If it is true that he feared a political backlash, does that mean that because of the sake of political expedience we do not give proper support to our young men and women in the field? Is that what that means? That is a pretty sad commentary.

Let me indicate to you why this takes on some relevance because the fact of the matter is these young rangers were pinned down for up to 9 hours, although American personnel quick reaction forces that were supposed to be able to respond in 20 minutes, it took them 9 hours to get to these rangers who were pinned down because they did not have what? Tanks in which to get them there. And after they started a rescue operation and hit withering fire, their commander on the ground determined that the losses would be too great and withdrew and, thereupon, it took another period of time before we could assemble tanks from other areas from the Malaysians who then broke through and were finally able to rescue these rangers who were pinned down for 9 hours.

Mr. President, maybe it is not the political thing to say or to do in this climate of political correctness, but Secretary Aspin has a lot to be called for and a great deal of accountability on why it is he turned down these tanks. And if the answer is that which we have heard from the nameless, faceless bureaucrats, because he feared a political backlash, then I suggest that he should be fired now. He should resign now, and if he does not resign, the President should remove him.

We understand the principle of civilian control and that the President is Commander in Chief of the military. But we also recognize that when we send our people out into the field, our young men and women, our soldiers, to take on hazardous and dangerous missions that we give them the best, that we support them, that we do not withhold support with something so basic as tanks to defend them in a situation that has changed from one that was supposed to be humanitarian to now a more militaristic adventure. And that is what it is. That is unconscionable to deny that field commander, who is backed up by no less than Colin Powell, the Joint Chiefs of Staff, to deny them that which they need to protect themselves.

I do not know how many lives may have been saved if those tanks were available. I do not know how many of those who were wounded may not have been wounded. I do not know whether or not that mission would have been conducted in that manner, dropping them in that manner, because they did not have tanks and could not approach. I do not know.

But I certainly would suggest to you that the conduct of this operation not only leaves a lot to be desired, but it would appear that we do things on the altar of political expedience, and that is not acceptable. It is not acceptable.

Mr. President, I want to suggest to you that we are getting ourselves further into a situation where we are losing control over the command of our own U.S. personnel. I believe that what we see in Somalia may be the harbinger of things to come that may bring greater consequences and devastation to this country.

We use these nice new terms "nation building." Well, if nation building means that we have to conduct strikes against various people and tribes, I would suggest to you that that is far more hostile than what it may sound like, that it is far more dangerous than the so-called humanitarian mission of bringing food to people.

I suggest to you that it is a military operation. We now use another term. Maybe it is to get around the War Powers Act. It is called peacekeeping, and we now talk about bringing in, injecting 25,000 so-called peacekeepers into Bosnia.

Let me tell you something. Sending 25,000 so-called peacekeepers into Bosnia is far more dangerous than having 4,000 troops in Somalia under the present situation. If you believe that 25,000 peacekeepers are going to keep the peace, then I tell you, you believe in the tooth fairy, because they are not going to keep the peace and they are going to wind up being targets themselves. And just like some of our United States servicemen have reported, we do not know who the enemy is in Mogadishu and Somalia. They are not going to know who the enemy is because one day it is one group and another day it is going to be the next group.

We are taking on the mission of being world policeman. We are saying that under the aegis of the United Nations we are going to enter wherever there is civil strife. If they say it is a U.N. operation, it is going to be United Nations in name alone, and the fact of the matter is the firepower, the men who bear the suffering, the combat forces are going to be primarily United States.

Have we become hired mercenaries to inject in every hot spot throughout the world?

These are the kinds of questions we better be answering ourselves. Are we going to have the incompetent bureaucrats at the United Nations determining the destiny of our U.S. service people? Are we going to have the command and control on battlefield situations, the lives of young U.S. citizens, who serve their country, determined by foreign nationals who may decide to send in help or may not decide to send in help? Who may decide it is appropriate?

We get reports that in certain situations when military operations were being conducted—and I say military

operations in Somalia—that certain of the countries that participated, their commanders did not agree with the overall command and refused to undertake various operations.

How do you assure the safety of our U.S. troops in that kind of situation?

I suggest to you that we better have a clear understanding of this business. It is nice to bring in this business of one world—one world, former President Bush discussed that—and the use of the United Nations. When do you decide it is appropriate to use force? At what level, and who is going to participate? Who is going to fund this?

Mr. President, I know there are others who would like to speak to the issue at hand, the Dellinger nomination. I thank them for their indulgence to permit me the opportunity to raise these issues.

These are difficult times, but I think sometimes we are afraid to call them the way we see them because maybe it is not politically correct. There are other issues. There are those who say let us get Aideed.

I think the only thing necessary for us to do is to make sure that we secure those who have been taken hostage and get out as quickly as possible. I think this Nation is far greater than having to worry about how we are going to be viewed in other areas of the world. I do not think it is worth, that conflict in that area, one more U.S. life. Yesterday we had another person who was killed as they mortared the fields over there.

I do not like when I hear situations where the other convoys and the other troops of the nations are not fired upon, but it has now become sport to fire upon the U.S. personnel. I understand there will be deaths there. Pakistan suffered deaths. But now it is very clear we have become the enemy where here we are reaching out to give humanitarian aid to help starving people and are now viewed as the enemy. Here we went in with one purpose, and now we are being asked to hunt down whoever it is. I would like to hang him, no doubt about that.

Is it worth more and more human lives, more and more servicemen, one more man to go and get him. If we are going to get him, then for God's sake, let us authorize this and let us do it in an appropriate way. Let us see to it we have overwhelming power and force so that we do not unnecessarily jeopardize lives and do it in that manner as opposed to this haphazard manner calling it one thing and yet it is something else—putting a nice, acceptable political terminology on as nation building when it involves far more in the way of military risk than our previous authorized undertaking of supplying humanitarian relief.

I think we better be more realistic, and I also think we need real accountability.

Notwithstanding that, it may not sound nice, Secretary Aspin should go. He absolutely has forfeited his right to have the support of this Congress, of the people of this Nation, when he refused to send the necessary armament so that young men could be defended from the kind of thing that took place.

Mr. President, I see my colleague from Alabama, and I yield the floor.

NOMINATION OF WALTER DELLINGER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The Senate continued with the consideration of the nomination.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, I rise today in support of the nomination by President Bill Clinton of Walter Dellinger to be Assistant Attorney General, in the Office of Legal Counsel at the U.S. Department of Justice.

Mr. Dellinger is a distinguished North Carolinian where he graduated with honors in political science in 1963 from the University of North Carolina at Chapel Hill. He went on to receive his law degree from Yale Law School in 1966. After graduation from law school, he served as a law clerk to Associate Supreme Court Justice Hugo Black, who was a native of my State of Alabama.

From 1969 through the present, Mr. Dellinger has held various positions at Duke University, one of our Nation's leading southern universities. He has been an associate professor of law, a professor of law, associate dean, and acting dean at Duke University Law School. He is a member of the American Bar Association and the North Carolina Bar Association.

Mr. Dellinger has received a number of honors and awards almost too many to mention. Some of the more significant of these are the Eugene Bost Research Fellowship; the Rockefeller National Humanities Fellowship; Project 1787 Constitutional Founding Fellowship; Yale Law School National Scholarship; and the General Motors National Scholarship.

Mr. President, the Office of Legal Counsel within the Justice Department is a most important position and the head of that office advises the Attorney General in carrying out her responsibility to "give advice and opinion upon questions of law when required to do so by the President of the United States." This is a statutory duty which has been imposed on the Justice Department since the enactment of the first Judiciary Act of 1789.

Many distinguished Americans have served in this position including Alabamian Charles Cooper, who served under Attorney General Edwin Meese, and who has publicly stated of Mr. Dellinger that:

> I have come to know him, like him, and respect him as a fine lawyer * * * [h]e is a splendid appointment for a Democratic President.

Similarly, Mr. Theodore Olson, who headed this office during part of the Reagan administration stated that while he may have disagreements on certain issues with the nominee that "nonetheless, I feel he is well qualified by experience, intelligence, and background to be President Clinton's Assistant Attorney General for the Office of Legal Counsel."

Our former colleague Senator Terry Sanford of North Carolina, who also served as president of Duke University, has also written to chairman of the Judiciary Committee JOE BIDEN, endorsing the President's nomination of Mr. Dellinger. And in July, Mr. Dellinger received a unanimous vote of approval from the Senate Judiciary Committee, indicating its trust in the President's nomination.

Mr. President, the Office of Legal Counsel is one of the most important legal positions within the executive branch of Government. This office has had a distinguished history of providing keen and objective legal analysis to the Attorney General, and I am convinced that Walter Dellinger will continue that devotion to the traditions of that office.

I generally defer to Presidential nominations to the executive branch of Government of both political parties, both Democratic and Republican, believing that the President has the right to select his choice as long as they are qualified by intelligence, integrity, good common sense, and are of good moral character. While I might not agree with some of the nominee's positions that he has taken on past policy issues, I respect the right of the President to select his nominee as long as he meets those foregoing criteria.

But a nomination to this particular office also requires, in my judgment, a higher standard. As one former deputy to this office in the Reagan administration, Robert Shanks, has stated:

> It is important to note that the Office of Legal Counsel is not a part of the official policymaking apparatus of the Department. It exists to provide the best possible legal advice in response to questions concerning the legality of proposed Executive actions. The trust and credibility of the Office—its reason for existing—would be diminished to the extent that partisan political considerations were perceived as affecting its best legal judgment. The Office, therefore, has strongly resisted the temptation to allow political pressures to affect its ability to render the best possible legal advice, based on an independent reading of the law.

Mr. President, it is this special responsibility to advise the Attorney General on the legality of proposed executive branch actions that makes this position of public trust so important. I am convinced that Walter Dellinger, based on his qualifications and experience as a lawyer, and his integrity as

an individual, will exercise that independent judgment when necessary and will uphold the traditions of this distinguished office. I am pleased to support his nomination and urge my colleagues to cast their vote in his favor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I would like to speak on a subject separate from the immediate one, if I may do so.

The PRESIDING OFFICER. The Senator has that right.

NOMINATION OF JAMES E. HALL

Mr. PRESSLER. Mr. President, I would like to explain my position regarding James Hall, who has been nominated for a position on the National Transportation Safety Board [NTSB]. I understand the full Senate will probably confirm Mr. Hall's nomination later today. Yesterday, I voted against that nominee in the Senate Commerce Committee, on which I serve. I would like to explain why I oppose Mr. Hall's confirmation and give some of my views on the bureaucracy within the NTSB and the Federal Aviation Administration [FAA].

As a member of the Commerce, Science, and Transportation Committee, I have long been concerned about the effects of agency bureaucracy. I became especially concerned about it earlier this year when South Dakota Governor, George Mickelson and seven leading citizens were killed in a plane crash. At that time, I began to look into some of the Federal agencies' directives and standards in relation to aviation safety. It turned out the National Transportation Safety Board had sent the FAA two warnings about the Hartsell propeller, which appears to be at least part of the cause of that devastating plane crash. However, no airworthiness directive was issued by the FAA. In fact, the National Transportation Safety Board had even sent to the FAA a letter predicting a catastrophic accident would occur unless something was done. Yet, the FAA did not issue an airworthiness directive.

I am very concerned about the safety of the flying public. I am also concerned about safety for all modes of transportation, be it the train crash that occurred in Maryland, the Amtrak train accident that occurred recently in Alabama, or a pipeline breakage or an explosion during the transportation of hazardous materials. Because of these very real catastrophic accidents, the public deserves to have a National Transportation Safety Board that is first rate and will work to enhance transportation safety to the greatest extent possible. Therefore, the nomination to the NTSB should not be taken lightly.

Let me explain briefly my position regarding Mr. Hall's confirmation. I shall not ask for a rollcall vote on the floor, but I want to explain a bit of the background on this because I think it is vitally important to transportation safety in the United States.

Both the National Transportation Safety Board and the FAA are what we might call middle-level bureaucracies. These two agencies are very much concerned with keeping the American public safe, but they are not in the glare of everyday publicity. These two agencies do not get much scrutiny from a public administration point of view. Indeed, I have said we need to have an oversight Congress, a Congress that does not pass new laws but has an oversight into the various agencies to see how they are doing their jobs, how they are spending their money, and what the results are.

Mr. President, there is much talk about reinventing government. I frequently feel we as Senators are not doing our jobs as we should unless we spend some time looking into these agencies. And that is blue Monday work. When Congress creates a new bureau or agency, we get headlines and media coverage. However, when we hold oversight hearings and try to analyze the agencies with the Federal Government, there is very little credit given. There is very little press coverage. But that is not what we should be here for. We should be here to do our jobs effectively.

In our agenda, we should include taking a hard look at the National Transportation Safety Board. One of the law's requirements regarding membership qualifications is that at least three of the people on that Board be professionally qualified at the time of appointment. Specifically, the law states, the following:

> At any given time no less than three members of the Board should be individuals who have been appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.

Obviously, the law's stated professional requirements are subjective. Frankly, I believe the law should be revised to make these requirements less subjective. It is my opinion we would not be upholding the law if we approve Mr. Hall's nomination. In fact, I have written to President Clinton on this very matter and am eagerly awaiting his reply.

I ask unanimous consent that a copy of that letter be printed in the RECORD immediately following my remarks.

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

(See exhibit 1.)

Mr. PRESSLER. Let me clarify. I am not opposed to political appointees, nor do I question Mr. Hall's reputation. Further, I think the National Transportation Safety Board is currently composed of very forthright individuals who work diligently to protect the safety of our traveling public. I hope that point is very clear.

At this point, it is up to each Member of the Senate to decide for himself or herself whether Mr. Hall's confirmation should go forward. I became convinced during Mr. Hall's confirmation hearing that he did not meet the professional qualifications as provided by law. Frankly, I was disappointed in the answers he gave to several of my questions. I ask unanimous consent at this point to have some of those questions and answers printed in the RECORD.

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

(See exhibit 2.)

Mr. PRESSLER. The bottom line is: What direction are we headed at the National Transportation Safety Board? I believe strongly the Senate, in its confirmation process, has a responsibility to raise a voice of objection if we feel some nominee is not well qualified for that particular job. That does not mean that nominee is not well qualified for another job. I believe this is the case with respect to Mr. Hall.

Let me go a step further. I believe the Congress of the United States has to do a better job of oversight hearings overall, and has to do a better job in scrutinizing nominations. I apply that to Republican as well as Democratic administrations and Senators. In fact, I spoke recently with Senator BOREN, who heads the commission on congressional reform in the Senate. One thing I believe is we could have shorter sessions by getting our work completed in the mornings, and having our votes stacked. I believe we owe that to those of us in the Senate who have families. But, also, I think every other Congress should be an oversight Congress, where we look into the agencies and evaluate what we have done and evaluate how our taxpayers' money is being spent. In that way, we could best accomplish an important goal advocated by our Vice President, AL GORE. The Vice President is working to reinvent Government, and make it more efficient. That is a goal I share, too. Unfortunately, instead of proper review, we often hurry along. We are constantly giving short shrift to agency oversight and the hearing confirmation process, for example, there were two or three other nominees this year that I had raised questions about, but I found most of them were just pushed on through the process. I think we need to do our duties more carefully and spend a little bit more time checking and rechecking and reviewing each and every individual nominated for an administrative position. Mr. President, I hope my position is better understood by my colleagues.

In the case of Mr. Hall, my concerns are as follows: A vote on Mr. Hall's nomination was scheduled less than 24 hours after the full committee's nomination hearing. I objected to such

hasty action. Further, I had serious questions about Mr. Hall's responses to my questions during his nomination hearing and wanted my colleagues to have an opportunity to read the hearing transcript. Finally, in my judgment, Mr. Hall does not have the professional qualifications as defined by law. Mr. Hall even admitted this fact during his nomination hearings.

Mr. President, I remain convinced that by approving Mr. Hall's nomination we would not be living up to the true letter of the law. In closing, my position can best be explained by reciting a few quotes that I believe merit careful consideration:

This Committee has on occasions rejected nominations to the NTSB because the nominee did not meet the requirements of the statute in terms of experience.

Accident investigations and decisions as to cause are too important to leave to political amateurs.

I will do what I can to see that qualified nominees, not political friends, serve on this important agency.

Mr. President, I congratulate the distinguished chairman of the Aviation Subcommittee, Senator FORD, for those forthright words. My colleague made these remarks last year—the last time this committee considered a nominee for the NTSB. He was right on target and I appreciate being able to associate myself with his comments. In short, we agree that the law's requirements must not be overlooked. I hope that is the case the next time we consider a nominee to the NTSB.

Mr. President, I do not intend to block Mr. Hall's confirmation. I take the floor to express my concerns and wish the RECORD to reflect that, had a rollcall vote been taken on this nomination, I would have voted in the negative. Nevertheless, I expect the Senate will approve this nomination, and I wish Mr. Hall well in his future service at the National Transportation Safety Board.

EXHIBIT 1

U.S. SENATE,
Washington, DC, September 8, 1993.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: You may recall that a letter to you dated May 28th expressed my concern that government leadership positions responsible for carrying out our nation's transportation agenda should be filled by qualified individuals. This is particularly important for those positions affecting the safety of our traveling public.

Generally, I am not opposed to appointments that are political in nature. However, in cases where the law provides for minimum qualification standards to be met, such as with the composition of the National Transportation Safety Board (NTSB), it is critical that the law be upheld. Therefore, I am very concerned with your nomination of James Hall to the National Transportation Safety Board (NTSB).

As you may know, the provisions governing the composition of the NTSB require that no less than three members of the Board are to be "appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation." Given the law's specific professional requirements for NTSB membership, as well as the fact that the NTSB is one of the most critical agencies for transportation safety, I believe it is necessary that the qualifications of any NTSB nominee—Democratic or Republican—be considered in relation to the professional background and qualifications of the current NTSB members, when appointed.

James Hall does not meet the professional qualifications as defined by law. In fact, Mr. Hall admitted this fact during his nomination hearing. Therefore, I would appreciate knowing the Administration's interpretation of the law as it applies to the composition of the NTSB. If the Administration interprets that the statute concerning membership qualifications has been upheld with respect to Mr. Hall's nomination, I urge that your next appointment to the NTSB be an individual with the technical qualifications and professional expertise required by law.

Thank you for your attention to my concerns. I look forward to your response.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

EXHIBIT 2

Senator PRESSLER. As I said in my opening statement, the law governing the NTSB specifically addresses the composition of the Board including the qualifications of its members. The law's provisions regarding these qualifications reads: "At any given time no less than three members of the Board shall be individuals who have been appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation."

Do you feel that your background puts you in that category?

Mr. HALL. No, Senator, I do not think I am an expert in any one of those areas. I think that, as was mentioned earlier, I have had the opportunity to work on a number of complicated and complex matters in which I have had to look to technical and research advice in order to make decisions. And I feel that my knowledge of the NTSB and the type of staff that is there, that working with that staff I would be in a position to meet the requirements of the statute in terms of membership on the Board, but I do not profess to have an expertise in any of those areas.

Senator PRESSLER. Now, if you could change the procedures of the modal agencies in deciding on a course of action to alleviate a safety problem, what changes would you make?

Mr. HALL. I do not think at this point in time, Senator, not having served at the Board and had working, hands-on experience with that, that I could give you an answer to that question.

Senator PRESSLER. Okay. What actions would you take to provide greater assurances that the DOT and its modal agencies give NTSB recommendations their highest priority?

Mr. HALL. Well, I would not have any recommendations at this point in time, as I have stated earlier. However, I would assure you that I would be actively involved to be sure there is close cooperation, to be sure that any recommendations that are advanced are implemented.

Senator PRESSLER. What is the NTSB's definition of an unsafe condition?

Mr. HALL. I am not aware that there is a definition of an unsafe condition, as a formal one that the NTSB has.

Senator PRESSLER. What would your definition of an unsafe condition be?

Mr. HALL. Well, I would imagine that anything that would cause whatever mode of transportation to become hazardous would be one definition, but I do not know that I would have a—you know, that is probably a pretty subjective matter.

Senator PRESSLER. For example, the National Commission to Ensure a Strong Competitive Airline Industry is about to report the costs of certain safety rules. You will be one of the Nation's key decision makers in terms of deciding where costs override additional safety measures. You obviously have thought a great deal about this. You are going into one of the most important safety jobs for the people of this country. Give us your philosophy of what an unsafe condition is, or at what point the costs of implementing new safety regulations override the results?

Mr. HALL. I do not believe that that is a matter that I have a philosophy on. I think at the Board you are basically charged with looking at a specific accident, and as a result of that accident making specific recommendations, and I do not think that cost is necessarily a factor that the National Transportation Safety Board would factor in. That possibly would be done in the agencies. I think we are supposed to specifically look at the problems and recommend measures that we think would be corrective actions.

Senator PRESSLER. Now, according to the working draft issued July 19th, 1993, by the National Commission to Ensure a Strong Competitive Airline Industry, the commissioners outlined several major findings regarding the cost of safety regulations.

Some of these findings include: "Federal regulations in airworthiness directives impose a massive cumulative cost burden on airlines which has never been quantified by the Government; Major rules since 1984 have added $3.5 to $7.5 billion to past or future airline costs, based on an aggregation of FAA's original estimates of costs for specific rules; Congress, DOT, and FAA all contribute to this burden. Congress or DOT mandates can preordain the outcome of cost-benefit analysis; Given the extremely high level of safety in the airline industry which can make it increasingly expensive to achieve even incremental safety improvements, Federal regulators must do a better job of ensuring that additional requirements meet rigorous cost-benefit tests; Industry often warns of high costs while the FAA believes it is not provided with accurate data on costs early enough to make an informed judgment before proposing a rule."

What is your feeling on cost-benefit tests regarding safety?

Mr. HALL. Senator, I am not familiar with, obviously, the work of that Commission, other than what I have read in the newspaper, and have not had the opportunity to read the report in its entirety. My position, as I see it, on the National Transportation Safety Board is to protect the safety of the citizens of this country, and I am charged with that responsibility and that would be the basis under which I would operate.

Senator PRESSLER. How is the cost benefit measured in terms of safety by the NTSB?

Mr. HALL. I do not have that information at this time, Senator.

Senator PRESSLER. Does the NTSB agree with the cost-benefit analysis of DOT's modal agencies? What are your views?

Mr. HALL. Well, as I mentioned earlier, I do not think at this point in time I have sufficient information to answer that question. That is certainly an area that I am going to look forward to looking at if I have the opportunity to serve on the Board if confirmed.

Senator PRESSLER. As a member of this Committee, I am trying to get an understanding of your view of what you believe, and of what you think because you are going to be one of the key people that we will be counting on in the United States in the area of transportation safety. Obviously in preparing for this hearing and this job, you have thought these issues through. Obviously, the Commission places high emphasis in weighing costs versus benefits when it comes to issuing safety regulations. Do you agree with this type of analysis?

Mr. HALL. Senator, my understanding, again, of my role at the National Transportation Safety Board is that we would be making specific recommendations in the safety area. And as far as I am concerned, I am going to be charged with the safety of the public, and will do my very best to ensure that any recommendations that the Board can make that would make any of the modes of transportation safer are recommendations that are given consideration and advanced.

Senator PRESSLER. Well, give me your view—how do you view the Board? I mean, what do you see as your principal role in a very broad sense?

Mr. HALL. In a very broad sense, I would look to, obviously, the fact that the Board was created 25 years ago by Congress for the purpose of advancing—being an independent agency to advance—independent board to advance safety in the various modes of transportation. And I would strive very much, Senator, to maintain that independence, to look at the matters in each one of these modes as they are brought to my attention, to rely, as I mentioned earlier, on the technical expertise of the members of the NTSB staff, and then working with the other board members to make specific recommendations to advance safety across the transportation modes that is our responsibility.

And it is not a position in which—it is very similar, I think, to the position that I had, to some degree, in the Governor's Office in Tennessee, in which we would attempt to investigate, evaluate, make decisions, and see that those decisions are implemented.

UNITED STATES POLICY IN SOMALIA

Mr. PRESSLER. Mr. President, this is not the first time I have stood on the Senate floor and called for the withdrawal of all United States troops from Somalia. I do not expect it will be the last. I have had concerns about the use of United States troops in Somalia since they were first deployed in December of last year. At that time, the mission was at least laudable and clearly defined. It was a humanitarian endeavor. I believe it was referred to then as Operation Restore Hope. However, since May 4, 1993, when the United Nations assumed control of the operation, the mission has been difficult to understand and has not been defined. The new mission, UNISOM, was placed under U.N. command with a United States general, general Montgomery, taking orders from a Turkish general, general Bir. This is unprecedented in history, an American army, with the dubious mission of nationbuilding—whatever that is—under the command of a Turkish general who must relay all command decisions through a command post thousands of miles away in New York City. This sounds like a bad movie.

Is it any wonder there were command and control problems in the heat of the fire fight in Mogadishu—a clash that left at least 13 Americans dead and 80 wounded. These troops were pinned down for 7 hours while U.N. forces sat less than a mile away. This so-called rescue team had to wait for permission from U.N. Headquarters in New York to go to the assistance of the Americans.

Frankly, our problems in Somalia began the day our troops hit the beach. Our troops have overstayed their welcome. Our troops are being used by the warlord Aideed to facilitate instability in Mogadishu. Whether they are captives to displayed to the media, or corpses to be dragged through the streets of Mogadishu, our military personnel have become the targets in a brutal civil war. These problems are compounded by the lack of definitive civilian leadership in the Pentagon. Since ordering the continuation of the United States presence in an increasingly ill-defined mission, the Office of the Secretary of Defense has not been supportive of military requests for needed equipment in Somalia. It has been clear to all of us in Congress that our troops were the intended targets of Aideed's rogue units. At the very least, the safety of U.S. troops should have been of greater concern to the Secretary of Defense than possible political perception. Given these factors, how could it be that an equipment request from a field commander could make it all the way up the chain of command—through central command—through the Joint Chiefs of Staff—through the Chairman of the Joint Chiefs of Staff, only to be denied at the Secretary of Defense level? Did we not learn our lessons in Vietnam? This request was for armor, tanks, and personnel carriers, to ensure the safe transport of U.S. troops. Yet, according to newspaper reports, Morton Halperin, the man who advised the Secretary of Defense on the field commander's request was admittedly concerned about political perception, rather than the immediate safety of our forces. Let me remind my colleagues that Mr. Halperin has been nominated but is not yet confirmed for the position of Assistant Secretary of Defense for democratization and peacekeeping, a newly created position. I cannot understand why the Secretary of Defense would find the judgment of an unconfirmed civilian official to be more valid then that of the Joint Chiefs of Staff. Clearly, resource allocations in the field should be given profound consideration when they have been approved entirely by the military chain of command. In short, Mr. President, an ill-advised mission has been exacerbated by ill-advised decisionmaking at the Pentagon.

Now, in response to growing public outrage over our continued presence in Somalia, decisions must be made. It is reported the President plans to deploy as many as 2,000 troops in addition to the approximately 5,000 already on the ground. The President has set March 31, 1994, as the date for complete withdrawal of U.S. troops. March 31 is simply too far in the future. Furthermore, what is our mission? Why are we sending more troops? I would support the deployment of additional United States forces only if their mission is to retrieve any United States prisoners of war, account for those soldiers who are missing in action, and ensure the safe withdrawal of all United States troops from Somalia. The mission must be simple—to secure the safe and immediate withdrawal of all U.S. military personnel from the region.

The President has set March 31 as the date for withdrawal of U.S. troops. March 31 is simply too far in the future. The day that all military personnel are accounted for is the day the United States should withdraw from Somalia. This Nation has entered the third act of the Somalian drama, it must be the final act.

Mr. President, in conclusion and in summary, let me state that I stood on the floor of the Senate when we initially sent troops into Somalia and objected because, as a Vietnam veteran, I felt strongly that we were entering into a situation where tribal conflicts have been ongoing.

I traveled in eight countries in the central African region last spring. There have been tribal conflicts going on there since the 14th century and they will continue long after I am dead.

The point of the matter is that we cannot solve their problems. Instead, we are exacerbating them. I think the original humanitarian mission was good. When it switched to UNISOM and nation building, we were quickly drawn into a quagmire.

Americans have a strong inclination to get involved in other nation's affairs. There are many other countries in this world who need our help, unfortunately we have limited resources and many problems at home that need to be dealt with. In fact, we have problems within a few blocks of the Nation's Capitol where you could build a case to have troops stationed, and where you could build a case to have an "Operation Restore Hope." The same holds true in many of our other cities,

small towns, and rural areas in the United States. We need to focus on our problems at home, beginning with the huge deficit. Sometimes by making ourselves strong at home, by taking care of the problems on our back doorstep, we serve mankind better.

So, Mr. President, I hope we will have the troops out of Somalia—lock, stock, and barrel in the near future. This was an ill-advised adventure. It has become an ill-defined mission with no clear-cut goals. The longer we stay, the worse the situation will become. The longer we stay, the more prisoners there will be and the more enmeshed we will become.

I can already predict an increased number of requests for aid from the United States. We are often blamed for every problem in the world. It is not our responsibility to continue paying as much money as we are to many of these countries without them doing something for themselves.

I hope that this is the last chapter in Somalia, and I hope the President has gotten the message. I hope the State Department and the Defense Department will become more organized and establish an efficient chain of command so that our fine fighting men in the field are not sacrificed needlessly.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NOMINATION OF WALTER DELLINGER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The Senate continued with the consideration of the nomination.

Mr. BIDEN. Mr. President, so far with regard to Walter Dellinger, I have heard the following reasons offered as to why we should either not vote on his nomination or, if we get around to voting on it, why we should vote against his nomination. They are not fascinating, but they are intriguing.

One is, the Justice Department should not have done what the ranking member of the Judiciary Committee acknowledged that it legally could do, but should not have done what they did, and that is make him Acting Director of the Office of Legal Counsel. That is the one argument. I have heard it in various shades. Some, like the Senator from North Carolina, have indicated they had no legal authority to do that and others, like Senator HATCH, said although they had legal authority, they should not have done it anyway. That is the one argument.

Notwithstanding the fact that he was nominated a long time ago, notwithstanding the fact it was clear whenever the Senator from North Carolina indicates he wants to talk extensively on a nominee that he means that this is going to take a while, notwithstanding those facts, it was argued that either, A—they had the authority but they hurt our feelings by going ahead and doing it or, B—they did not have the authority to do it but they went ahead and did it anyway. That is No. 1.

The second argument I have heard so far, and I hope I am not overly simplifying these but I think I am accurately portraying the essence of the arguments thus far put forward against Professor Dellinger, the second one is home-State prerogative. The Senators from the home State, notwithstanding the fact that they were—in particular the one who had taken the lead in dealing with the Judiciary Committee—they were consulted, every single question raised was investigated, every single resource made available through the majority as well as minority—that is Republican and Democratic—investigators on the committee, notwithstanding that, the home State Senators do not like the nominee, for various reasons: Ideology, temper—I do not know, but they do not like the nominee.

Nobody else in the entire U.S. Senate has come to the Senator from Delaware and said—I'm sure there are some—but none that I can remember have come to me and said, "We don't like this guy, and we don't want him to run this office."

So the two Senators say, "Look, he's from my State and, therefore, that should be good enough." Well, it is good enough to do one thing. It is good enough to slow this person up, for me to slow this person up as chairman of the Judiciary Committee, and take an extra hard look at the reasons offered by the Senators from the home State as to why they do not want him. I did that. The committee did that.

We did it with due diligence. We followed up on every single, solitary issue raised relative to the nominee. Those issues raised relative to his character were totally and completely without foundation and specious. That is not just the conclusion of the Senator from Delaware as chairman of the committee. That is the investigative staff conclusion. The investigative staff is made up of Republicans and Democrats, professional lawyers and investigators.

So the one thing that opposition of a home State Senator does entitle the home State Senator to, and will continue to, is to give an extra hard look by the committee because we take seriously the opposition of a home State Senator.

But what it does not do is entitle the home State Senators to be able to veto an administrative appointment that requires advice and consent. The Constitution does not contemplate that. It would be disaster if we had that as a measure.

I believe the public probably wonders whether or not the arcane rules of this body make sense anyway, let alone to make 100 of us individual Presidents who could decide merely based on the fact that a nominee hailed from our State whether or not they have a right to serve with the President in the Cabinet or in a sub-Cabinet position in the U.S. Government.

I hope we are not doing that. The senior Senator from North Carolina said last night that is not what he intends. I am happy to hear that.

So even the home State prerogative, the only one being asserted, and that is that a home State Senator should be given particular consideration, that was given, and that will continue to be given. So it seems to me to be a nonissue at this point, other than a home State Senator being able to come to the floor and under the rules of the Senate—not the traditions of the Senate, the rules of the Senate—exercise his or her right, which I respect, to filibuster a nominee, or to attempt to defeat a nominee. That is perfectly within their right. That is how it should go. That is what we should do. And that is what is happening now.

So let me review now. The first reason offered as to why we should not have Mr. Dellinger in the position of Assistant Attorney General is because his appointment, temporary appointment was premature—it offended the sensibilities of the Senate and, some assert, violated the authority the Attorney General has.

The second reason is home State prerogative. I hope that is no longer an issue because I hope I have demonstrated, and the senior Republican Senator has demonstrated, the committee exercised and gave wide deference to that home State prerogative.

There is not a single time either home State Senator approached the Senator from Delaware with anything remotely approaching a concern about this nominee that the Senator from Delaware as chairman of the committee did not follow up on.

The third reason offered, or I think will be offered more today—I anticipate it being offered—is, well, the Democrats did it to Bush. I expect we are going to see the charts we saw last night, that there were x number of judicial nominees left hanging out there at the end of the last term. Therefore, somehow—I do not know quite how it fits, but somehow this means that this nominee should be left hanging and not be voted on.

When and if the Senator from North Carolina articulates that argument more fully, I will respond in detail to his argument. But I fail to see the causal relationship between the two

even if the Senator from North Carolina's assertions last night were accurate, which I will take the time, if he raises them again, to demonstrate they are not.

The fourth argument raised as reason for opposition, the Senator from Delaware wrote a letter in 1989 to the President via the Attorney General, then Attorney General Thornburgh, that said all nominees from home States must be, you must go consult with the home State Senator before you send that nominee up. And if you do not, I as Chair will not consider the nominee.

It is reasonable for the Senator from North Carolina and others to assume that "all" meant literally all, any nominee. The truth of the matter is—and there is no way the Senator until last night would have known that—my discussions with the Bush administration, not beginning but culminating with my letter to them, were about judicial appointments for district courts. And I offered last night—and it is in the CONGRESSIONAL RECORD today—evidence of that, because the response to my letter where I used the phrase "all nominees" coming from the Justice Department said, and I am paraphrasing, in response to your letter about judicial nominees, Senator, we understand the following.

The administration knew back then in 1989 I was talking about judicial nominees. I knew I was talking about judicial nominees. My colleagues in the committee knew I was talking about judicial nominees. And now I hope the entire Senate knows we were talking about judicial nominees. So that fourth reason offered to slow up the Dellinger nomination I assume is no longer relevant now that the facts are known.

Now, there is a fifth reason that has been brought forward to oppose Walter Dellinger, and that reason is that he is too liberal—a legitimate reason to raise. That is the only thing I have heard. I have heard he is too liberal; that he had written opinions as a professor, written articles, advised Senators that the constitutional amendments relative to prayer were not appropriate, that he is prochoice, opposed to a balanced budget on a constitutional basis, whatever.

Well, I would argue that would be relevant, relevant and should impact on a Senator's vote relative to this nominee, if he were in a policymaking job. If he were going to be nominated for the Supreme Court—and he would make a fine Supreme Court Justice in my view—if he were going to be nominated for the Supreme Court, then I would think every Senator has every right to get up here and say, look, I do not want a Supreme Court Justice out there who is going to be able to overrule Supreme Court rulings or is going to rule on a Supreme Court case before the Supreme Court that says balanced budget amendments are unconstitutional or that prayer in school is unconstitutional or whatever else you disagree on. I respect that.

But I also would respectfully point out to my colleagues the Office of Legal Counsel is a job—and I read this into the RECORD last night—defined as being essentially the Attorney General's lawyer. His or her job, that is, the one for which Walter Dellinger has been nominated, is required to give a hard-baked legal opinion to the policymakers in the administration, whether it is the President or the Attorney General or other policymakers in the administration, as to what they are proposing. Is it (a) legal, and is it (b) constitutional.

The only relevant information that that lawyer's lawyer should and will give is what the State of the law is. He must write or she must write to the Attorney General or to the President: Mr. President, or Madam Attorney General, you wish to do the following. I regret to inform you that the Supreme Court has ruled on 77 occasions that you cannot do that. Although there is an argument against the Supreme Court position, I must inform you it is the law of the land.

Now, no one, no one, no one, has disputed that there is anyone more qualified—let me be precise—no one has disputed that Walter Dellinger is fully, totally, and completely qualified by competence, intellect, background, training, scholarship, and character to interpret what the law of the land is today.

This is a man who by everyone's account—liberal, conservative, good, bad, or indifferent—is a genuine legal scholar, fully competent to interpret what the law of the land is with alacrity and accuracy.

That is what this job is about.

Again, let us review the five arguments.

First, premature appointment.

We had our feelings hurt.

By the way, Walter Dellinger did not do that. Walter Dellinger did not say, by the way, premature appointment, even though he legally could do it without our colleagues' knowledge. You should not have done it. You hurt our feelings. A lot of Presidents and a lot of Attorneys General have done more than hurt our feelings. They have broken the law or interpreted the Constitution in the way that is fundamentally different than the vast majority of the constitutional scholars think it should be interpreted.

This does not fall in that category. The worst you could say is hurt feelings, lack of sensitivity. Is lack of sensitivity enough reason to deny one of the most brilliant scholars in America the opportunity to serve his Government in an advisory capacity as the lawyers' lawyer? I would respectfully suggest not.

Second reason: Home State prerogative.

I hope we are finished with that. I hope no one any longer is arguing that either, A, I did not accede to the prerogatives that are traditionally granted to home State Senators or, B, I hope we are not going to make the argument home State Senators have a constitutional right to veto any administrative appointment that requires advice and consent merely because that nominee hailed from their home State. I hope that is finished. If it is not finished, it is at least specious.

Third argument: Democrats did it to Bush.

We will deal with that when it is articulated more thoroughly, which I anticipate it will be.

Fourth argument: The chairman said so.

The chairman said all nominees. I hope we have settled that by using the correspondence from the Bush administration to the chairman relative to the point in question demonstrating beyond a reasonable doubt we were only talking about judicial district court appointments.

Lastly: He is too liberal.

Interesting, good reason for debate, ostensibly a rationale to vote "no" but not relevant to the job in question.

So I am ready to call the question, unless someone would like to speak in opposition to the nominee.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, it occurs to me that——

Mr. HELMS. Mr. President, will the Senator yield just one moment?

Mr. COVERDELL. I certainly yield to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, let me inquire of the Senator from Delaware through the Chair whether we are going to play games, parliamentary games. I know how to play them too. If the Senator is going to call the question every time I step out, I will stay here.

Mr. BIDEN. Mr. President, responding to my friend, one game I do not want to play with the Senator from North Carolina is the parliamentary game.

Mr. HELMS. Very well. I thank the Senator.

Mr. BIDEN. Mr. President, let me clarify what I mean.

I did not, nor did I last night, nor would I ever merely because the Senator walks off the floor call the question. My point was, my question was in the form of a question. I said if there is no one, if there is no further debate on this question, I am prepared to. I did not say I was going to. I was inquiring if there is anyone wishing to come to the floor to debate. It is like that old joke. They say, you know, my job is to speak and yours is to listen. If you all

finish your job before I finish mine, raise your hand so we can all go home.

My job is to move the nomination. Your job is to be opposed, and have the reasons to say so. If you no longer wish to speak in opposition, I am ready to vote. That is my only point.

Mr. HELMS. Who has the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. HELMS. He yielded to me. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. Mr. President, with all deference and all due respect, I do not need a lecture on parliamentary procedure or double talk. I have heard both since I have been in the Senate.

Now I want to review the question. Is the Senator from Delaware going to call the question or let anybody else call it every time I step in the cloakroom to take a telephone call?

Mr. BIDEN addressed the Chair.

Mr. PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. The answer is no, unless the Senator from North Carolina or someone else tells me there is no reason to debate any further. I will not call the question as long as anyone has a desire to say anything. That means if the Senator has to leave the floor, he says, Senator, we have 2 more, 5 more, 17 more people, or me, I wish to speak, but I have to leave the floor, no problem.

Mr. HELMS. Very well. No problem.

I thank the distinguished Senator from Georgia for yielding.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, it is extremely clear to me that we are engaged on a matter of this nomination because we have a disagreement among leadership, because there is strategic posturing underway at the moment with regard to a far more critical matter that he is before this U.S. Senate, this Government, and the American people.

I am taken aback that we are discussing the nomination of Walter Dellinger to be Assistant Attorney General for the Office of Legal Counsel while there are American soldiers under fire, dying, confronted with a combat situation for which they are not adequately prepared, and we are not discussing the matter. We are discussing the nomination of Walter Dellinger.

I respectfully would point out, Mr. President, that I do not believe the American people agree with this process. And I have often said that as a product of the 1992 election I can certify that the American people asked us to do things differently in Washington. When they see us here discussing this procedural matter rather than the life and death of American soldiers in an ill-defined combat situation, I think they will be gravely discouraged.

Mr. President, this morning in the Washington Post on a report of the situation in Somalia, the following language occurs that is exceedingly alarming to me, and I think ought to be to every Member of the United States Senate and particularly those who chair the committees of jurisdictions—the Armed Services Committee and the Foreign Relations Committee. I want to read for the RECORD this statement that appears in today's Washington Post. It says:

The president suggested in an interview with Copley News Service published yesterday that the United Nations had changed its mission unwisely, failed to provide military operation to back up peace keepers and staffed the units with troops untrained for their jobs who refused to venture outside their areas and refused to take orders.

That is a very serious comment on the part of the President of the United States. But it becomes more alarming. Let me read on.

The president also referred to U.N. actions as if he—

I repeat as if he, that is the President of the United States.

and his U.N. ambassador had had no role in formulating or approving them.

The actions of the United Nations.

I repeat. The President also referred to U.N. actions, which I have just noted, as if he—the President of the United States—and his U.N. Ambassador had had no role in formulating or approving those actions.

Mr. President, that is incredulous. That is a stunning statement. And it ought to command the attention of every member of this Government. We have United States personnel in faraway Somalia, under the command of the United Nations, on a subject for which we have been engaged for months, for which there have been hostilities for months, and we are being told that the United Nations changed the mission from one of humanitarianism to one of hostilities, placed United States personnel in harm's way, and the President of the United States and the Ambassador—our Ambassador to the United Nations—did not know about it.

I do not believe I have ever read a more alarming statement. This is exceedingly troubling, and I believe it calls for an inquiry and presentation before the pertinent committees—and I so suggest—of the U.S. Senate and House. These statements should be clarified quickly, and these are the subject matter which we ought to be addressing, because we are talking about life and death and captivity of American military.

Mr. President, for the last several months, we have been arguing about what is the mission in Somalia, and we have been asking for clarification of the mission. Now we find that the United Nations is arbitrarily changing the mission and not notifying the President of the United States.

Mr. President, I suggest that, through no actions of our own Government, the mission has now been eminently defined. There is one mission, and that mission is to recover and account for any American in captivity or missing as a result of this type of inaction and unpreparedness.

We have one mission: To leave no American unguarded, unprotected, or behind—we now know the mission—not by planning, but by circumstance. We must recover and account for these Americans missing. Then I suggest, Mr. President, that the mission ought to revert to one of humanitarian support, and that the United States does not have a national interest in enforcing a civil government in Somalia, for which the Somalis cannot agree.

It was interesting to me to note that in this intense battle, there were no Somalis fighting on our side, just the other side.

We have one mission, Mr. President: To account for every missing American.

Mr. President, to continue with the subject of the disarray which surrounds this matter, I read from the Washington Post again:

The United States general previously had made clear his awareness that his "thin-skinned" vehicles were vulnerable, and had asked last month for M-1A1 tanks and Bradley fighting vehicles, according to U.S. military sources. He had requested armaments to deal with the vulnerabilities of the remaining U.S. personnel.

Remember now, we had sent 28,000 for a humanitarian mission. We are down to 4,500, and the United Nations changes the mission to one of hostilities but does not advise the President. So the U.S. general has the foresight to recognize that he has taken on a new mission, and it is a more dangerous one, and he is much less capable of doing it. So he requests equipment to shore his position. What happened to the request?

But that request, endorsed by the U.S. Central Command, was turned down by Defense Secretary Les Aspin.

It was turned down.

An official representing Aspin's views said he refused the request because he got conflicting advice, saw no great sense of urgency, and was sensitive to the likelihood of a backlash in Congress.

Mr. President, there are no American soldiers, in my judgment, who have ever fallen that did not do so for a great purpose. I am speaking to the families of the 12 dead, now 13, not counting the ones previous to that—I think it is now 25—and the growing number of wounded. But to find out that they were left without the appropriate resources in the changed mission, which no one seems to know about, because of fear of a backlash here, does not quite ring right. It just does not ring right.

Mr. President, I will move on to an extended point with regard to this issue. I think we are seeing, firsthand, the reason that there are many in this Government who do not believe that the United States military should be placed under the command of foreign commanders, and specifically the U.N. command.

It seems to me that we have been progressively moving over these last few months to what I would call incremental multilateralism. There are more and more occasions where we see a willingness to put U.S. personnel under a foreign commander. Why not, people would say? We are seeing a greater role for the United Nations, a peacekeeping role, and the United States should be part of it.

I suggest that the United States falls in a unique category. It is the only military superpower in the world. It is highly visible. A U.S. captive says something that a captive of a nonmilitary power does not say. We are unique. We have a red target painted around us, and we cannot function in the role that our colleagues from Norway can. We are in a different circumstance, and it is more dangerous, as we witnessed the other night.

In any event, the increasing willingness to put U.S. personnel under the command of foreign commands or the U.N. command ought not to happen by osmosis. It ought not to just occur. If it is going to happen, it ought to occur because there has been a conscious decision and discussion in the legislative branch. It ought to be ratified by the Congress before it occurs.

Mr. President, in the same article, we talk about the fact that when this column was ambushed, for a varying number of reasons, it took 6½ to 7 hours for the relief to arrive.

Most of us have had an opportunity to serve in the military. We just witnessed the Persian Gulf war and saw that war has become a matter of seconds and minutes. The difference between life and death is very narrow. This would have been a slow relief column in World War I, 6½ hours pinned down, stuck, before the bureaucracy of a multilateral force could effectively respond. They could not even speak the same language. Of course, no one would expect that.

But in the name of this experiment of an international military, there are 13 people who will not participate in the debate anymore. I doubt that the families of these soldiers are very sympathetic to this concept.

Mr. President, in the very near term, the United States is going to have to confront this question as to whether or not it is integrated into an international military, which I contend it cannot do. It could even demean the international effort, because we tend to exacerbate circumstances by our presence in the world. I believe we would be better served as an international partner to the process, a partner not integrated as we have seen in Somalia. The U.S. military should be a partner to these events. They should not serve under U.N. command, and we have seen the most glaring evidence put before us as to why.

Mr. President, I hope this body will quickly return to the matter at hand. We have our men and women in a hostile situation that deserves our immediate and undivided attention.

Mr. President, I yield the floor.

NOMINATION OF WALTER DELLINGER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The Senate continued with the consideration of the nomination.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise today to speak on the nomination of Walter Dellinger to serve as Assistant Attorney General for the Office of Legal Counsel at the Department of Justice.

On August 11, 1993, Mr. Dellinger was appointed Acting Assistant Attorney General without notification to the Senate. Mr. Dellinger was considered to be a controversial nominee as he was opposed by both home State Senators. They had returned negative blue slips to the Judiciary Committee and this action leaves no doubt that there would be considerable debate on his nomination.

Rather than await Senate action to carry out its advice-and-consent role on this nominee as prescribed by the Constitution, the administration saw fit to appoint Mr. Dellinger as Acting Assistant Attorney General. In the past, there have been officials appointed to an acting position to fill a vacancy but Mr. Dellinger's appointment does not reflect precedent—I repeat precedent—on this matter.

The appointment of Mr. Dellinger to serve in an acting position is, in this instance, contrary to the clearly established role of the Senate in the confirmation of senior executive branch officials.

This appointment is in disregard to the Senate's responsibility and is a breach of Senate prerogative which is constitutionally mandated.

Mr. Dellinger is a capable individual but I will oppose his nomination as a clear signal to the administration that this Senator believes firmly in the Senate's responsibility under the Constitution in the confirmation process.

LATEST DEVELOPMENTS IN SOMALIA AND THE NOMINATION OF MORTON HALPERIN

Mr. THURMOND. Mr. President, I have just returned from a White House meeting with other congressional leaders and the President to discuss our policy in Somalia. I commend President Clinton for consulting more closely with Congress. Whenever possible, we want to support the Commander in Chief, especially when Americans are fighting and dying overseas. Congress shares responsibility for how American military force is used, and the two branches must work together.

The President has decided on a temporary reinforcement by heavy armored forces to guarantee the protection of the light infantry forces now in Somalia. In addition to the armor already announced, the President is prepared to send as many as 2,000 more troops. I said in the Senate on Tuesday that such a temporary buildup might well be necessary for the security of our troops.

However, more than additional troops and equipment, we need to change the way our forces are operating in Somalia. As I also said on the Senate floor, this mission must be redefined in military terms so that our troops can operate the way they are trained.

The President indicated he hopes to have all Americans out of Somalia by March 31. I am not in favor of announcing a certain date for our departure, but I do feel that 6 more months in the Somali quagmire is too long. In my opinion we have discharged any obligation we have to Somalia. The President wants to remain until Somalia has a viable democratic government that can guarantee future stability. But this was not part of the original mission, and Congress was not consulted when the mission escalated and put our service men and women in danger.

The goal of nation building in Somalia is unrealistic in any case, and could keep us bogged down indefinitely, with more killed and wounded. This is not acceptable to the Congress or the American people.

On the other hand, it is not in the national interest to slink out of Somalia with our tail between our legs, chased out by warlords and thugs. We must use our temporary military buildup for leverage to get back our prisoners and our dead, and provide security for an orderly withdrawal in the near future—but a withdrawal on our terms.

American soldiers, sailors, marines, and airmen are the best in the world. They are not only well trained, they are also well motivated, brave, disciplined, and obedient. They will go and fight when and where they are told. In short, they are simply magnificent, and the Government has an obligation to them not to take their willing obedience for granted. We have a solemn moral duty not to throw their lives away lightly, for vague purposes not in the national interest.

Yet last night another brave American soldier lost his life in a mortar attack, and a dozen more were wounded.

The situation in Somalia is deplorable. But, Mr. President, who has the President nominated to become the Assistant Secretary of Defense to deal with peacekeeping missions like this one? Mr. Morton Halperin.

Despite some reservations, I have not opposed a single Department of Defense nominee of this administration. I believe the President should have the team he wants unless the nominee is dangerous to national defense. Mr. President, Morton Halperin is dangerous to national defense. He is a man of extremely poor judgment—the kind of poor judgment that can get Americans killed. Let me just read from one of his works and I think you will agree with me.

First, in a book entitled "Defense Strategies for the Seventies," he wrote:

> The Soviet Union apparently never even contemplated the overt use of military force against Western Europe. * * * The Soviet posture toward Western Europe has been, and continues to be, a defensive and deterrent one.

This was written in 1971. A vast majority of clear-thinking Americans knew even then that this view was fundamentally flawed and incorrect. Let me read what we know now. This is from the March 16, 1993, Washington Post:

> East Germany and Soviet planning for a military offensive against West Germany was so detailed and advanced that the Communists had already made street signs for western cities, printed cash for their occupation government and built equipment to run eastern trains on western tracks * * * the Soviet Bloc not only considered an assault but had achieved a far higher level of readiness than western intelligence had assumed.

Mr. President, I am at a loss as to how anyone could have so seriously misjudged Soviet intent. A mistake of this magnitude by an Assistant Secretary of Defense would threaten untold numbers of lives of young men and women in uniform. At a time when our soldiers are dying in the streets of Somalia, we can ill afford to have a man of Mr. Halperin's discredited judgment making decisions concerning the intentions of our enemies.

In fact, let me read to you from a Washington Times article published this morning that describes one of Mr. Halperin's misjudgments:

> * * * Some lawmakers called for the resignation of Defense Secretary Les Aspin for rebuffing demands from field commanders last month for armor to help protect U.S. troops in Somalia.

A separate article in the same issue says that—

> * * * military leaders, including General Powell, pressed for the armor. An Army official said Pentagon civilians—including Deputy Undersecretary of Defense Frank Wisner, designated Assistant Defense Secretary Morton Halperin, and other Aspin aides—opposed the military's request because they feared it "would appear too offensive-oriented."

Mr. President, I thought we learned something from Desert Storm and Desert Shield. I thought we all knew that when it comes to protecting the lives of our soldiers, superior force is the best policy. Yet Mr. Halperin does not want to appear too offensive-oriented. I ask you, Mr. President, how do you appear too offensive-oriented when you are protecting American lives from a vicious and well-armed enemy?

Mr. Halperin's ideas and advice are already at work in the Pentagon, although he has not been confirmed. I see his handiwork in the Somalia disaster. We can not and should not confirm this man. Morton Halperin's discredited ideas and extremely poor judgment may already be costing American lives. His nomination should be withdrawn.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas, [Mr. GRAMM], is recognized.

SOMALIA

Mr. GRAMM. Mr. President, I rise to speak about Somalia.

Mr. President, I believe, and I have always believed, that partisanship should end at the water's edge. As a result, I have tried to support our President in foreign affairs in each and every circumstance that I could.

I intend to support the President's decision to send reenforcements to Somalia, but only to protect the Americans that are there. I am very concerned about the President's policy. I do not believe that the President has a coherent policy.

We went to Somalia on December 9 in a great humanitarian effort to do one and only one thing, and that was to feed a hungry people. By any definition of the mission, that mission was finished by June of this year.

But, rather than saying that we had achieved what we went to Somalia to do, instead of taking the bow that was due Americans for their sacrifice and their commitment on behalf of a needy people halfway around the world, we started to change our mission. We, today, find ourselves in a combat role where Americans are being targeted, where Americans are being fired upon, and where Americans are dying.

Mr. President, I do not believe that the American people ever signed on to this new mission. I do not believe that Congress ever supported a mission in Somalia other than feeding hungry people. I believe that mission is complete.

I am going to support the President in sending additional combat troops in order to, No. 1, protect the Americans that are there; and, No. 2, to do whatever we have to do to obtain the freedom of any American that is held hostage. I think it is imperative that we take actions to bring Americans home.

The President's decision to extend our presence for 6 more months is totally unacceptable to me and totally unacceptable, I believe, to the Congress.

If the people of Texas—who are calling my phones every moment, who are sending me letters and telegrams by the hour—are representative of the will of the American people, the American people do not believe that we should allow Americans to be targets in Somalia for 6 more months. I cannot see anything that we would achieve in 6 more months in Somalia being worth the precious lives of more Americans.

I want to help the President. I am concerned that the President has no coherent policy. If he has it, he has certainly kept it to himself.

We had a briefing, as the Presiding Officer knows, the day before yesterday by the Secretary of Defense and the Secretary of State. From listening to them, I could determine no coherent policy, no clearly defined objective, that we had set out to achieve.

It is imperative that we do everything we can to protect Americans lives in Somalia. I am going to support the President in putting the troops on the ground to protect the Americans that are there, to use the force we need to free Americans that are held hostage, and then we need to bring all Americans in Somalia home.

March 31, 6 more months of Americans being targeted for no clearly defined reason, does not make sense. I do not support it, and I do not believe that the Senate of the United States will sustain that policy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington, [Mr. GORTON] is recognized.

RURAL JOBS

Mr. GORTON. Mr. President, last week I had the great pleasure of holding a town meeting in Ferry County, WA, a large but sparsely populated county in the northeastern part of that State. Spread out over 2,200 square miles, Ferry County is home to some 6,700 hard-working and industrious people, salt of the Earth people who appreciate the land, raise their families on it, and enjoy their way of life.

The town meeting was held on the banks of the Kettle River in Curlew, a place off the beaten path but well worth the trip. Many people in Ferry County made an extra effort to attend this meeting, and the turnout was tremendous. I hold town meetings whenever I am home, in urban, suburban, and rural areas across the State. More people attended this meeting than any other I have held in the past 2 years.

I am convinced the turnout was so high because the people of Ferry County wanted to tell me the decisions being made in Washington, DC, threaten their way of life and are cutting into their ability to raise their families and build their communities.

For more than 100 years the people of Ferry County have relied on three natural resource based industries for their livelihood: timber, agriculture, and mining. And for over 100 years the people of Ferry County have protected their natural resources to ensure that their children and grandchildren share the same wonderful rural way of life they have enjoyed.

But today, that way of life is under assault.

Drastic reductions in timber harvests in the Colville National Forest threaten to eliminate hundreds if not thousands of jobs in the community. Huge increases in grazing fees charged to ranchers will, if implemented, almost certainly put many cattlemen out of business. The so-called reforms to our mining laws now being considered at the State and Federal levels may well mean the closure of the two gold mines in the county and the loss of still more jobs.

And all of this is being done under the guise of environmental protection and Government reform. It does not matter that the people of Ferry County have maintained their county in almost pristine condition for more than 100 years. It does not matter that they provide valuable and greatly needed products from natural resources—renewable resources in the case of grazing and forested land. Apparently, what matters is that some people in the Clinton administration feel that they know what is best for the people of Ferry County. They want to impose their values and their ideas on the people of that county. And they are indifferent to the people most immediately affected and to the human devastation their politically correct policies will impose.

And so, imagine my surprise when I returned to Washington, DC, and read in the Washington Post on Tuesday that President Clinton, in a speech to union leaders, said that he—and I quote—"would never knowingly do anything to cost an American a job."

That is a difficult line to sell to the people of Ferry County. Those people—real people who stand to lose real jobs if President Clinton is successful in implementing his programs. The President wants to impose sweeping rangeland reform that includes raising grazing fees to unrealistic levels that will put cattlemen out of business. The President also wants to rewrite mining law in a way that may very well mean the end of mining in Ferry County.

What could he possibly have meant when he said—and I quote him again—"I would never knowingly do anything to cost an American a job."

The President and his administration nodded their heads at the timber conference in Portland, OR, this past spring and pledged to come up with a plan that would save the spotted owl and not cost the Northwest any jobs. But by the time the ink was dry on the plan, even the President had to admit the job losses would be in the 5,000 or 6,000 range, and now that range is in the tens of thousands. Reducing timber cuts from several billion board feet a year to a few hundred million has—and will continue to—cost people their jobs. This is the result of policies knowingly adopted by the Clinton administration.

Families who manage the natural resources on which they rely for their economic well being are now being painted as "bad guys," when, in reality, they have the most to lose if those resources are mismanaged. But, instead of trusting these hard-working people to continue the stewardship of our resources, the administration is attempting to lock up the land and put it into some kind of environmental suspense account.

I would like to share with you a story about the people of Ferry County, their sense of individual and community responsibility and, not surprisingly, their skepticism about the Government. A few years ago there was an attempt in Congress to list the Kettle River in the Wild and Scenic River Program. Wary of this effort, the citizens of Ferry County banded together, as rural communities will, and fought off attempts to cede local control of the river to the Federal Government, a cause in which I am proud to say I joined.

After successfully winning that fight, the citizens of Ferry County were offered a $250,000 Government grant to study the Kettle River watershed and develop a management plan for it. Their response to this offer perhaps seems foolish to people in Washington, DC. But for the people of Ferry County it was the only right and sensible thing to do. They said, "No thanks. Keep your $250,000. We can raise our own money, do our own monitoring, and come together as a community to make sure the Kettle River is protected."

And that is exactly what they did. Through bake sales, dances, golf tournaments, and various other fundraising efforts, the people of Ferry County raised almost $12,000 and they are accomplishing with this rather modest sum what the Government said would cost a quarter of a million dollars. They are doing it with local volunteers, all tied to the community, all with a stake in the health of the Kettle River. That is the way the people of Ferry County think and that is the way they work.

I cite the example of Ferry County because I believe it to be representative of small communities throughout the West and across our country. These communities are under assault from their own Government, an activist Government which purports to know how everyone should live. Under the guise of environmental protection, this administration wields laws like the Endangered Species Act as a club, beating down timber towns, agricultural communities, and other natural resource-based rural economies. And, where it cannot accomplish its goals through existing statutes, it drafts new regulations, as in the grazing controversy, to make the utilization of natural resources on Federal land so prohibitively expensive as to make the continued use of these lands financially impossible.

Still, President Clinton says—and I quote—"I would never knowingly do anything to cost an American a job." Tell that to the cattlemen in Ferry County.

No one, not the cattlemen, not the wool growers, not even this Senator opposes raising grazing fees. But we cannot support a huge new regulatory regime because it will put good people out of business, no question about it. We cannot justly do this to people who have spent their lives working the land, who learned their way of life from their parents and grandparents, and who want to pass this way of life on to their children.

We should encourage these people, holding them up as examples for others to follow. Instead, this administration seeks to punish them.

Let me tell you about Margaret Grumbach, a 93-year-old woman from Curlew. Margaret's family and her husband's family homesteaded in the area in the late 19th century. Margaret has retired from ranching but both her son and grandson graze about 300 head of cattle on BLM land, in the Colville National Forest and on private land. The grazing fee increases proposed by the current administration would put these third- and fourth-generation ranchers out of business.

In addition, three of Margaret's nephews are loggers facing an uncertain future due to drastic cutbacks in timber supply in the Colville National Forest. This is the case despite the fact that timber is more abundant in Ferry County today than it was when Margaret was a child. And yet, the President says with a straight face that he—and I quote—"would never knowingly do anything to cost an American a job."

Let me tell you about Bill Brauner, the owner of Brauner Lumber Co., near Kettle Falls. His father was a lumberman who started his mill in 1930 at the height of the Great Depression. It was a small steam-powered mill. In 1950, after serving in World War II as a forestry engineer, Bill came back to the area, bought his father's mill and moved it across the river into Ferry County. Today his daughter, Marsha, and son, Bruce, work for the company. It took three generations of Brauners to build this lumber company. But Bill's company does not cut timber anymore. He mills logs others have cut

and diversified his business to include purchasing milled lumber for local construction projects from other mills around the Northwest. Bill will survive, but you would have a hard time convincing him that Bill Clinton, "would never knowingly do anything to cost an American a job."

Bill Brauner used to mill 10 to 12 million board feet a year and now does half that amount. He used to employ 85 people in this rural community; today he employs 35.

Let me tell you about Bonnie Miller. Her grandfather mined gold at the old Knob Hill mine. Her father mined gold in Ferry County for 30 years. Her two brothers and brother-in-law are all currently employed by Echo Bay, a gold mining company for which Bonnie is a custodian. Bonnie believes the company will survive, but she says it gets harder and harder every year with more Government regulations and the threat of onerous and draconian revisions to current mining laws. You would have a hard time convincing Bonnie that Bill Clinton "would never knowingly do anything to cost an American a job."

This is what the people of Ferry County are facing.

What do we accomplish if the Government drives these people off the land? Where do they go? Who will provide this country with the products they make? These people are a part of some of the most productive segments in our economy. They are efficient, hardworking, dedicated Americans producing much-needed commodities for the people of the United States. Yet, they are portrayed as despoilers of the land, cattle barons out to make a buck at the expense of the American taxpayer, loggers stripmining the last stand of trees, miners raping the land for a few ounces of gold.

Something in our society is terribly out of whack when we begin to describe hardworking people, like those of Ferry County, as evil despoilers of the land. But that, apparently, is the trendy thing to do today. It is always unfortunate when the latest fad in politics wins out over the truth. But it is especially troubling and damaging here and now because the truth is that the people of Ferry County, WA, and the people of St. Mary's County, ID, and the people of Sheridan County, WY, and the people in a thousand other rural counties across America have shaped our country for the better. They have fed America, housed her, clothed her. They have built this country and provided a standard of living that is the envy of the world. And they will continue to do so for generations to come, in their own way, as they know best—if only they are allowed to do so.

But this administration does not want to let them do so, despite the fact that President Clinton "would never knowingly do anything that would cost an American a job."

Clearly, Mr. President, it can be argued that our growth and development and progress required changes in the management of our public and private lands. A wise conservation of our national environment is imperative, but all such changes come at a cost, a cost which must be balanced against the human and community costs of that management. Only by recognizing these costs can we minimize them, and only in this way can we determine that the human costs of measures proposed by an indifferent administration are sometimes too high and must not be imposed.

But when a President says he "would never knowingly do anything that would cost an American a job," he denies those costs and seeks to avoid a serious and rational debate about them. That is not leadership; it is a refusal to lead. It is unworthy of any President. I have stood with the people of Ferry County and listened to their concerns. I cannot begin to describe the admiration I have for their determination, their individualism, their sense of right and wrong.

I will issue a warning today to this administration: You underestimate the steely resolve of these Americans. Ferry County and thousands of other communities like it across the country are made up of individuals, people who value their independence and their way of life more than anything else in the world, and they will come together to protect that way of life.

In Ferry County, they have already banded together to form the Ferry County Action League. The league describes itself as a group of landowners, ranchers, loggers, farmers, miners, school teachers, business people, recreationists, and retirees with the sole purpose of protecting their economic and cultural base in a positive way by whatever means available, including litigation.

I am sure there are hundreds more of these groups across rural America. Soon there will be thousands. You will not trample on the rights of such people. They will not allow it.

More than a century and a half ago, the French historian Alexis de Tocqueville crossed the Atlantic to find out about America, to learn what our grand experiment in self-government was all about. In his resulting book, "Democracy in America," he wrote about Americans as individuals, but spoke of our genius to come together, to band together, as individuals in communities to solve local problems, particularly, of course, in rural communities where there was little or no government to turn to for help. He found this ability of Americans to work together to be the genius of this democracy.

It is particularly ironic more than 100 years later that rural communities are banding together once again. But today they are not banding together because there is no Government to solve their problems; today they are banding together because the Government is the problem, threatening their entire way of life.

Do not underestimate these people. They are the quiet producers of our country. They make us great, but they will protect their way of life with every nerve and sinew in their body, and this Senator is proud to stand with them.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

NOMINATION OF WALTER DELLINGER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The Senate continued with the consideration of the nomination.

Mr. DECONCINI. Mr. President, I rise today in support of Walter E. Dellinger who has been nominated by President Clinton for the position of Assistant Attorney General for the Office of Legal Counsel, Department of Justice.

If confirmed, Professor Dellinger would head the Office of Legal Counsel and assist Attorney General Janet Reno in her duties as legal adviser to the President and all the executive branch agencies. As Assistant Attorney General, Professor Dellinger would also be responsible for providing objective legal advice to the executive branch on all constitutional questions, resolving interagency legal disputes, and serving as General Counsel for the Department itself. I believe, based on Professor Dellinger's distinguished legal career and numerous achievements, that he is eminently qualified for this position.

After receiving his undergraduate degree in political science with honors from the University of North Carolina at Chapel Hill, Professor Dellinger pursued his LL.B at Yale Law School. Upon completion of his studies, he became an associate professor of law at the University of Mississippi, taught for 2 years, and then served as law clerk to Justice Black.

From these notable beginnings, Professor Dellinger has gone on to distinguish himself in all aspects of his career. Not only has he become one of our country's foremost constitutional law scholars, he has written and lectured extensively on many constitutional issues and even argued some of them in front of the Supreme Court.

In addition to his scholarly achievements, Professor Dellinger has extensive practical experience as well. He has served as cocounsel on several occasions, with the majority of his law practice devoted to appellate brief writing and oral arguments in State supreme courts, the U.S. Court of Appeals, and in the U.S. Supreme Court.

Professor Dellinger is also principally responsible for drafting North

Carolina's new criminal procedure system. And, from 1977 to 1978, he served as consultant-draftsman for the North Carolina Criminal Code Commission which produced a new code that was substantially adopted by the General Assembly of North Carolina.

Currently, Professor Dellinger is serving as a consultant at the Department of Justice, and, prior to that position, served as Associate Counsel in the Office of the President. He is also responsible for authoring several Executive orders ultimately signed by the President earlier this year.

In addition to his many achievements, I also find impressive Professor Dellinger's dedication to public service. Over the past 4 years, he has devoted around 500 hours a year to pro bono activities. He has provided advice and counsel to public organizations concerned with the provision of reproductive rights to the disadvantaged and has provided pro bono legal services for women's and civil rights organizations.

Professor Dellinger has also devoted his personal time to the community. He has served on his local PTA board, has been a youth basketball coach, and, for the past 5 years, he has been a Meals on Wheels volunteer delivering hot meals to persons unable to leave their homes.

Most importantly, I want to mention the fact that the nominee possesses a sterling professional reputation. He has been described by his peers as an intellectual leader with great integrity, and also as an extremely gracious and warm man.

He has appeared before the Judicial Committee, particularly the Subcommittee on Constitution, many times.

Mr. President, it is clear that Professor Dellinger has not only the qualifications, but also the character and integrity needed to uphold the high standards such a position, and Department, demand. I support his nomination. I truly hope he is confirmed and cloture is achieved.

SOMALIA

Mr. DECONCINI. Mr. President, I am not going to take the time right now to discuss Somalia because I know others want to talk on the Dellinger nomination, including the Senator from Massachusetts and perhaps others. I will have some comments later on the present situation in Somalia.

I think President Clinton will announce either today or tomorrow a position, the United States disengagement from Somalia under a very orderly process. I hope people carefully pay attention to what he is going to tell us, because I believe he has a plan. It is different from where we have been drifting. It is, in my judgment, a standup plan that discusses and admits some errors were made in our policy in Somalia in going along with the U.N. mission. We have changed our position that was originally established by President Bush in December 1992. The President has set time limits, and he is prepared to use the necessary force to extract American troops and to also end our engagement there without dismantling the United Nations capabilities to provide the humanitarian success for which the United States can take full credit.

I yield the floor.

NOMINATION OF WALTER DELLINGER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The Senate continued with the consideration of the nomination.

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

Mr. HELMS. I thank the Chair for recognizing me.

Mr. President, I heard a number of times today declarations to the effect that the President ought to be allowed to have confirmed whomever he nominates. They have said over and over again, the President ought to be allowed to choose who is going to serve in his administration. As a rule, I agree with that.

But then I look at the vote on Robert H. Bork, of Pennsylvania, to be an Associate Justice of the U.S. Supreme Court, and not one Senator is making the declaration today, not a single one, thought that President Reagan ought to have the man whom Mr. Reagan had nominated to serve on the Supreme Court.

Now, let us make a few points clear. The distinguished Senator from Washington [Mr. GORTON] said last night and again today that we ought not to be discussing this nomination today; we should be discussing Somalia. I said earlier this morning that not only do I agree with SLADE GORTON, but I appreciate his saying that because it needed to be said.

The reason we are not discussing Somalia, the reason we are not considering the defense appropriations bill, is because of the lack of agreement on the other side of the aisle.

Now, the distinguished President pro tempore of the Senate, Mr. BYRD, has taken a flat-out and courageous position all along on the Somali question. And I support Senator BYRD. I have from the beginning. He knows that, and I have made it clear time and time again.

The majority leader did not want Senator BYRD to have his day in court on his amendment on the defense appropriations bill. So an impasse developed, and it was decided by the majority leader that we will waste time between now and next Wednesday on this nomination when the Senate could be working to reach a resolution of a matter which is of paramount importance to the American people.

I doubt that any other Senator's switchboard has been any less active than has the switchboard in my office. We have had hundreds of calls about the Somalia matter. And I daresay that the distinguished occupant of the chair has had that experience in his office as well.

So the Senate is not doing what the American people want us to do. We are playing games, engaging all sorts of pious pretenses that simply have no relevancy whatsoever.

Now, Senator BIDEN is my friend. We came into the Senate the same day, and we have differed in the past, and we differ on this. He is eloquent and he is amusing and he is interesting. But I do not authorize JOE BIDEN to speak for JESSE HELMS. I speak for JESSE HELMS. But he has repeatedly told the Senate what JESSE HELMS thinks and what JESSE HELMS has said and done.

He talks about the blue slip in a fashion that makes me wonder how he got to be the chairman of the Judiciary Committee if he knows no more about the blue slip system than he apparently knows—if one judges by the debate.

My first experience with the Judiciary Committee of the U.S. Senate predates any Senator extant in the Senate today.

I came here in the middle of 1951 as administrative assistant to a Senator who was a prominent member of the Judiciary Committee. As I recall, in addition to six ladies who served clerical functions, there were three others of us on the staff. One of my duties was to represent Senator SMITH as his staff member on the Judiciary Committee. So I know something about the blue slip dating back four decades.

Senator BIDEN, as I say, is my friend, but he has no argument with me in this matter. His argument is with the Senate system. As long ago as 1951, the home State Senators, as Senator BIDEN refers to us in this case, were given attention and were not given the brushoff.

The Senator from Delaware made much of the fact that Senator FAIRCLOTH was the first to return a blue slip. That is true. I think he preceded me by 1 hour. I agreed with Senator FAIRCLOTH about this nominee.

But about this business of saying, as so many Senators have, that "I may not agree with the nominee on all things, but he is the President's choice." I had a friend down in North Carolina—he is deceased now—named H.F. Seawell, Jr., a distinguished lawyer, and he used to say, the bad thing about some people in politics is that they are consumed by their own self-importance.

One cannot rewrite history, and one cannot be right all the time. Certainly,

I am not going to try to rewrite history, and I acknowledge that I am not right all the time. I just try to be right as much as possible and as often as I can.

But we need to cut out this sham of the President's having an unquestioned right to have his nominees confirmed. What we are talking about today is the nomination of a liberal political activist who has slammed in the gut, time and time again, decent, brilliant Americans with whom he disagrees, while he sits in a academic ivory tower. He has worked hand-in-hand, behind the scene, with Members of the Senate to undermine nominees. He has viscerally mutilated the lives and careers of candidates, and nominee after nominee. He has been active in misleading politics, and that is all right with those who share his liberal philosophy. So do not try to trot him forth as a paragon of virtue—LAUCH FAIRCLOTH and I know better than that. Walter Dellinger is a fiercely bitter partisan, he has not played fair and he has not told the truth. These are two strikes against him with me.

But, Mr. President, at its core the nomination of Walter Dellinger really is about more than Walter Delligner. It is also about the Senate itself. It is also about whether the powers and rights bequeathed to this institution by our Founding Fathers will survive.

Some politicians do not like the way this Senate was set up by our Founding Fathers. You hear it all the time, well, you have to limit this business of the minority having a right to stand up for its position, even a minority of one.

Well, the Founding Fathers thought it was a pretty good idea, to assure that any Senator—one Senator, two Senators, whatever—have a right to defend a cause in which he or they believed.

Yesterday's debate on this nomination occurred so late in the day that I suspect that few Senators heard the debate. So we perhaps should revisit the facts, and hopefully lay to rest some of the specious arguments that have been made on behalf of Walter Dellinger.

As I have said two or three times——

Mr. KENNEDY. Would the Senator yield for a brief question?

Mr. HELMS. I would prefer to finish my statement if the Senator does not mind. I thank the Senator for his interest.

Senators may have varying opinions about Mr. Dellinger's philosophy. But I believe that if his posture on political and philosophical issues could be made known to the American people, the vast majority of them would say, Don't let him serve.

Indeed, we shouldn't even be debating this nomination. SLADE GORTON had it right, last evening and today. We should be discussing Somalia. We ought to be discussing how much longer we are going to subject our troops to deadly risks, and the tragic results that have saddened the Nation.

But no; we are spending time on this nomination simply because the Senators on the other side of the aisle could not get together.

We should be discussing Somalia. We owe it to the American people to do so. But, the Senate is going out of session here today. We will begin another vacation tomorrow, but I intend to remain right here. There will be no Senate session on Monday or Tuesday either.

So it will be next Wednesday before the Senate returns. What, Mr. President, do you suppose the business is going to be next Wednesday? It will be the nomination of Walter Dellinger.

Small wonder that the American people are disillusioned with the Senate of the United States. And they have every right to be disillusioned, as I recall LAUCH FAIRCLOTH saying this morning, because it is this Senate and this House of Representatives combined that has run up a debt of $4.35 trillion. Look at what it costs just to pay the interest on that incredible debt.

I had some young people in my office just a while ago. I often conduct a little quiz. I ask young people if they know how much the national debt is. They said this morning that they know it is big, but they did not know the figures. So I give it to them right down to the penny. It makes those young people fighting mad to realize that their futures have been mortgaged by the Congress of the United States.

I mention all of this to emphasize that the Senate ought to get to work on what we are supposed to be doing, rather than wasting time on a nomination that ought never to have been made in the first place and ought not to be confirmed in any case.

If this nominee is confirmed, two fundamental principles of the Senate will be permanently undermined. I am saying this again because I have heard, three or four times, my friend from Delaware say what he thinks I am saying. I say to him with all due respect, that I can and do speak for myself. I do not want JOE BIDEN or anyone else to speak for me. I do not want anybody to speak for me. I know what my position is. JOE BIDEN may not agree with it; other Senators may not agree with it; but I insist on speaking for myself by myself.

The advice-and-consent power of the Senate, regarding Presidential appointments provided for under article II, section 2, of the Constitution, is very, very clear. I read that portion into the RECORD last night. Also very, very clear is the intent of the Founding Fathers regarding protecting the rights of the minority in the Senate, even a minority of one, in this case a minority of two.

All of this pontificating by supporters of the nominee—"Well, they just don't like Mr. Dellinger's philosophy, they just don't like him"—it is more than that. I do not like the nominee's carelessness with the truth. And I do not like the Judiciary Committee's passing over information that should have been considered and made public, including what the former chief counsel of the Senate Judiciary Committee said about the nominee. There has been silence in seven languages on that, we will get to that during this debate.

Mr. President, what I am saying is that we are being tested by the administration in this matter involving this nominee. And it is clear now that the nominee and the administration and the chairman of the Judiciary Committee—and I say that with great affection and respect—want to see how far they can go in thumbing their noses at the U.S. Senate. I believe that the vote that will occur 50 minutes from now will indicate that in this matter, on this occasion, the Republicans will say that the administration has gone far enough.

So there are three issues. Let me reiterate them for the purposes of emphasis.

One, the administration's trampling upon the advice-and-consent clause by installing Mr. Dellinger as Acting Assistant Attorney General when their efforts failed to get him confirmed before the August recess. First, they brought him in as a consultant.

They bumped him up a notch—and then they installed him as Acting Assistant Attorney General—contrary to the U.S. Constitution.

No statutory reference will change the plain fact that the Constitution was violated. Maybe nobody worried about that except LAUCH FAIRCLOTH and me, but I hope people have taken note of it.

Then there is the flagrant disregard and the arrogance by the nominee, so evident in the cavalier way he responded to questions, refused to answer questions, and pretended to be answering questions, which he was not.

(Mrs. FEINSTEIN assumed the chair.)

Mr. HELMS. Then the third thing is the blue slip. This, Madam President, is the first blue slip I have ever returned during my nearly 21 years in the Senate. Throughout the Carter years, there were some nominees for whom I did not have the highest regard, and I made it known. The White House and I worked it out in every case. I never sent in a blue slip. But the fact is that, throughout the Carter years, there was no problem, because the Judiciary Committee and the White House would say, OK, what can we do to work this out? We worked it out every time.

Madam President, the message from the Clinton administration has been: We are going to push Dellinger through, and that LAUCH FAIRCLOTH and JESSE HELMS can just go fly a kite. Well, there is a lot of string on our

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kite. We will see how far it goes. We will probably lose in the end because there may be some defections on our side.

You can bet, Madam President, that the other side is contacting and working on five or six Republican Senators who, so often, do not support the Republican cause. But the Democrat Senators vote together, unanimously, time after time after time.

As lawyers are fond of saying, here is the bill of particulars: The blue slips returned by LAUCH FAIRCLOTH and me were totally ignored. We heard all sorts of things, but not one scintilla of contact was made with me. This nomination was approved in committee, with almost no discussion, on a voice vote. And they have been trumpeting ever since, "A unanimous vote in the Judiciary Committee for Walter Dellinger."

Well, Madam President, we have voice votes all the time in the Senate, in committees, and so forth. You have heard today, ORRIN HATCH—whom the press has been advertising as supporting Mr. Dellinger—you have heard Senator HATCH say today that he is going to vote against the nominee. He said it this morning, as did Senator THURMOND, and others. So, we may lose, but at least we are making a record. I cannot believe we are going to lose this afternoon, and I do not think we are going to lose next Wednesday. In any event we are going to do the best we can to stand up for what we believe.

The administration was impatient with the pace by which the Senate has considered this nomination. So, they quietly took the unprecedented step of installing the nominee on the job in an acting capacity. I say again that the Justice Department acted quietly—nobody knew anything about it, to my knowledge—and appointed Mr. Dellinger Acting Assistant Attorney General for the Office of Legal Counsel—after bringing him in as a consultant and bumping him up to deputy assistant, and then making him acting assistant just days after the Senate declined to take up and confirm the Dellinger nomination prior to the August recess of the Senate.

The Justice Department had tried but failed to get Mr. Dellinger confirmed before the Senate went out in August. So they completely subverted the Advice and Consent clause of Article II, section 2 of the Constitution, and they put Dellinger on the job anyhow.

When asked about it, they responded sarcastically: "We got tired of waiting on the Senate." Well, that is too, too bad. That does not justify deliberately violating the Constitution of the United States.

So what is going on? Double talk all around. I heard one Senator almost tearfully say, "I do not agree with the nominee on everything, but I am going to vote for him." Why? Because Mr. Dellinger is a liberal Democrat.

I hope the Senator from Delaware realizes—and I think he does realize—that I would feel just as strongly about all of this if the shoe were on the other foot. I have told him privately—and I tell the Senate publicly—that if it ever happens the other way around, I will be right here in support of any Senator who opposes a nominee under this sort of circumstances.

So what we have here with this nomination, and all of the folderol that has gone with it, is an example of precisely what the Founding Fathers so clearly feared. They feared the tyranny of the majority in a democratic system. They said so. That is why they created the Senate, so that the rights of the minority would be protected, and so that a check imposed on the powers of the President would be there, and that is what this nomination is all about, whether the rights and prerogatives of a minority in the Senate, as set forth by our Founding Fathers, will survive. That is what it is all about.

Perhaps the most offensive chapter in this story is the appointment of Walter Dellinger to be Acting Assistant Attorney General.

One of Senator FAIRCLOTH's aides asked the Justice Department, "How did you come to do all this?" And the official at the Justice Department said, "We were tired of waiting for the Senate to confirm Mr. Dellinger, so we just went ahead and appointed him."

How is that for arrogance? Don't you see? The Constitution does not matter. So much for article II, section 2 of the United States Constitution.

Senator FAIRCLOTH mentioned in his remarks that he and his staff inquired of the experts at the Congressional Research Service about their reaction to this high-handed maneuver at the Justice Department. Do you know what they said? They said, "To our knowledge, there is no precedent for appointing Mr. Dellinger as acting under such circumstances."

That is a fact that you will not see in the media and you will not hear in the media. Oh, every time this has been mentioned, we hear from across the aisle, "Well, the Bush administration did it," or "the Reagan administration did it." Not so. Not so, Madam President.

I expected this to be said. So I asked my staff to make careful contact with former Justice Department officials who had served in the previous administrations. There is one in particular who was in fact appointed as acting before being confirmed, and he reassured us that what the Justice Department has done in this case is a first; there had been nothing like it previously.

The Bush Justice Department designated certain officials to acting capacities prior to confirmation, but the situation was precisely opposite of what was done in the Dellinger case. There is no similarity whatsoever. The Bush nominees were not controversial. If they had been, they would not have been made "acting".

Then the Justice Department called around to all interested Senators, to get clearance for making the acting appointment. And even with these precautions, the Justice Department of the previous administration made the appointments full well knowing that they were stepping a little bit over the bounds, that there was a possibility that their actions would meet opposition from Senators when the nomination came to the floor.

But in no case could this or any other official whom we contacted, or the Congressional Research Service, identify even one instance of elevating an individual such as Mr. Dellinger to "acting" status. Because Mr. Dellinger is controversial and that is why the administration slipped him in and up.

Efforts by the Justice Department to obtain confirmation prior to the appointment failed. So, in response to the nomination's running into trouble in the Senate, the Justice Department went ahead and installed the nominee in this acting capacity.

On top of this, we have sent a letter to the distinguished Attorney General, Janet Reno, respectfully asking that she share with us the details of how this appointment was made. We had asked for it, and asked for it, and asked for it, and the department stonewalled us.

Now, how many people signed this letter to Miss Reno? Thirty Senators signed the letter, and it is going to be very interesting to see whether we have to go through the Freedom of Information Act to get information that ought to be readily available to the U.S. Senate, and the American people.

I do not know what Dellinger is doing down at the Justice Department. I have a hunch, but I do not know. Neither does the American public know what he is doing, and that is important.

The Washington Post reported on September 23 that the Justice Department's Office of Legal Counsel—of which Mr. Dellinger is acting head—reversed a Bush administration policy which was supported overwhelmingly by both Houses of Congress, the House and Senate. It was a policy calling for the death penalty for drug kingpins, and Walter Dellinger, I presume, ordered it reversed.

I must in fairness say that until the Attorney General replies to our letter and provides the information we will not know for certain, but it sounds like Walter Dellinger's handiwork.

Later on in this debate we are going to get into what Mr. Dellinger did to run down a fine American, who was eminently qualified to serve on the Supreme Court, a man named Bob Bork. They cut him down, and I will go to my grave regretting that Judge Bork was

denied a seat that he richly deserved on the U.S. Supreme Court. And Walter Dellinger had a veiled hand in that. He did not tell the whole truth when we questioned him about it.

One of the reasons we have a blue-slip policy is to avoid situations like this where a Senator has to stand on the floor and say such things. But in any case, questions, many, many questions remain as to how forthcoming Mr. Dellinger has been in responding to questions about his record.

I first sent Mr. Dellinger a series of questions on June 30, and when he replied 2 weeks later many of his answers were either incomplete, not on point, evasive, or in direct contradiction to reliable, credible, published reports.

For example, I asked this nominee, and I am quoting myself: "Please furnish an account of the full extent of your participation in the confirmation proceedings for Supreme Court nominees Chief Justice Rehnquist, Judge Robert Bork, and Justice Clarence Thomas."

In relation to Judge Bork, here is the way Mr. Dellinger replied, and I am quoting him:

> The confirmation of Judge Bork: I briefed the chairman of the Senate Judiciary Committee on the original understanding of the advice and consent clause and on the nominee's writings, and I reviewed a report and analysis of those writings. My principal participation was as a witness at the hearings.

La de da, Madam President. The nominee strummed his harp a little bit and flew off, angel that he pretends to be.

This truncated answer to a legitimate question stands in contrast to credible published reports by the former chief counsel of the Senate Judiciary Committee, and others, who assert Mr. Dellinger's role in the confirmation proceedings of Judge Bork was, in fact, much more extensive than Dellinger had said, and that, among other things, Dellinger:

First, assisted in the recruitment of law school deans and law school professors to oppose the Bork nomination;

Second, he helped arrange six panels of witnesses opposed to Judge Bork, panels which appeared before the Senate Judiciary Committee.

Third, he participated in television and radio interviews pursuant to a media plan devised by the opponents of Bob Bork; and

Fourth, he served on advisory boards of academics who advised the chairman throughout the confirmation proceedings.

And I reiterate my affection for Senator BIDEN, at the same time emphasizing that JOE BIDEN was after Judge Bork's hide, and he got it.

Now, I do not know who is pulling our leg the most, Mr. Dellinger or the former chief counsel of the Senate Judiciary Committee. But, Madam President, I have no reason to question anything that the former chief counsel said, because he had nothing to gain or lose. It was separate and apart from this situation anyhow.

That issue along—and I mention it just as an example—ought to have been taken up by the Judiciary Committee, but it was not. They would not even call before the committee their own former chief counsel to determine who is telling the truth.

In any event, on July 30, I sent a followup letter to Mr. Dellinger respectfully seeking some clarification and elaboration on his response to this and a number of other questions that he failed to answer or answer adequately.

Even after his August 2 response to my followup letter, a number of questions still remained unanswered or in need of clarification. All told, I posed a total of 73 questions to Mr. Dellinger. On more than half of these questions—39—he gave answers that just absolutely were not satisfactory. They may have been satisfactory to JOE BIDEN or anybody else who is eager to push the nomination through, but they were not satisfactory to those of us who felt that we had a legitimate right to look into whether this man was telling the truth, and the whole truth.

He gave deficient responses time and time again. He either did not answer, gave a nonresponsive answer, a nonconclusive answer, or, as I said earlier, an answer contradicted by reliable, credible sources on record.

Questions about Mr. Dellinger's candor, or lack of it, regarding his participation in the confirmation proceedings of Judge Bork's nomination ought to be of interest to all Senators. But instead, we hear Senators say: "He might have some views that I do not agree with," as I heard one Senator say this morning, "but the President has a right to have around him the people he wants to have."

Well, not under the Constitution. The Senate has an obligation, under the advice and consent clause to use its own judgement. So it is not accurate to say the President has an unqualified right to make appointments to whomever he so pleases.

But the point, Mr. President, is that if Senators cannot rely on Mr. Dellinger's answers to questions prior to his confirmation, what can we expect after he is confirmed?

Madam President, I am going to have more to say on this subject as days go by, because I remain convinced that we need to explore this partisan political activist who has torpedoed decent people who happened to disagree with Mr. Dellinger's liberalism. He has been active behind the scenes in North Carolina. I am told that he may have worked on me. But if he did, it did not work. I am still in the Senate.

Madam President, I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

THE SITUATION IN SOMALIA

Mr. COATS. Madam President, I rise to speak on the situation as it currently exists in Somalia.

This Senate and Congress has been grappling with this issue now for several days and weeks; grappling, unfortunately, because there is a lack of definitive leadership from the administration as to what our policy is and what it should be.

I think in exploring that, it is important to go back somewhat to examine what our original mission was and how it was defined to both the Congress and the American people.

On December 4, 1992, President Bush announced his intention of sending United States forces into Somalia. He, at that time, articulated the object of the mission—create a secure environment for the distribution of food. The conditions of that involvement were clear: Combat forces were equipped and authorized to take any steps necessary to accomplish the humanitarian mission and to defend themselves in the process. U.S. troops were guaranteed the support of any additional U.S. force necessary to accomplish the mission. U.S. forces were not to engage in factional fighting.

Secretary Cheney, just recently on NBC news in an interview this week, stated:

> I think it is important to remember that when we went in, we went in with a very narrowly defined, very specific mission of creating a situation in which the humanitarian organizations could feed starving Somalis. And then it was our intention, as soon as we had done that, to turn the operation over to the United Nations and withdraw U.S. forces. We resisted then the pleas from the United Nations and others to broaden the mission.

Within 5 days of the President's announcement in December, United States combat forces entered Somalia with a very clear military objective—secure the airport and port at Mogadishu so that supplies could once again begin flowing to starving Somalians and secure the routes necessary to deliver those supplies.

Within 5 weeks, the U.S. force had reached a total of 25,800 people. And within 7 weeks, food and medicine were being delivered to all starvation-threatened areas and a drawdown of the force was already beginning.

President Bush said he hoped, optimistically, that he could bring the troops home by Christmas but that it might take a little bit longer than that. And it did, but not much. Because on May 4, 5 months after our engagement began, Operation Restore Hope was ended. In fact, all the feeding stations operated by humanitarian organizations were closed in August.

While this operation was not without risk, it succeeded because there was a clear understanding of the limits to our purpose in engaging troops in Somalia.

As Secretary Cheney said:

What appears to have happened now is that the administration has allowed the United Nations, in effect, to rewrite the mission so that it is now much broader and involves what appears to be an open-ended military commitment.

And it is that broadening of the mission that occurred not by design, not by defining a policy for the American people and for the Congress and for the American military, but seems to have evolved by allowing drift, by inattention, by a failure to exercise decisive leadership; it seems to have evolved into a mission which is pursuing a military role in Somalia that is substantially, substantially, broader than the original mission.

This mission today, still not clearly defined, includes Somali reconciliation and rehabilitation, warlord hunting, nation building, police force training, and who knows what else. And all of this, ironically, is to be accomplished with a small force, which has been drawn down from that maximum of 25,800 to a force now below 5,000.

So, while the Bush administration responded and our military responded in a way I think we should when we commit U.S. troops —and that is with significant numbers and significant force to accomplish the mission, while, at the same time, minimizing the risk to our armed services personnel—while we reached that maximum of 25,800 to accomplish a narrowly defined mission, we now find ourselves with a force of less than 5,000 who have now been taking on a much broader mission.

That force is composed of military personnel who are essentially logistical and support personnel, not combat personnel. Yet much of the mission we now found ourselves engaged in involves the need for combat personnel.

President Bush defined a minimum commitment accomplished through maximum troop strength. President Clinton has given us a much broader, much more difficult commitment, with minimum troops who are severely constrained, without adequate support, without adequate backup.

We have been frustrated here in Congress because we have been unable to get a grasp even of what this mission is supposed to be. As late as this past Sunday evening, the Secretary of State said on CNN:

President Clinton and the administration have reaffirmed their goal of ending the U.S. mission as soon as possible.

Excuse me, that was a statement from the Wall Street Journal quoting administration sources saying the President and administration officials are reaffirming their goal of ending U.S. involvement and the U.S. mission as soon as possible.

At the same time, the Secretary of State, Warren Christopher, was stating on CNN: "In the face of these kinds of attacks"—the attacks over the weekend that tragically took the lives of 12 Americans and wounded 78 other soldiers—"In the face of these kinds of attacks," Secretary Christopher said, "it is a time for Americans to be very steady in our response and not talk about getting out. Our forces will stay until their mission of establishing a secure environment has been fulfilled."

No wonder there is confusion. We turn on the television and the Secretary of State is saying we are going to renew our commitment; we are going to stay here as long as it takes.

We pick up the paper the next morning and the administration officials are saying we are going to get out of here as soon as possible.

With that, the Congress rightfully said: Will you come down and tell us what you are going to do, what our mission is? So both the Secretary of State and Secretary of Defense traveled here to Capitol Hill to meet in a combined private meeting of Members of the House of Representatives and the U.S. Senate in what has been described by Members on both sides of the aisle as a disastrous meeting. There was a total lack of a policy.

Secretary Christopher remained silent, no word at all from him as to what our policy would be. Secretary Aspin, the Secretary of Defense, floundered in terms of trying to answer questions from Members, both Republicans and Democrats. What are we doing? What is our goal? What is our mission? How do we solve this problem? What happened? Answers were not forthcoming, and we have been floundering since.

The President this morning called the leadership to the White House. Yet no definitive answer is before us. The American people are wondering where are we going? What are we doing? Why are we still there? I thought our troops were going to be home last Christmas. I thought we were there to feed starving Somalis. We are now told they are fed. Why are we hunting down warlords? Why are we fighting urban guerrilla warfare in the streets of south Mogadishu with troops who are not equipped and do not have equipment to effectively accomplish that task?

Now we hear the disturbing reports that, because of confusion in command, because we are not sure whether Boutros Boutros-Ghali is calling the shots or the President of the United States is calling the shots, we cannot assemble the quick-reaction force to get in and rescue marines and U.S. Army Ranger personnel caught in the crossfire.

What we are looking for is a policy. What we need is a leader who will define that policy. Foreign policy is not easy. The questions are not easy to answer in terms of what we need to do. But it requires leadership. That is why we have a President who is designated as Commander in Chief.

On March 21, it was reported in the Los Angeles Times the President said:

I have had to take a good deal of time off to deal with foreign policy responsibilities.

He said it almost apologetically, perhaps the first time a President of the United States, the Commander in Chief, the Chief Executive Officer, has ever described dealing with international affairs as "time off."

Reports out of the White House over the weekend express frustration that the President is not able to continue with his domestic message, that it was swallowed up by world events.

Mr. President, I am sorry you do not have more time to spend in Jimmy's Diner and townhall meetings in California, but sometimes world events require your attention. Sometimes they overcome the agenda that you have set for yourself. While health care and other domestic issues are important, sometimes world events do not allow Presidents the luxury of solely focusing on those items, because the President is also Commander in Chief, and as Commander in Chief, he is expected to define a policy in terms of utilization of U.S. troops overseas. That is his responsibility.

Because we cannot get a defined policy, because we have not seen that leadership, it now falls to Congress to write that policy, which is exactly the wrong thing to do. We are going to have 535 Secretaries of State and Commanders in Chief trying to define military policy and foreign policy for the United States because there is a vacuum; it is not being defined. So we are all rushing to the floor with our ideas. What should we do?

None of the choices are good ones, because we have found ourselves, now, in a situation where there are really no easy ways out. There are no policies that can accomplish all we want to do.

Some suggest immediate withdrawal. Immediate withdrawal is very tempting, given the lack of policy coming out of the White House. But it is not without risk. The most important risk and concern is that of one or more American military personnel that are hostages. I am not about to endorse a policy that puts our troops on helicopters and ships and leaves, while those hostages are still held captive. We need, as a Nation, to do everything we can to secure their release. We cannot think of leaving until that release is secured.

Mr. KENNEDY. Will the Senator yield for a brief question?

Mr. COATS. I will be happy to yield.

Mr. KENNEDY. I understand we have about 10 minutes left before the vote. Just as a matter of a point of information, I had some brief remarks about Mr. Dellinger.

Had the Senator planned to speak up until the time of the vote?

Mr. COATS. I had been waiting on the floor since 12 to speak. I do not

necessarily want to take any more time than is necessary.

I will be happy to try to leave some time to the Senator to speak on this before the vote.

Mr. KENNEDY. I thank the Senator.

Mr. COATS. I will do my best to get to that point.

That immediate withdrawal option also carries with it implications for future U.S. involvement and affects our policy and our relations with our allies. Others say we ought to deploy massive force, go back in, clean up the situation. That may be an open-ended commitment that lasts an awfully lot longer, and obviously exposes American forces to considerable peril.

Others say we need a quick show of force to secure the situation, and then accomplish the task and pull out.

Others say let us have incremental involvement until we get our mission accomplished, whatever that might be.

Senator NUNN came to the floor last evening and outlined some intriguing possibilities.

Again, I say the policy should not be defined by the Congress. Congress is being forced to define that policy because it is not being defined by the administration.

It is incumbent on the President as Commander in Chief to come forward and decide what he wants to do. I believe it is appropriate to present that to Congress. I believe he will not be successful unless the American people support it. But someone has to take charge, and it falls constitutionally to the President to lead.

People forget, despite the great success in the Persian Gulf, there was a very divided house here in terms of how we ought to proceed. President Bush was firm in his commitment, he was firm in his outline of what we ought to do. He presented it to the Nation, he presented it to the Congress, and he said, "I will take the heat, I will take the leadership, I will define the policy."

Fortunately, he defined the right policy and our success was evident.

It is hard to contradict the verdict of Newsweek magazine when they said the President looks like a student who has crammed on the economy and prayed that international relations would not come up on the final exam. It is like walking into the final exam and, to your horror, discovering that the test includes a question on something that you had not prepared for. Well, Mr. President, it is time that you prepared for it. We are waiting for your answer; we are waiting for your leadership.

Madam President, I think it is important that we step back just a little bit from the immediate situation and look at some of the parameters of how we ought to be making decisions in terms of involving U.S. troops. It is clear that the decisions that are going to be made have broader implications for us. They raise broader questions. The questions being: When are American casualties justified by America's aims?

We are questioning now whether these casualties are justified. It is difficult for me to call the family of Sergeant Martin in Indiana to explain to his family that his death was justified, and other Members have had to face the same thing. So it is important we ask this question so that these injuries and deaths will not be in vain, as tragic as they are.

American power and prestige today are unparalleled, but they are not unlimited. We are required by reality to be selective in our attention to the injustices of the world precisely because, as a superpower, we have great responsibilities that must not be compromised. Limited resources require a hierarchy of interests and values, a set of priorities: How do we make these choices?

First, we have to be committed to vital American interests and defending those interests. This is an open-ended pledge involving whatever force is necessary to meet the objective. These commitments cannot be compromised. But, second, we need to understand there is a different standard for interventions that engage our moral or humanitarian concerns but not our direct national vital interests.

In these cases, we must decide to support them only when they do nothing to undermine those vital interests. That means, I think, in general, that we have to have goals of minimal casualties, clear objectives, and limited timetable because when we enter hopeless and endless humanitarian missions, we squander two very important things: First, we waste lives, and that is a burden that we should not bear or accept; but second, we squander the will of the American public to intervene in the future, even when such interventions are important to our vital interests.

Today we face weapons of mass destruction and ballistic missile technology proliferation that have changed our threats. To defend our interests in the future, we will be forced to intervene in situations to shape a security environment that does not hold visions of horror and holocaust, and if we compromise that mission with misguided conflicts that undercut our credibility and our national willingness to intervene in other situations, we have done nothing for the cause of peace and/or the stability of the world.

When our vital interests are clear, commitment of our troops and even the tragic consequences of fatalities may not be too high a price. But when our goals are uncertain, one death is too many. This is not weakness, it is the careful defense of American power and a healthy respect for the complexities of history.

Many of these humanitarian missions involve complexity of history. They involve ethnic and religious and cultural conflicts that American troops and American best intentions are not going to be able to solve.

I hope we are learning some lessons from this. I hope that as we look at Somalia, we also think of Bosnia and the potential commitment of 25,000 United States troops, one-half of a U.N. force, perhaps under a U.N. command, and ask ourselves: Have we learned anything from Somalia? We are talking about Bosnia, a situation far more complex, far more vast in area, in complexity, in history than we are looking at in Somalia, a commitment that may have no end and no guarantee of resolution.

The history of the problems in Bosnia go back at least to 1389, 600 years. We need to understand that history before we make that commitment. If Somalia serves any purpose, let it be the purpose of utilizing the lessons learned there before we make policy committing troops to Bosnia. Perhaps it will be seen as an inexpensive lesson, although the loss of life can never be classified as inexpensive. It is a tragic lesson. But let us not compound it, let us not compound the tragedy by failing to learn the lessons we need to learn in formulating policy relative to future involvement of U.S. troops.

Madam President, there is more I could say. I would like to leave some time for the Senator from Massachusetts before the vote. With that I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

NOMINATION OF WALTER DELLINGER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The Senate continued with the consideration of the nomination.

Mr. KENNEDY. Madam President, it is a privilege to support the nomination of Walter Dellinger as Assistant Attorney General for the Office of Legal Counsel.

The Office of Legal Counsel assists the Attorney General in providing legal advice to the President and to the agencies and departments of the executive branch. The person heading that office must be a lawyer's lawyer, with outstanding legal skills, unquestioned integrity and sound judgment.

Walter Dellinger easily meets this high standard. As a professor of constitutional law at Duke University Law School, he has earned a distinguished reputation as one of the Nations preeminent legal scholars. He has demonstrated an extraordinary understanding of the Constitution, its history, and it fundamental role in our national life.

In recent years, Professor Dellinger has been an impressive and throughout

commentator on contemporary legal and constitutional issues. He has appeared as a witness before the Senate Judiciary Committee on many occasions, and his testimony has consistently—and often courageously—assisted us in clarifying the most important and difficult challenges facing us.

Over the years, most of us on the committee have come to know Professor Dellinger personally, and our respect for him has become even greater. He is a wise and compassionate man, of unquestioned character and integrity. It is no surprise that his nomination was reported—and reported without dissent by voice vote—by the Judiciary Committee in July.

It is unfortunate that Professor Dellinger's nomination has been delayed in this way by the two Senators from his home State of North Carolina. There are sound historical and practical reasons for giving home-State Senators a clear opportunity to object to nominees from their State. But in the last 15 years, we have moved away from giving home-State Senators a veto over nominees who will serve in their States, let alone over nominees who will serve the whole Nation by taking high positions in Cabinet departments and agencies in Washington. The blue slip is an anomaly and an anachronism, and it is no longer an automatic veto.

When I served as chairman of the Judiciary Committee in 1979 and 1980, we established a blue-slip procedure that would specifically bring a home-State Senator's objections against a nominee to the attention of all the members of the committee, so that they could decide whether or not to proceed with the nomination. In fact, we were always able to work with home-State Senators, so that they never objected to a nominee in those 2 years.

A similar practice has continued under Senator THURMOND as chairman of the Judiciary Committee from 1981 through 1986, and under Senator BIDEN as chairman since 1987. When a home-State Senator objects to a nominee, the committee should be informed of the Senator's objections, and the Senator should have the opportunity to provide the committee with the reasons for those objections. The members of the committee then decide for themselves how much weight to give to the objections.

That is the procedure followed by the committee in this case, and it has afforded amply opportunity for all Senators, including the Senators from North Carolina, to raise the objections and have them considered by the committee and by the full Senate.

President Clinton deserves the opportunity to select his own team to manage the Department of Justice—without giving any Senator a veto power over those appointments.

The fact that Professor Dellinger is now serving as Acting Assistant Attorney General is no basis to oppose his confirmation. His immediate predecessor in the Bush administration, Timothy Flanigan, was also Acting Assistant Attorney General when he was confirmed by the Senate in 1992.

As one of the Nation's most highly respected constitutional scholars, Professor Dellinger is unquestionably and exceptionally well-qualifed to perform the important responsibilities of that office. This is not the time to refight the Battle of Bork or any other battles of the past.

Professor Dellinger deserves credit for one other reason—for being willing to come down into the arena and participate in those major battles, and he should not be punished now for doing so.

I believe that a large bipartisan majority of the Senate is now prepared, after this long and unreasonable delay, after hearing all the objections of Professor Dellinger's opponents, to advise and consent to his nomination, and we should have the opportunity to do so.

I commend the President for this excellent nomination. I urge the Senate to end this unfortunate and unwarranted filibuster and confirm Professor Dellinger.

Mr. LEAHY. Mr. President, I rise today in support of Prof. Walter Dellinger, who has been nominated to be Assistant Attorney General for the Office of Legal Counsel. Professor Dellinger is supremely qualified for this position. His experience as a scholar and advocate make him qualified beyond question.

His career as a scholar is impressive. He has served as associate professor of law, professor of law, associate dean and acting dean of the law school at Duke University, one of our Nation's finest universities. While attending Yale Law School, he was an editor of the esteemed Yale Law Journal. After that he clerked on the Supreme Court for Hugo Black, a justice renowned for his free-thinking and dedication to civil liberties. Furthermore, his articles on the law have been published by countless magazines and newspapers.

Professor Dellinger is also widely recognized as an experienced and talented litigant. He has argued cases before State-level appeals courts and the Supreme Court, and his successes are well-known. Indeed, Supreme Court scholars point to his 1990 argument for the Virginia Hospital Association—which benefited hospitals and nursing homes and the low-income and elderly people serviced by them—as a classic example of how to present a case effectively before the Supreme Court. He has argued cases on behalf of numerous nonprofit organizations, and has testified before Congress on many occasions.

He has also dedicated much of his energy to pro bono work in his local community and on the national level, from efforts with the local PTA to arguing cases on behalf of State governments. He has also volunteered to help needy North Carolinians in efforts like the Meals on Wheels Program.

The Senate has a responsibility to advise and consent on Department of Justice and other executive branch nominations. And we must always take our advice and consent responsibilities seriously because they are among the most sacred. But I think most Senators will agree that the standard we apply in the case of executive branch appointments is not as stringent as that for judicial nominees. The President should get to pick his own team. Unless the nominee is incompetent or some other major ethical or investigative problem arises in the course of our carrying out our duties, then the President gets the benefit of the doubt. There is no doubt about this nominee's qualifications or integrity. This is not a lifetime appointment to the judicial branch of government. President Clinton should be given latitude in naming executive branch appointees, people to whom he will turn for advice. I should also note that his nomination went through the Judiciary Committee—by no means a rubberstamp—unanimously.

The recent debate over Walter Dellinger is another instance of people putting politics over substance. Yes, he has advised and spoken out about high-profile constitutional issues of the day. I would hope that an accomplished legal scholar would not shrink away from public positions on controversial issues, as it appears his opponents would prefer. One can question Professor Dellinger's positions and beliefs, but not his competence and legal abilities.

Mr. SASSER. Mr. President, I rise in support of the nomination of Walter Dellinger to be Assistant Attorney General. I know Professor Dellinger, and know him to be a first-rate lawyer and constitutional scholar. I commend the President for nominating him to head the Office of Legal Counsel, a job for which he is well qualified and well suited, and I fully support his confirmation.

Professor Dellinger is a graduate of the University of North Carolina, and received his law degree from the Yale Law School. He clerked for former Senator and then-Justice Hugo Black on the U.S. Supreme Court. Thereafter, Professor Dellinger came to Duke Law School, where he has taught law since 1969. For at least part of that time, Professor Dellinger has also served as the dean of Duke Law School.

I have had the occasion to read some of Professor Dellinger's writings and hear his testimony before the Committee on the Budget. He appeared before the committee on June 4 of last year, at the invitation of Senator DOMENICI

and myself, during the Budget Committee's hearings on the balanced budget amendment to the Constitution.

We invited Professor Dellinger to testify before our committee because we viewed him to be among the first tier of constitutional scholars in the Nation. In my assessment, his testimony before the Budget Committee confirmed why he holds that status.

His analysis of the issue before our committee was thoughtful and well-reasoned. His testimony displayed logic and intelligence. Many of the members and others present at that hearing that June morning and afternoon remarked as how they had rarely seen a more impressive discussion of the issue than occurred that day.

Now there will be some that will find fault with Professor Dellinger because he pointed out some of the difficulties in implementing a balanced budget amendment to the Constitution. Let me say three things in his defense on that score.

First, that is what we asked him to talk about when he came before the Committee.

Second, anyone who believes that the balanced budget amendment will be a piece of cake to implement has another thing coming. Even those of us who favor deficit reduction and have worked long and hard to cut the deficit see grave difficulties in crafting such an amendment to work correctly.

And that gets to my third point in response to such criticism: Among constitutional scholars, skepticism about the implementation of a balanced budget amendment to the Constitution is not limited to liberals or conservatives. No less a conservative scholar than Robert Bork has written persuasively of the myriad difficulties in implementing such an amendment.

In his testimony before our committee, Professor Dellinger ably addressed the questions that Senator DOMENICI and I addressed of him: What would be the role of the courts in interpreting the amendment? What would be the consequences of the amendment for the separation of powers? What other constitutional consequences might we expect? In his testimony in each of these areas he demonstrated his keen powers of analysis and explanation.

Mr. President, the position for which the President has nominated Professor Dellinger, to head the Office of Legal Counsel in the Justice Department, is the closest thing there comes to the President's own constitutional lawyer. This is the official to whom the President will likely turn when he needs a ruling on what the basic law of the land holds. This is an office for which Professor Dellinger is particularly well suited, as a premier constitutional scholar.

It is also an office for which the Senate should afford the President great deference in his choice. The President should be able to pick his own constitutional lawyer. The next President will pick his, or hers.

In sum, Mr. President, I strongly support the President's nomination of Walter Dellinger to be Assistant Attorney General. I urge all my colleagues to join me in voting for his confirmation.

Mr. SIMPSON. Mr. President, some Members who have come to the floor to discuss the Dellinger nomination to be Assistant Attorney General have discussed the blue slip procedure. That procedure allows Senators to express their opposition to nominees to Federal positions in their home State, such as U.S. attorneys, judges, and marshals. I understand that this nominee does not fall into that category. However, the policy of the blue slip was originally based on the need for comity in the Senate. The process leading to the consideration of this particular nominee on the floor has not been what I would call "fraught with senatorial courtesy"—or comity.

To compound the problem, someone in the administration has done what I consider to be a most arrogant act, in view of the controversy surrounding this nomination. Mr. Dellinger has now been named as Acting Assistant Attorney General for the Office of Legal Counsel. He was never a sure thing—there was always strong opposition to his nomination. Sure, other persons in other administrations have been designated as acting—but never in my memory when they were facing such opposition. This designation allows him to make all normal day-to-day decisions—and all this before being confirmed by the Senate. That crosses the line of good judgment and propriety and it severely minimizes the role of the Senate and the confirmation process. That action was taken, notwithstanding the controversy surrounding this nominee. It has exacerbated the feelings of many of us on this side of the aisle.

It is my understanding that both Senators from North Carolina made every effort to seek to be notified of the hearing dates for Mr. Dellinger. It is my understanding that they were not so notified. They may have wanted to testify themselves on this nomination, or to present others to testify against the nominee. They brought their concerns to the attention of the Republican conference. I can fully understand those concerns.

What has thoroughly convinced me that this nomination needs to be slowed is the recent action by the administration to name Mr. Dellinger as acting Assistant Attorney General. There were enough problems within the Senate concerning this nomination, without the administration pouring additional fuel on this flame. Based on that wholly inappropriate decision to name Mr. Dellinger as Acting Assistant Attorney General, I will most assuredly vote against invoking cloture on this nomination.

CLOTURE MOTION

The PRESIDING OFFICER (Mrs. MURRAY). Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 288, the nomination of Walter Dellinger to be an Assistant Attorney General:

Harlan Mathews, Russell D. Feingold, Tom Daschle, Harry Reid, Dianne Feinstein, Barbara Boxer, John Glenn, Patty Murray, David Pryor, Jim Sasser, Wendell Ford, Harris Wofford, Max Baucus, Paul Wellstone, Edward M. Kennedy, Daniel K. Akaka, Joe Biden.

CALL FOR THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on Executive Calendar No. 288, the nomination of Walter Dellinger, to be an Assistant Attorney General, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Florida [Mr. MACK] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 59, nays 39, as follows:

[Rollcall Vote No. 307 Ex.]

YEAS—59

Akaka	Feinstein	Mikulski
Baucus	Ford	Mitchell
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boren	Harkin	Murray
Boxer	Heflin	Nunn
Bradley	Hollings	Packwood
Breaux	Inouye	Pell
Bryan	Jeffords	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Riegle
Campbell	Kerrey	Robb
Conrad	Kerry	Rockefeller
Danforth	Kohl	Sarbanes
Daschle	Lautenberg	Sasser
DeConcini	Leahy	Shelby
Dodd	Levin	Simon
Dorgan	Lieberman	Wellstone
Exon	Mathews	Wofford
Feingold	Metzenbaum	

NAYS—39

Bennett	Durenberger	Lugar
Bond	Faircloth	McCain
Brown	Gorton	McConnell
Burns	Gramm	Nickles
Chafee	Grassley	Pressler
Coats	Gregg	Roth
Cochran	Hatch	Simpson
Cohen	Hatfield	Smith
Coverdell	Helms	Specter
Craig	Hutchison	Stevens
D'Amato	Kassebaum	Thurmond
Dole	Kempthorne	Wallop
Domenici	Lott	Warner

NOT VOTING—2

Mack Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 59, and the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Madam President, a second vote to invoke cloture on the pending nomination will occur next Wednesday one hour after the Senate convenes.

For the remainder of the day, debate will continue on the pending matter. As was announced last night, and I restate for the information of Senators, votes are possible, including rollcall votes on procedural matters, at any time that the Senate is in session throughout the day today, and for the remainder of this session.

Senators should be on notice that votes may occur at any time, without prior notice, and Senators should be prepared to come to the Senate floor within 20 minutes to make those votes.

I thank my colleagues for their cooperation.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

THE TRANSPORTATION APPROPRIATIONS BILL

Mr. JOHNSTON. I wanted to engage in a brief colloquy with the senior Senator from Mississippi about an amendment we attached to the Transportation bill which, in effect, said that I–69, when and if authorized—that the route should be from Indianapolis to Memphis through Arkansas and Louisiana to Houston, TX. The importance of this amendment, Madam President, was to make eligible for feasibility studies any of the proposed routes which would necessarily have to come through Louisiana and Arkansas. And the significance of it for the State of Louisiana is that there are four competing routes for study, and we wanted all of them to be considered—and we thought should be considered—on an equal basis. I do not know how many routes there are in Arkansas competing for study, but this was simply to clear up any misconception that there would be about the availability of the routes to be studied.

I understand that my friend from Mississippi was concerned about the State of Mississippi and what this meant for them.

Mr. COCHRAN. If the distinguished Senator will yield, I appreciate him taking the time to discuss the intent of the amendment offered to the Transportation appropriations bill.

My inquiry at this point is to assure the Senate that there is no intent in that amendment to exclude any routes that might be decided would be appropriate through the State of Mississippi, the States of Arkansas and Louisiana, or the possible route from Memphis to Houston for I–69.

Mr. JOHNSTON. Mr. President, the Senator is absolutely correct. One of the routes I have seen laid out on a map—I do not know how much engineering support it has, but I have seen it laid out on a map—comes through Greenville, MS, across the State of Arkansas, and through the Shreveport area. There are probably a number of different routes through Mississippi, and certainly a number—at least four—through Louisiana, and a number through the State of Arkansas. And this in no way excluded Mississippi, either from having the route studied, or from later being authorized. Really, this is not an authorized project. What we are talking about now is preliminary studies for the location of a route, and they in no way exclude the State of Mississippi.

Mr. COCHRAN. If the Senator will yield further, I thank him for his explanation of the intent of the amendment. I hope, as the bill goes to conference, we can further clarify, with a statement of the managers, language to the effect that Mississippi is certainly eligible to be considered as a possible place where a route for I–69 can transit. I thank the Senator for his assurance.

Mr. JOHNSTON. I thank the Senator.

Mr. COATS. Madam President, will the Senator from Louisiana yield just for a question?

Mr. JOHNSTON. I yield.

Mr. COATS. I wanted to confirm that the beginning point of this study starts in Indianapolis, IN; is that correct?

Mr. JOHNSTON. The I–69 route begins in Indianapolis, and I think the people from the Indianapolis area were the ones who got the movement started for I–69.

Mr. COATS. It was in Evansville, IN, with help from our friends in Kentucky.

Mr. JOHNSTON. Yes.

Mr. COATS. I want to make sure, as to the questions that were asked by the Senator from Mississippi about various routes that may go through some Southern States, that the amendment in no way affected the initiation of that route starting in Indiana and going south.

Mr. JOHNSTON. That is right. All the references always name Indianapolis as the starting point.

So, yes; it not does not include Indianapolis but it reinforces Indianapolis.

Mr. COATS. I thank the Senator.

NOMINATION OF WALTER DELLINGER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The Senate continued with the consideration of the nomination.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Madam President, I make an inquiry: What is the pending matter before the Senate?

The PRESIDING OFFICER. The pending business is the nomination of Walter Dellinger.

UNANIMOUS-CONSENT AGREEMENT

Mr. EXON. Madam President, I ask unanimous consent that the pending matter be set aside for a point of personal privilege, and I make this request in behalf of the Senator from Nebraska, the Senator from New York, and the Senator from Hawaii.

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

Mr. EXON. Madam President, I ask unanimous consent that we be allowed to continue for 3 minutes in behalf of the Senator from Hawaii, 5 minutes in behalf of the Senator from New York, and 5 minutes in behalf of the Senator from Nebraska, as if in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. EXON. Madam President, I yield myself the 5 minutes allotted to this Senator.

A VICIOUS DOCUMENT

Mr. EXON. Madam President, I have before me, and will shortly enter into the CONGRESSIONAL RECORD, the most despicable piece of political literature that perhaps I have ever seen in my life, and I have seen a great deal of that kind of material.

Members of both political parties constantly bemoan the fact that politics has shrunk to a new level, an all-time low, and we are in a place to pledge today do something about it.

The existence of this document that I hold before me in the Senate today is concrete evidence that some are not practicing what they preach. I bring before the Senate a fundraising letter received by a gentleman in New Jersey from the so-called College Republican National Committee. The return address is a mysterious post office box here in Washington, DC. However, I further determined their headquarters is a mere four blocks from this point.

The letterhead bears a replica of an elephant, and the words "College Republican National Committee." I suspect and I hope that there is no direct

connection or affiliation with the Republican National Committee. It would be appropriate for some on the other side of the aisle to so state and deplore such tactics.

The thrust of this vicious document is to attack my colleague, Senator BOB KERREY, for his vote in favor of the recently passed deficit reduction bill. I have no quarrel with the opponents of this legislation who base their opposition on factual disagreements. I voted for the bill, and I am glad I did. But at least I understand the arguments on the other side of this issue.

But let me read some of the libelous statements made in this letter, and I quote:

In America, treason was once punishable by hanging—so despicable was the offense of betrayal—you and I need to let Senator KERREY know that his betrayal is still despicable—still deserving of punishment.

The fundraising letter further goes on to say that Senator KERREY voted against his oath to represent the people of Nebraska. It further states that Senator KERREY betrayed our Nation. The author of the letter, an individual named Bill Spadea, who is chairman of the so-called College Republican National Committee, of course attempts to cover his legal hindquarters by saying that he is "not saying that Senator KERREY committed treason," just that he betrayed his country.

Madam President, I cannot begin to tell you how low these tactics are.

The letter goes on to say that our President has a term which is "built on lies." The letter also goes on to say that we have been condemned "to a 4-year sentence in hell. Because hell is surely what you and I have in store for us."

Finally, Senator KERREY is accused of betraying "everything that you and I believe in" and "every ideal that America is based on."

I believe I have now given the Senate an accurate summary of the filth that has obviously been peddled nationwide by the so-called College Republican National Committee. I do not know who Bill Spadea is, and I quite frankly do not care. It is one thing to disagree on issues; it is quite another to accuse BOB KERREY of treason and betrayal. I do not think I need to remind the Senate about BOB KERREY's background. But maybe I need to remind the American people and the hatemongers around the country what BOB KERREY is all about.

The Congressional Medal of Honor is our Nation's highest award for valor. That must not mean anything to those who peddle lies for their own selfish purposes.

I have known BOB KERREY for more than a decade, and although we do not agree on every issue, I have always admired his courage, even on those occasions when we have disagreed. I daresay that no one who knows BOB KERREY would question his courage, his integrity, or his honor.

To accuse this Medal of Honor winner, devoted father, fantastically popular Governor, successful businessman, and now courageous and influential U.S. Senator of treason and betrayal is a direct affront, not only to all decent Americans and his colleagues on both sides of the aisle here, but specifically to Nebraskans, who have elected him twice to statewide office.

As you know, and I think you would expect, Madam President, this disgusting letter has an obvious purpose larger than simply attacking BOB KERREY. It will come as no surprise to any Senator that the end of the letter contains a plea for funds. Surprise, surprise, surprise. It may well be that this individual is misusing the Republican Party name and symbol only for his own personal gain. But it would be nice to hear this from a recognized and responsible Republican source.

In closing, I simply want to send the message loud and clear that the time for distortion, hate, and lies in politics must come to an end, and it must end now. Enough is enough.

Madam President, I ask unanimous consent that the letter to which I have referred be printed in the RECORD.

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

COLLEGE REPUBLICAN NATIONAL COMMITTEE,
Tenafly, NJ.

"President Clinton, if you're watching now, as I suspect you are, I tell you this: I could not and should not cast a vote that brings down your Presidency."—Senator Bob Kerrey, August 6, 1993, Floor of the United States Senate.

No, Mr. ———.

It was far easier for Senator Kerrey to bring you down rather than Bill Clinton.

It was far easier for Senator Kerrey to vote for a tax hike that he doesn't believe in than side with you.

Betraying you was easier, Mr. ———!

Senator Kerrey's cynicism is astounding, even by "Washington Standards"!

Just consider this for a moment . . .

The American people (by a clear majority) were and are against Bill Clinton's Economic Package.

Senator Kerrey was against it, Mr. ———!

Senator Kerrey even went so far to say, "I don't think he [the president] likes it."

But in the end, when it really mattered, Senator Kerrey voted for it.

Voting against his conscience.

Voting against his oath to represent the people of Nebraska.

And voting against you, Mr. ———.

Today, you and I need to let Senator Kerrey know that this betrayal will not go unnoticed. Self betrayal—the betrayal of the people of his state—and the betrayal of a nation.

Senator Kerrey took an oath to represent the people of his state and to faithfully enact legislation, for the good of the nation, Mr. ———.

And yet, even though the people of the state of Nebraska clearly were against Bill Clinton's Economic Package . . .

Even though Senator Kerrey was certain that Clinton's Economic Package was far from being good for our nation . . .

Senator Kerrey voted in favor of it.

Sacrificing the good of our nation for the good of Bill Clinton.

Think about that, Mr. ———.

In America treason was once punishable by hanging—so despicable was the offense of betrayal.

I am not saying that Senator Kerrey committed treason.

But still, Mr. ———, you and I need to let Senator Kerrey know that his betrayal is still despicable—still deserving of punishment.

Because immediately after Senator Kerrey voted in favor of Bill Clinton's tax package, he was rewarded!

It is now understood that Bill Clinton will make Senator Kerrey Chairman of the Budget Cuts Commission.

Please, Mr. ———, help me at least take action to ensure that Senator Kerrey's betrayal is not rewarded.

Sign the Republican Petition to Bill Clinton and tell him in no uncertain terms that you do not want a wavering, weak-willed Senator to Chair this vital Commission.

At this point, there is little else you and I can do to prevent the tax hikes that Senator Kerrey has voted for us.

But we can take this decisive action and show Senator Kerrey that he should have voted with his conscience and with the majority of America—

And voted no!

You and I are the ones who are going to be punished for his betrayal because you and I are the ones who are going to have to pay for Senator Kerrey's gross lack of conscience.

Because Senator Kerrey sold out to "save" a presidency doomed for failure, you and I will suffer . . .

Suffer from an economic package that Senator Kerrey himself said would produce "Disdain, Distrust, and Disillusionment."

Disdain for a Congress that would pass an economic plan that calls for the highest tax hike in the history of the world—and DISDAIN for a Congress that just six months ago voted in favor of a pay raise for themselves.

Distrust for a president whose term is built on lies—and distrust for a liberal-controlled Congress and Senate who blatantly ignore the will of the people and legislate disaster.

Disillusionment in gridlock ever being broken as long as liberal wheelers and dealers continue to sidestep justice, ignore fairness, and condemn you and me to a four year sentence in hell.

Because Hell is surely what you and I have in store for us, Mr. ———.

What else can you call $240 billion in tax hikes?

What else do you call an additional $887 billion in debt in the next four years? (The debt increase that the Democrat-controlled House Budget Committee is expecting!)

What can you possibly call another five and a half million people who will be forced to pay additional Social Security taxes?

Please, Mr. ———, don't misunderstand me . . . I never really thought that Senator Kerrey could be trusted.

I never thought that you and I could count on this noted Democrat, Mr. ———.

But I never expected this!

When it came down to voting for his conscience, constituency, and for America . . .

He caved in, Mr. ———.

In a pathetic display of partisan politics, Senator Kerrey pledged his allegiance to the liberal agenda and to a presidency that even he has been violently opposed to.

And in that single unforgivable action, he betrayed everything that you and I believe

in—everything you and I hold sacred, Mr. ———and every ideal that America is based on.

For what?

To save a President who has put America's economy on the road to ruin.

Of course, afterwards, Senator Kerrey dismissed the notion that his voting against the President would have ruined the administration, but you yourself read his words—the disgusting quote I wrote at the top of this letter.

He didn't want to "Bring down" the presidency. But, Mr. ———, how on earth could Senator Kerrey bring down an administration that is already at an all time low?!

In his diatribe, Senator Kerrey even pleaded with Bill Clinton—urging Clinton to "Get back to the high road."

I think you and I know something that Senator Kerrey doesn't . . . Bill Clinton doesn't even seem to know where the road is, let alone the high road.

Right now I ask that you sign your name to our Republican Petition to prevent Bill Clinton from rewarding Senator Kerrey for his betrayal. Then return your signed Petition in the enclosed postage paid envelope so that I can immediately forward it to the White House before any action is taken.

Please be sure to include your most generous $25 or $35 contribution as well.

I need your $25 to continue to fight Bill Clinton's destructive agenda, Mr. ———.

I need your $35 to continue to fight to support Republican Senators who go into the trenches day after day to wage battle against the liberal tax-and-spend lackeys.

For the sake of truth rather than betrayal—justice rather than unjust taxing—and the American values you and I hold sacred, please don't let the Senate and House Republicans down now, Mr. ———.

God bless you,

BILL SPADEA,
Chairman.

Mr. EXON. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Madam President, I wish to associate myself with the strong remarks of my colleague from Nebraska in condemning this extraordinary fundraising letter.

Madam President, I am a very privileged person. I have had the great honor and privilege of serving in this body for three decades, and I have been a politician for over 40 years.

So like all of my colleagues, I am well aware that we should anticipate and at times expect to be condemned and criticized. It is one of the most cherished rights in our Constitution for citizens to stand up and criticize their leaders, and we all support that.

But like anything else, like every right in the Constitution, even the freedom of speech, there are limits. I believe that this letter has gone beyond that limit.

As my colleague, Senator EXON, has pointed out, to associate the word "traitor" with BOB KERREY is so obscene that I find it difficult to find words to describe my thoughts, because he and I have one thing in common: We served in the military. As one who served in the military, I look at him each day and salute him.

There are not too many of us in the United States with the Medal of Honor. In fact, in this body, he is the only one; and, I believe, in the whole Congress, he is the only one. I believe that there are less than 100 in the whole United States.

To pick our Nation's hero and associate the word "traitor" with him is not only obscene, it is despicable.

So, Madam President, I hope that the people of Nebraska will read this letter carefully and do what is right: Join us in condemning this attempt to smear the good name of BOB KERREY.

Thank you very much, Madam President.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Madam President, I, in turn, rise to associate myself with the remarks of the distinguished Senators from Nebraska and Hawaii, and to comment on the reference of the Senator from Hawaii to the Congressional Medal of Honor.

It may not be generally known in the civilian public, but so long as a winner of the Medal of Honor remains in uniform, he is saluted by any other person in uniform, regardless of rank. If he should be a coxswain in the Navy, admirals salute. When he comes aboard ship, he is piped aboard ship. He is given the honors of a most especial person.

To have such a letter sent out about such a person simply hurts us as individuals and requires that we respond as Senators.

The charge is made of betrayal, treason, and also the charge that Senator KERREY voted against his oath to represent the people of Nebraska, voted against his oath and was rewarded by being made chairman of the Budget Cuts Commission—rewarded. The charge is made that, in return for violation of his oath and treason and betrayal—those words—he was rewarded.

This is more than obscene. The oath in the U.S. Senate requires him to uphold and defend the Constitution of the United States against all enemies, foreign and domestic. And few persons would understand with any greater depth that oath than Senator BOB KERREY.

He rose on this floor—I will not ever in my time here forget listening to him as he stood over there about 9 o'clock at night and said, "Mr. President, if you are listening to me, if you are watching me, as I expect, let me tell you, I am going to vote for this legislation"—legislation I was largely responsible for as chairman of the Finance Committee. And he said, "It does not ask enough of the American people. You have given more things to people who threaten not to vote for you if they did not get this or did not get that."

I would like to quote from the speech. He said:

Mr. President, I know how loud our individual threats can be. But I implore you, Mr. President, say no to us. Get us back on the high ground where we actually prefer to be. This legislation will now become law. As such, it represents a first step. But if it is to be a first step toward regaining the confidence of the American people and their Congress and their Federal Government, then we must tell the Americans the truth. And the truth is, Mr. President, to spend less means someone must get less.

I do not know if more honorable words have ever been spoken on this floor in the course of the protracted fiscal crisis of the past decade.

A man of honor, a recipient of the Congressional Medal of Honor spoke truth on this floor, earned the deep respect of his colleagues, deserves the great regard of the Nation, even as this letter from the College Republican National Committee deserves contempt.

I can only hope, Madam President—because I know that there is no person on that side of the aisle, no person, who in any way associates himself or herself with this letter—I hope some effort will be taken by the Republican National Committee to repudiate this insupportable and insufferably self-interested letter.

BOB KERREY rose to say Americans had to sacrifice more for their Nation, as he has done. And the College Republican National Committee is prepared to blaspheme, if I may use that term in the general sense, to send out this obscenity in order to get money.

I regret that Mr. Palmer, who got the letter, ever did. I am sure he does.

I hope now it can be put behind us. But that will take a positive action by members of the other party, which I am sure they will be willing to take, as I hope we would do in similar circumstances.

Thank you, Madam President.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Madam President, I would like to take the floor just briefly to associate myself with the remarks of the three preceding speakers.

It has been said that silence sometimes becomes so loud it becomes a sound in itself. I did not want to let this occasion pass so that there would be silence on this side of the aisle which might be construed as a sound that in any way endorsed that letter.

I think it was Thomas Jefferson who once wrote a letter in which he said: "Politics is such a torment. I would advise everyone I love never to mix with it," which is, of course, advice he proceeded to ignore for himself as he continued to mix with it.

But more than 1 or 2 or 10 of us have taken this floor on many occasions to point out that there seems to be a breakdown in civility that is taking place, not only out in the streets in terms of the commerce between people, but right here in this Chamber.

This is exactly the kind of tactic, a fundraising tactic, that is contributing to the greater disenchantment on the part of Members from wanting to be involved in politics. It is tough enough to go out and campaign on the basis of one's record and votes without having one's character called into question and, more than character in this particular case, honor.

I remember not long ago the distinguished Senator from Hawaii [Senator INOUYE] also was the object of considerable attack, racial in nature, hateful in content, despicable by any account. It was my good friend Senator Rudman who took to the floor to denounce that sort of political terrorism.

So I hope that my colleagues on this side of the aisle would join with the Senators from New York, from Hawaii, and from Nebraska in expressing not only our objection, but our absolute sense of outrage that a Member who has as distinguished a record as Senator KERREY would come under this sort of attack.

We need not stoop to conquer. There are enough legitimate issues that separate us to merit a legitimate, civilized debate in the political system. We need not stoop to tarnish a man of this integrity and honor.

I think BOB KERREY made it very clear he did not like the President's program. He wanted to do much more. But he also said he felt an obligation as a Democrat, as a Senator, to do what he thought would be necessary to save the Presidency.

Some of us might disagree that the Presidency was at stake. That was his judgment.

None of us—none of us—should ever endorse a type of tactic, fundraising tactic, that would involve tarnishing, besmirching this man's character and honor.

So I want to associate myself with the Senators who have taken the floor and preceded me.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Madam President, I just visited with the distinguished Senator from New York earlier about this, and I received a copy from Senator BOB KERREY.

I just indicate, this certainly does not reflect anybody's view in this Chamber or anybody's view in the Republican Party, as far as I know.

I know how direct mail operates sometimes. I know how it is put together by a lot of people—faceless, nameless people—and sometimes you find your name on it.

In any event, I just suggest that this is not the way that politics ought to be. I share the views already expressed on the floor.

As I said, I just received a copy from the Senator from New York, and I was back in my office and I received a copy from my friend, Senator KERREY, from Nebraska.

This goes beyond the pale. I think we will probably get the same response from the people it is mailed to.

Mr. WARNER. Will the distinguished Republican leader allow me to identify myself with his remarks.

To such an extent as it might be helpful, I was recently targeted on Republican National Committee stationery by the Republican National Committeeman from my State. I would hope we would all take due note that this official stationery which bears the logos of these respected national organizations is being abused by some individuals with their own agendas which do not necessarily reflect the official agendas of the organization.

It is incumbent upon the chairman of the Republican National Committee, and he is acting on my request, to put some control on the use of the logo. It is also incumbent on the National Young Republicans to put some control on their logo. So I hope that responsibility is accepted by the leadership to curtail the indiscriminate use by some persons of official logos.

Mr. DOLE. Madam President, I think the Senator makes a good point. I think it is not only the young who get carried away. I was subjected to a rather severe judgment by my former colleague, Senator Cranston, in Rolling Stone here a few weeks ago. Nobody jumped up in my defense, but I thought it was beyond the pale, too. I might suggest my colleagues read that. It is not just the young Republicans, sometimes it is the old Democrats, too.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Delaware.

Mr. ROTH. Madam President, first of all, let me say I want to associate myself with the remarks that have been made in connection with the distinguished Senator KERREY. There is no question but what the most precious asset one has is his reputation. It pains me to see anyone who serves this country honorably, attacked in the manner that Senator KERREY was.

Mr. SPECTER. Mr. President, I associate myself with the remarks made this afternoon concerning the letter written about Senator BOB KERREY—the remarks made by the distinguished Senator from Hawaii [Mr. INOUYE]; the distinguished Senator from Maine [Mr. COHEN]; and others who commented upon the inappropriateness of that kind of a letter.

Senator INOUYE said, very eloquently on the subject, that the right to criticize public officials is a treasured right in America but there are limits, and that letter passed the limits.

Madam President, the great English statesman, Edmund Burke, once outlined what he believed were just causes for combat. He said, "The blood of man should never be shed but to redeem the blood of man. It is well shed for our family, for our friends, for our God, for our country. * * * The rest is vanity; the rest is crime."

We have all been moved by the bloodshed and loss of life in Somalia, especially the wounds, imprisonments and deaths of our own young soldiers—brave Americans who first entered Somalia on a mission of mercy. These men and women went ashore in that starving country to feed children, to relieve suffering and provide medical attention to a land ravaged by famine, mobsters, and civil unrest.

Now, with American deaths entering the dozens, with soldiers missing in action or imprisoned, the words of CWO Michael Durant, who is the one known hostage held by a lawless warlord, hauntingly remind us that in Somalia we have lost our objective.

On a video tape that I know disturbed most Americans as much as it disturbed me, Michael Durant said simply, "I'm a soldier. * * * I have to do what I'm told. * * *" What a reminder to the leaders of nations of the incredible moral responsibility they have when first they determine to put countrymen in harms way. These are soldiers, they do what they are told. Consequently, leaders have a moral obligation to be certain, and I can not emphasize that word strongly enough, to be certain that what these young men and women are told to do is governed by objectives that are concrete, definable, understandable, and worthy of the risks they are asked to take.

Frankly, these objectives just do not exist, not now, not for us, not in Somalia. Going back to the words of Edmund Burke, Michael Durant's life is not hanging in the balance to provide safety for his family; he is not there to protect the security interests of his friends, or his country; not is he there to guarantee our freedom to worship God. Rather, he is the hostage of an outlaw for a reason that those who placed him in harms way have yet to define. Likewise, those who have already been killed—and those who continue to die—because of America's participation in the United Nations forces are doing what they are told without a clear, understandable and worthy objective. For this reason, I am calling for our troops to now be pulled out of Somalia as quickly as possible, consistent with their safety and the welfare of any and all United States hostages.

I am concerned that the policy taken by the White House is currently moving us in the wrong direction. Placing thousands of more troops and tons of heavy materiel into Somalia risks turning that crisis into a quagmire. It risks increasing numbers of American lives, hardens the resolve of Mohamed Farah Aideed and his supporters, and places hostages and potential prisoners like Michael Durant at grater risk as they become pawns in an international

crisis that, frankly, should not be. Likewise, committing more U.S. troops takes the autonomy of our armed forces one more dangerous step toward entrenchment within the ranks of the United Nations. And this, alone, concerns me.

While I have long supported the United Nations, and understand its role in promoting peace and stability throughout the world, I am concerned by any attempt—deliberate or otherwise—that renders American autonomy subservient to that organization. While all eyes are on Somalia right now, I need not remind my colleagues that even as we debate America's place in the crisis of that nation, there are more than 80,000 U.N. peacekeepers deployed in 17 current missions throughout the world. Some of these missions, such as that involving India and Pakistan, began almost 50 years ago and continue to drain human and financial resources. Two new U.N. missions were launched even last month, and U.N. Secretary-General Boutros Boutros-Ghali has ominously predicted that more than 100,000 troops may be involved in U.N. missions by the end of the year.

I believe many of these missions are important, just as I believe the United Nations plays an important role in the global political community. But I am adamant in my position that America cannot give a blank check to a multinational coalition—a blank check that places its interests, lends its troops, and offers financial commitments to U.N. objectives that have little, if any, relevance to U.S. security.

When our soldiers go into battle, when our precious resources are committed to any conflict, we must have four clear, well-defined guidelines.

First, we must know what vital interests are at stake. Seldom, if ever, will we see all Americans support any U.S. commitment to battle; but our reason for being in that battle must be understandable, if not agreeable, to all Americans. When those vital interests involve an ally, or a coalition of nations of which we are a part, we must be in agreement concerning to what degree we are willing to commit our forces and resources.

Second, we must know who the enemy is and what kind of threat the enemy poses to our security forces. Only in this way can we be certain that our soldiers are properly equipped and able to carry out their objective.

Third, we must have a plan about how we can bring the mission in which we are engaged to a successful conclusions in the most efficient and effective manner possible. Our men and women should never be in harm's way even a day longer than is absolutely necessary.

Fourth, American interests under any circumstances, should never be subservient to the interests of any international coalition without the consent of Americans.

With the increasing activity of the United Nations, and as America is central to the success and support of the United Nations, I am concerned that these four objectives may not be considered as United States troops are committed to conflicts and crises like the one that now involves us in Somalia. Consequently, I shall be offering a resolution stating that U.S. forces cannot be placed in combat by the United Nations without the consent of a majority in Congress. I believe that only in this way can we be assured that American troops will remain safely within the stewardship of leaders elected by Americans. Only in this way can we be assured that the criteria outlined by Edmund Burke are met. Only in this way can we be assured that our men and women will not be swallowed up by an international organization that might more readily offer American blood and American lives for reasons and interests that may have nothing to do with America.

Madam President, I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from New York.

SOMALIA

Mr. D'AMATO. Mr. President, I am going to speak to the same issue my distinguished friend and colleague, the senior Senator from Delaware, spoke to. Let me refer to an Associated Press article today. I am just going to read parts of it. If one were to just follow parts of this, it should be obvious that what is taking place is that decisions that should be based on military necessity, unfortunately, are being made on political judgments, politics.

This article is written by Donald M. Rothberg, Associated Press, Washington, AP:

> General Colin Powell was rebuffed twice last month when he recommended sending tanks and armored vehicles, along with additional troops, to Somalia, a military source added.

It goes on to say:

> Pentagon officials said Powell and Aspin spoke twice about the request.

But then the official who speaks in anonymity attempts to cloak this. He said, well, this really was not a request, this is not really something the general wanted. The military leadership was not pushing Aspin to do this.

How dare they, behind anonymity, attempt to cloak it that this was not really serious. Oh, no. The fact is that Powell, as a result of General Montgomery, who is the deputy commander of the United Nations and who is the United States general in charge in Somalia and made this request twice, his request went to the Marine Gen. Joseph Hoar, because this came from General Montgomery, the commander for the region. His request reached the Pentagon in early September. It came up through the channels to Powell who took it to Aspin with—I quote—"a favorable recommendation."

Let us not let the political bureaucrats and hacks attempt to becloud the issue. They are famous at that—obfuscation, and that is where we are at now.

Powell renewed the request later in the month. Now we hear that the administration has decided against pulling out U.S. troops and that they settled on a plan that will send 1,500 to 2,000 more soldiers there with the equipment that was initially requested last month, in September.

Let us go over this business about what was done and what was not done. We have to understand that when a request, which is called an action, reaches the Secretary of Defense, it comes with a recommendation from the Chairman and the Joint Chiefs. It is either concur or nonconcur. General Powell clearly concurred on the action, or it would have stopped at his level. In fact, Powell reportedly asked for approval twice.

Let me suggest that this is abhorrent. Are we sending young men to do a job, which is dangerous in its very nature, with the deck stacked against them? How dare we get this report back that the Secretary was concerned that there might be a backlash from Congress about sending equipment to defend our boys in the carrying out of their job, our men and women.

I believe that Secretary Aspin has let us down by turning a military decision into a political decision. That was wrong, and he must be removed. I yield the floor.

Ms. MIKULSKI. Mr. President, I rise today to voice my concern and that of my constituents concerning our continued presence in Somalia.

When our Armed Forces were first sent to Somalia they were provided a clear, understandable mission. They were there to feed the hungry, care for the sick, and protect humanitarian workers. The American people were proud to support our Armed Forces and their mission.

But not we find ourselves drifting from our original humanitarian purpose into something far more complex and dangerous. I worry that we now find ourselves in a position which is neither desirable, sustainable, nor enforceable.

Mr. President, I call on the administration to define both our purpose and our presence in Somalia. I supported the Byrd amendment to the Defense authorization because I believed our policy was drifting away from its original, humanitarian purpose into a murky military adventure.

Now, we have last Sunday's ambush of American rangers, the tragic loss of our servicemen's lives, the desecration of our dead, and the taking of U.S. hostages. The people of the United States

and the Congress, demand that we have clear criteria and objectives for our continued involvement:

Why we are there?

What makes us stay?

And under what conditions we will get out?

Without a clear statement of objectives and criteria, Congress should not authorize our continued presence in Somalia, and the troops should be returned home immediately.

Finally, Mr. President, I want to express my deep sadness over the deaths of United States soldiers in Somalia. My thoughts and prayers go forth to the families and comrades of those who were slain. In these turbulent times, the example they have set, their devotion to duty, and their patriotism are examples for us all. I also want to state my heartfelt support and appreciation to the men and women who are now valiantly serving in Somalia. They, who have been serving in harm's way, are performing magnificently. May our leadership and actions be worthy of them.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

THE SENATOR FROM NEBRASKA—BRAVE, NOBLENESS OF PURPOSE

Mr. PELL. Mr. President, I would like to associate myself with the remarks made earlier concerning the Senator from Nebraska. There is no doubt in my mind, and I am sure in the mind of any here, as to the ability, the bravery, and nobleness of purpose of the Senator from Nebraska. It is acknowledged by Members on both sides of the aisle.

Accordingly, I associate myself with the remarks that have been made on this subject earlier this afternoon.

REDEFINING OUR POLICY IN SOMALIA

Mr. PELL. Mr. President, I am troubled and saddened by the continued deathtoll of United States soldiers in Somalia. In the last 24 hours we have witnessed additional United States casualties in Mogadishu as 2 of our soldiers have died and another 11 were wounded in an attack on that city's airport.

While I believe that we must bring in the troops necessary to protect our soldiers and the U.N. forces in Somalia, we should not use those troops to continue the present campaign with its huge emphasis on General Aideed. It has been a miscalculation to focus on capturing Aideed rather than on isolating him. We should concentrate on the successes achieved in reestablishing local government in northern Mogadishu and in the rest of Somalia. Above all, we should pursue a political solution backed by a strong U.N. military presence rather than engaging in high risk attacks on Aideed and his forces.

Despite our earlier errors, I believe that we would be committing an even greater mistake by forcing a precipitous withdrawal from our current commitment in Somalia. That is why I spoke before the Senate earlier this week to urge that the administration be given a chance to change course, rather than forcing them to immediately withdraw our forces by cutting off funding.

As I have said before, I support the U.N. operation in Somalia, and I support United States participation in it, particularly since we provided only about one-sixth of the forces. The administration has been working with the United Nations to improve the efficiency and effectiveness of its peacekeeping operations. Some of the reforms that are needed were detailed in reports of our Foreign Relations Committee entitled "Reform Of United Nations Peacekeeping Operations: A Mandate For Change" and in the final report of the U.S. Commission on Improving the Effectiveness of the United Nations, on which I served. With the expansion on U.N. peacekeeping operations in Cambodia, Somalia, and the former Yugoslavia, the need for reform has proved to be even more urgent.

I have come from a morning meeting with the President and his advisers and I applaud the President's efforts to consult with Congress and redefine our policy in Somalia. Those of us who attended expressed varying viewpoints, but in a civil and rational way.

I support the President's commitment to providing safety for our troops and other U.N. troops in Somalia, as well as to achieving our humanitarian goals in Somalia and concluding our commitment there.

Like many Members of Congress, I remain concerned about the circumstances and military tactics that led to last Sunday's tragedy. We must ask the administration for answers concerning the decisionmaking process that led to the weekend raid. There is no more urgent task at hand than to assure that the casualties of the last few days will not be repeated.

I commend the President for consulting closely with Members of the Congress in formulating a response to the changed situation in Somalia. Soon the President will set out the full context of the country's policy in Somalia. I have invited the Secretary of State to testify before the Foreign Relations Committee so that the committee and the Senate can have an opportunity to discuss the administration's policy in Somalia prior to its consideration by the Senate next week.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico [Mr. DOMENICI].

GRAZING FEES AND LAND USE REFORM

Mr. DOMENICI. Mr. President, I will not take very much time of the Senate, but in my State there is a very genuine interest on a local issue. Obviously, we have all been speaking on the situation in Somalia or the situation in Russia.

But I choose this evening to try to tell the people in my State, and perhaps the States around New Mexico, in a part of the West and Southwest, the current state of affairs, as I understand them, with reference to the conference on the Interior appropriations bill as it pertains to the moratorium that the Senate voted 59 to 40 to adopt with reference to changing not only the grazing fees but a moratorium for 1 year on changing the rights and privileges and ownership and vested interest and the like with reference to the basic nature of the permits that permit ranching families and ranching interests to graze on the public domain which has been going on for so many decades now under various laws.

Let me first state that there are two parts to what is going on that I will try to indicate to the people in my State have been resolved not by any Republican because Republicans did not participate at all in the supposed settlement of this issue, but there are two parts and they are very distinct and very different.

One. What should we do about increasing grazing fees? We have all—western Senators on that side, western Republicans—said let us change the grazing fees. Let us raise them somehow. Let us look for a new formula. We have been ready to do that. We are prepared to do that. We will negotiate on that.

In fact, now that we know what the Democratic leadership on that committee wants to do, we will tell them early next week what we recommend on that aspect of this very serious issue.

Now, if you listen to the media and those who say get on with something, you would think that is all there is to this issue. And you would think for those 59 Senators, 39 of which were Republicans, who said hold on now, let us give these ranching communities and these ranching families a year to sort this out and have some hearings, the issue was only grazing fees.

I have just stated it is a little part of this problem which is before that committee that was going to be before this Senate but should be before the authorizing committee.

The other part is a series of reforms, so-called reforms. They are changes in the relationship of the user of that public land, that is, the ranchers, men and women, families. It is changing their rights, their privileges, their vested rights, their property rights, and it is that portion of what the Secretary of the Interior had planned to execute without Congress, by Executive order and through rulemaking,

that is causing some severe, severe problems in that Appropriations Committee and will cause severe, serious problems in this Chamber because the very way of life, the property rights, what a ranch is worth, what you can borrow on it, what happens when you make improvements to it, who has the right to close you down and what are your appeal rights, those and many more like them were going to be decided under the rubric of changing the grazing fees.

Now, Mr. President, there is no gridlock with reference to changing the land user privileges and rights because there is nothing to gridlock. This is the first time this whole series of issues has been placed on the table by this Secretary of the Interior and the ranching community, and the Senators from those States are being told we are going to change them all without any hearings, without any law; we are just going to change them. And trust us, the Department of the Interior and those who work for them; we are going to do right.

Mr. President, in my case, I have thousands of ranching families who use the public domain along with their own land, along with State land and make a living in rural New Mexico. I am not prepared today, tomorrow, next week, if I am here for 20 more years, to say to the Department of the Interior you just take care of all this because you are going to do right by these ranching families.

I do not believe that for a minute, and anyone who thinks we are going to sit by and watch all of this get changed without an authorizing committee having hearings on it—and I am not talking about grazing fees. So to those who do not understand or refuse to listen when we say it is not the grazing fees that are in issue, it is what will our house on this ranch be worth next month or next year? Will we be able to borrow on the land and the permits as a unit or are you going to change it so that the value is down, the rancher's interests are changed without a committee of this Congress even holding a hearing on it?

Now, we are going to hear this over and over until it sets in, that we are not going to let anyone change these interests in any cavalier manner. We know best. We have looked at it. It is a compromise after all.

Well, that does not do the job because that is not the issue. The issue is should you do these things to thousands of ranching families? And let me tell you how serious it is. The occupant of the chair will understand this. Ranching families borrow money to operate. And that is understood. The occupant of the chair has been in business. You borrow money for your day-to-day operation and your overhead and you borrow money on your ranch house which is on your own land.

Well, let me tell you, the banks are saying no loans for operation. While this whole series of changes is to be made by the executive branch without a congressional hearing, without a change in the law, they are saying, while those are around, no money will be loaned.

Why do you think they are saying that? They are saying that because these changes are so significant that they render the property rights of the ranching family, the permittee—in some cases it will cut the value in half.

Now, I just ask, would we busy ourselves by letting an executive branch of this Government overnight by fiat change the value of houses across this country, by a rule that they would promote in the executive branch? Would we let them change the mortgage deduction by rule? Of course not. We would say that affects the value of the houses, that affects the carpenters who build houses.

The ranching communities are dependent upon the rights and privileges associated with this ranch house as a ranching unit with public domain permits. So it is enough to just tell you they are not going to lend money for everybody to understand there must be something dramatic happening.

Yes, there is. And do you know how it is going to happen if we do not put that moratorium on? It is going to happen by executive fiat, with no input from the Congress other than perhaps writing your letters of recommendation or suggestion.

That means that on this side of the aisle—and I hope on that side of the aisle, because I cannot believe that every Democrat from Western America has agreed to the proposal, which we have not seen yet in writing but which was given to us orally by the Senator who negotiated it, a good friend, Senator REID, who negotiated it with the House authorizing committee, not the Senate authorizing committee.

In fact, MALCOLM WALLOP, the ranking member of the authorizing committee, was not talked to. PETE DOMENICI, who works on this as much as he can probably be working on it, as long as anyone here now, I was not part of this so-called resolution of this problem. It was done in long distance with the House members on the authorizing committee, who we all know have been just kind of waiting around to do the ranchers in. In fact, they represent some constituencies that do not think we even ought to use the public domain for livelihood as ranchers, and raise beef cattle and other things.

So the solution that is being proposed here is a new grazing fee. We want to work on that. We will bring a grazing fee proposal also to be looked at that will be multiyear and will solve the problem that everybody is talking about on gridlock.

But what is being suggested now is that about two-thirds of these land use changes, these vested right changes, it is now being proposed—and I assume there are votes to support it, with not a single Republican involved there—about two-thirds of these dramatic, drastic changes are not going to even wait for public hearings. They are going to be written into an appropriations bill.

Let us get rid of it, people are saying. Let us write it right here in this appropriations bill, no hearings. The ranching community spent hundreds of thousands of dollars writing their version, their view, and sent it to the Secretary so they could be filtered into this process. It does not matter. We are going to write it into an appropriations bill.

And what an anomaly. The U.S. House, I say to my friend from Pennsylvania, with the authorizing committees right out front, they are turning down appropriations bills one at a time by saying: Are you authorizing on this appropriations bill? If you are authorizing, take the authorizing out. But not when it comes to ranchers. Authorize it right in the appropriations bill; change their livelihood; change their rights and their privileges, because we cannot afford to have this issue around any longer.

Mr. President, I am fearful that we are going to have it around for awhile. Anybody that wants to read into what I am saying, read whatever they like. But I can tell you right now that I pride myself in being a constructive Senator. I pride myself in working things out. I do not pride myself in causing gridlock around this place. But I will tell you that on this one, I am prepared to do that.

I truly believe it is unfair to change these kinds of rights, privileges, rules, and responsibilities in an appropriations bill without hearings, and we are going to hear responses next week saying we have been at this forever. I repeat: We have been at grazing fees issues for quite a while.

But we have not had in our authorizing committee, the Senate Energy Committee, a bill that changes such things as who owns the water rights; such things as who owns the improvements if they are made; such things as who is going to make the improvements in the future; such things as how do you cancel a permit permanently and irrevocably; what kind of appeal do the ranchers have; what kind of input do they have as an advisory group to what is going on? Those are just a few of the issues.

I do not believe this Senate, when it finally understands this, is going to agree—or I must say, should not agree—that we do this without any public hearings, without a thorough analysis. Let me tell you, the rule of unintended consequences when it comes to these kinds of relationships is front and center. The rule of unintended consequences is going to take

hold if we do business this way. And my constituents by the hundreds are going to find out when it is too late that this was not done right. Or they might find out the year after next that there is no value left in what they spent 20 or 30 years putting together, maybe even a second generation doing, and doing it well.

Nobody is complaining about how they have maintained it, maintained the public domain. But they do not have any value left because what we have changed, without public hearing, without input, without analysis, is saying to them: What you thought you owned has changed. You really do not own it. What you thought you had in equity and value, that you could go to the bank for years and borrow money to keep your family going, and buy a new—buy whatever you need for the year that is coming, maybe it is just not worth anything anymore.

We have already disposed of the idea, I believe, at least for my State—I looked at it carefully—that this is a bunch of rich cattle people. Some call them corporate cowboys. That is not my State. My State has nearly 4,000 of these ranching permits, and the overwhelming proportion are small family ranchers, families who are living there to stay in their rural communities and participate in a lifestyle that has been kind of sort of the real blood and strength of rural communities.

So I guess I come here tonight as much out of sorrow and concern, as I am about to engage on a real crusade where I have some kind of angle about it. I am here to suggest that we ought to be fair, even if it is only 30,000, 40,000, or 50,000 ranching families, or the 4,000 in New Mexico. There are many Senators who have none of those. But if we can just vote kind of cavalierly, since it only hurts a few, then I think we are coming very, very close to pitting one part of this country against another part of this country.

Frankly, I do not like to see that happen. But I will not sit by without doing my share to let everybody in this place know that this is a basic thread of fairness, and you ought to give that to everybody. You ought to give it to minorities; you ought to give it to immigrants; you ought to give it to small business; and you ought to give it to the community called the ranching community of America.

Fairness demands that you not change their livelihood and their resources and the value of their estates and their farms in an appropriations bill with a whole batch of new laws, with unintended consequences, that are just waiting to come out of the woodwork. But when they come out, it is people they hurt, not woodwork.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania [Mr. SPECTER].

PRESIDENT CLINTON'S PROPOSED HEALTH CARE PROGRAM

Mr. SPECTER. Mr. President, I have been looking for a quiet moment on the Senate floor to speak relatively briefly about the administrative aspects of President Clinton's proposed health program.

I saw one of our colleagues on television recently being asked about whether the Senator had read the report, and I noted some embarrassment in the failure to give an affirmative answer. So I took a copy and found it was 239 pages long, and I proceeded to read this lengthy report, for those who may be watching on C-SPAN 2, here it is.

There is a great deal in this report which is going to require study and analysis. It is, on its face, only a preliminary report. "This document represents a preliminary draft of the President's health reform proposal." That is the first sentence on the front page. We have yet to receive the legislation which, according to the way legislation customarily follows a draft report, is likely to be a good deal more involved and obviously more specific, and most probably more complicated.

I inquired as to whether any Senator had put this report in the CONGRESSIONAL RECORD and was surprised to hear that none had. I believe that it has not been put in the RECORD on the House side either. I wonder, commenting on that, whether that reflects to any extent the reading by our colleagues who are Members of the Congress.

I intended to submit this preliminary report to be printed in the CONGRESSIONAL RECORD. However, I am advised by the Joint Committee on Printing that it would cost $12,000 to print and thus I will refrain from doing so.

People need to read it—Members of Congress and others—to understand what is happening as we look toward a very substantial debate on health care reform.

I share the objectives of President Clinton to provide comprehensive health care for all Americans. During my 12 years plus in the Senate, I have served on the Appropriations Committee for Health and Human Services and have been heavily involved in the work of the Congress. I have proposed extensive legislation in this field, going back almost a decade, when I first proposed legislation dealing with low-birthweight babies, and since have proposed comprehensive legislation and tried to bring this issue to the floor in the summer of 1992.

It seemed to me that with some 1,500 health bills pending, we did not have to wait any longer, that we could legislate on the subject, very much as we did on the Clean Air Act, where we brought a complicated question to the floor and broke up into task forces and finished the product and made substantial improvements. That effort on my part was not successful and was defeated largely along party lines. This spring I made another effort in the same direction when it appeared that the President's proposal was going to be substantially delayed, and the estimate was in May and then June and July and a speech to the joint session in September, and stiil we do not have the legislation.

I have felt keenly the need for legislating in this field. The one subject I want to comment about specifically—and many things are to be commented about, and it is going to take a long time to analyze the proposal—involves the administration, or the bureaucracy, or the boards, or commissions, which are set forth in this program. I candidly was very surprised when I saw all of the new administrative agencies.

So I asked my staff member, Sharon Helfant, a very able young woman, to make a list. After she made the list, she made a chart, and charts have become more numerous on the Senate floor in recent days. They tell quite a story without so many words. Sometimes the Senate floor can use fewer words—and that goes for me as well.

I ask that the camera pan the chart, if it would. On color coding, the existing governmental agencies are marked in green. They spend the money. The new agencies are marked in red, which is where we may end up if we have this much bureaucracy and administration.

I was surprised, Mr. President, to find that in this grouping there are 77 new entities, agencies, commissions, councils, and advisory groups which are marked in red. And there are at least 54 existing entities which will have new or expanded responsibilities or other changes in their present functions.

We all know how expensive—I meant to say expansive, but I could say expansive and expensive—our governmental agencies are, which are marked in green; but they are dwarfed by the new ones, which are marked in red. They cover many new subjects.

For example, there will be a national health board overseeing the entire program with enormous powers, which have yet to be fully delineated. One of them is the authority to preclude someone from traveling, hypothetically, from Camden, New Jersey to Philadelphia, going from one State to another to get specialized medical treatment, say, at the hospital of the University of Pennsylvania. There are very complicated health alliances which are set up, and in many States there will be many of them.

There is a national council on prescription drug programs. There is a new agency for malpractice dispute resolutions. There is a national health information system. There is a national privacy council. There is an advisory committee for the risk adjustment formula. There is an advisory

commission for premium adjustments. There is a national health data advisory council. There is a national quality management program. There is a national guarantee fund. There is an advisory council on long-term care insurance. There is a national system of electronic claims management. There is a national trust fund for academic health centers. There is a commission on health benefit and integration demonstration programs. And there is a breakthrough drug committee, and on and on and on.

I know a colleague has come to the floor to seek recognition, so I will be relatively brief, Mr. President.

I ask unanimous consent at this juncture that the full text of a memorandum from my staff assistant, Sharon Helfant, to me dated October 6, 1993, be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. SPECTER. This memorandum sets forth the minimum of 77 new entities, and the minimum of 54 existing entities with newer expanded functions. The descriptions in this memorandum will enable those who care to read the CONGRESSIONAL RECORD to see a summary of what is to be involved.

In reviewing those programs and in looking over the work which the Subcommittee on Labor, Health, Human Services and Education does on the Appropriations Committee—where Senator HARKIN is the chair and I am ranking Republican member—I see the bureaus, agencies and advisory commissions that will be set up, which will have to be paid for. And I see the difficulty of allocating the existing funds within existing programs on the National Institutes of Health, where we have maintained increases on research, or on cancer programs—prostate cancer kills one out of nine men, and breast cancer kills one out of eight women—and our efforts to increase those funds. It is a source of considerable concern to me as to where the funds will come from for these new agencies and administration issues.

We are all concerned about the potential of big government and the problem with big government. We do want to be sure that the 37 million Americans now not covered are covered. We want to be sure that when a man or woman changes jobs, that person will be able to have health coverage in the new jobs and portability between jobs. And we want to be sure that the costs are reduced where they are spiraling out of sight.

But we have to be certain in this whole process that we do not unduly impact or harm the existing health care system we have, which does cover 86 percent of the American people, and which is the best health care system in the world.

We had heard in the years gone by a great deal about the Canadian system and its virtues. As time passed, we found there are enormous problems. We learned when people in Canada really need health care they come to neighboring United States cities, Seattle, Detroit, or Buffalo.

These are issues we have to study very carefully. When I found this document of 239 pages was not in the CONGRESSIONAL RECORD—this kind of administrative complex—it seemed worthwhile to reproduce the chart and set forth the summary of the documents, which I have asked to be included in the CONGRESSIONAL RECORD.

There will obviously be much more to be said, but this is a matter where we need input from all interested parties. There is enormous interest in this subject by the American people. I go hardly anywhere where people on the street do not say to me, "Be sure you get comprehensive health care which covers everybody." And on the trains people tell about their own individual problems, and people in the delivery system raise issues and concerns about what is going to happen.

I say to all of those who ask me, "Await the legislation, take a look at the legislation, identify issues which you think are problems, be specific, give specific recommendations as to what you would like to see changed."

I am not about to give blank checks to anybody when people ask me about these issues. But if there are solid problems and if I agree with the problems and agree with the improvements, the recommendations for amendments, we can take care of them on the Senate floor.

So this is a matter which requires considerable study. I hope that my comments today and the inclusion in the CONGRESSIONAL RECORD of this chart will be of assistance in the next stage of debate as America takes a look at the President's proposal, to see what really has to be done to achieve the objective of universal health care for all within sensible and reasonable parameters.

I thank the Chair and yield the floor.

EXHIBIT 1

Memorandum:
To: Senator Specter.
From: Sharon Helfant.
Date: Wednesday, October 6, 1993.
Subject: President's health care plan outline: newly created entities and functions; existing entities with new functions.

Below are lists of both the new entities and their functions and existing entities with new responsibilities. There are also numerous new responsibilities for various existing persons (such as the Secretary of HHS) and agencies (such as the Health Care Financing Administration (HCFA)) not specified below. In addition to this list and corresponding chart, such numerous responsibilities will call for expanding existing entities and will add significantly to the size of the present bureaucracy and administrative costs.

Clinton's health plan outline specifies a minimum of 77 new entities (agencies, commissions, councils) and a minimum of 54 existing entities with new or expanded responsibilities, or other changes in present function. These numbers are low estimates since certain entities will be multiple between, and often within, states (such as the Health Alliances and Health Plans).

I. NEW ENTITIES

1. National Health Board: The Board is responsible for:
(1) oversight of the state system;
(2) interpret and update the nationally guaranteed benefit package and issue regulations;
(3) oversee and enforce the national budget for health care spending;
(4) establish and manage quality performance of health plans;
(5) oversee the pricing of breakthrough drugs and make public declarations regarding the reasonableness of launch prices.

2. Health Alliances: Established by states to contract with health plans in providing coverage for businesses with less than 5,000 employees, Medicaid eligible individuals and families, self-employed, unemployed, part-time employed, government employees, and possibly early retirees and Medicare beneficiaries. Alliances are also responsible for:
(1) representing the interests of consumers and purchasers of health care services;
(2) structuring the market for health care to encourage the delivery of high-quality care and the control of costs; and
(3) assuring that all residents in an area who are covered through the regional alliance enroll in health plans that provide the nationally guaranteed benefits.
(4) negotiate and certify all health plans and adjust payments for each plan based upon cost characteristics of the enrolled plan.

3. Health Plans: Such health insurance plans (newly created and existing) provide coverage of the "nationally guaranteed benefits package" through contracts with regional or corporate alliances. Such plans must be state-certified and meet newly created federal requirements involving enrollment, community rating, fiscal soundness, consumer information to alliances and consumers, grievance procedures, arrangements with providers, marketing practices, verification of provider credentials, consumer protections, confidentiality, utilization management, and data management and reporting.

4. National Council on Prescription Drugs Program: Established under the National Board to develop a universal drug claim form.

5. Malpractice/Dispute Resolution models: Developed under the National Board to be used by health plans in establishing an alternative-dispute resolution process for consumers.

6. Payment transfer system: Established under the National Board for the Alliances use when formulating payments to each plan.

7. Program to report on ability of disabled persons to receive quality care in managed care plan (related to Medicaid): To be used by states in assessing Medicaid's ability to cover such persons under a managed care plan.

8. National Health Information System: Established under National Board to collect patient information in creating a national data bank (related to the creation of the Health Security Card to be carried by all Americans).

9. National privacy panel: Established under the National Health Information System to protect individuals' medical records.

9/10. Community based health information systems and regional centers: Established under the National Health Information System to collect patient information for a national system.

11. Advisory committee for risk-adjustment formula: Under the National Board to develop risk-adjustment formula for Health Alliance's payments to health plans.

12. Advisory Commission for premium adjustments: Under the National Board to assess differences among premiums between health plans.

13. National Health Data Advisory Council: Under the National Board to oversee the information and data activities, including standard setting and privacy collection.

14. Demonstration projects: The National Board contracts out research and oversees demonstration projects in meeting designated responsibilities.

15. National Quality Management Program: Established under the National Board monitor, assess and report on quality of health care under new system.

16/17. Regional centers and demonstration projects: Established under the National Quality Management program to assist in meeting designated responsibilities.

18. National Guarantee Fund: Created under the Department of Labor as a financial safeguard for the self-insured plans and other plans that are outside of the Health Alliances.

19. Formula grants to states for high-risk school districts: Depts of HHS and Education to administer a new grants program for health care at high-risk schools.

20. Long-Term Care Insurance Advisory Council: Established under the Dept of HHS to monitor the long-term care insurance market and to advise the Secretary of HHS on such matters.

21. Medical liability pilot program: Established under the Dept of HHS and based on practice guidelines adopted by the National Quality Management program (under the Board) to determine the effect of using practice patterns in certain specialty areas.

22. All-Payer Health Fraud and Abuse Program: Established under the Depts of HHS and Justice which creates a trust fund to develop and implement stronger law enforcement against fraud and abuse in the health care industry at federal, state and local levels.

23. Safety zones/antitrust exemptions: Administered by the Justice Dept and the Federal Trade Commission to establish areas where hospitals and other health institutions can freely share expensive technology without fear of breaking antitrust laws.

24. Demonstration programs to improve enforcement of long-term care insurance: A new program administered by the Dept of HHS to improve enforcement of laws regarding long-term care insurance practices.

25. Demonstration program re. integrated models of acute and long-term care services for disabled and chronic illness: Administered by the Dept of HHS to assess the feasibility of integrating different types of care with the goal of being more efficient and less costly for such persons.

26. Home and Community-based long-term care program: A new program under Title XV of the Social Security Act administered by HHS to encompass: (1) expanded home and community-based services; (2) improvements in Medicaid coverage for institutional care; (3) standards to improve the quality and reliability of private long-term care insurance and tax incentives to encourage people to buy it; (4) tax incentives that help individuals with disabilities to work; and (5) a demonstration study intended to pave the way toward greater integration of acute and long-term care.

27. New community health program: Established under the new Home and Community-based Long-Term Care program, services are provided through a new state program.

28. Combined new state program: Authorizes states to combine current Medicaid community long term care and institutional care with the new community health program as a combined new state program.

29. New outpatient prescription drug benefit: Expanded benefits under Medicare which will cover outpatient prescription drugs after a $250 deductible is met. The government will pay 80 percent and beneficiaries 20 percent, of the cost of each prescription with an annual limit on out-of-pocket expenditures of $1,000.

30. National system of electronic claims management: The Secretary of HHS establishes this national system as the primary method of determining eligibility, processing and adjudicating claims, and providing information to the pharmacist about the patient's drug use under the Medicare drug program.

31–41. Regional centers: The Secretary of HHS establishes ten regional centers under an expanded National Council on Graduate Medical Education to allocate training slots among individual residency training programs.

42. Grants for research on the impact of health care reform: An expanded health services research program to be administered by the Office for Research and Demonstrations within the Health Care Financing Administration (HCFA) and the Agency for Health Care Policy Research within the Public Health Service.

43. Medicare technical advisory group on Hospital Administrative issues: A new advisory council under the Health Care Financing Administration (HCFA) to streamline the process for settling cost reports under the Medicare program.

44. New grant programs for enhancing access to health care in rural underserved areas: To be administered by the Public Health Service (PHS) financed by savings as achieved through PHS programs which the plan expects to happen as persons presently being served by such programs receive coverage through Health Alliances.

45. National trust fund for academic health centers and affiliated teaching hospitals: A new pool of funds will be collected through Medicare and a surcharge on health plan premiums to fund the additional expense involved in academic research centers and teaching hospitals.

46–55. Residency programs: primary care-new physicians, continuing education and retraining/minority training programs/rural health/nurse practitioners/nurse mid-wives/physician assistants: Creates and/or expands programs in these areas. Funded through existing federal programs and a surcharge on health plan premiums.

56–61. Government subsidies: businesses (including self-employed and part-time)/individuals and families/unemployed/early retirees ("under review"): The federal government will subsidize all or part of the cost of the health plan premium.

62. Alternative Dispute Resolution program: all health plans must establish such a program for consumers.

63–64. Commission on Health Benefit and Integration/Demonstration program: Study the feasibility and appropriateness of transferring the financial responsibility for all medical benefits (including coverage through workers' compensation and automobile insurance) into the new health system.

65. Ombudsman program: Established under Health Alliances to provide assistance to consumers in an Alliance.

66. Consumer Advocacy program: Established under the state government and related to consumers of all health plans.

67. Technical Assistance program: Established under the state and administered through a designated organization to provide a variety of activities related to the Quality Management Program established under the National Board.

68. Demonstration projects for enterprise liability: Federal funds support states in establishing such projects designed to determine whether substituting physician liability with liability on the part of the health plan leads to improvements in the quality of health care, reductions in defensive medicine and better risk management.

69–76. New grant program to ensure access to health care for low-income, underinsured, hard to reach and otherwise vulnerable populations: includes programs in transportation/child care/advocacy and follow-up services/supplemental services: Through States such grant programs are to be used for above specified purposes in getting all persons into the health care system.

77. Breakthrough Drug Committee: Established under the National Board to assess the pricing of breakthrough new drugs and make public declarations regarding the reasonableness of prices.

II. EXISTING ENTITIES/NEW RESPONSIBILITIES

1–3. The Work Group For Electronic Data Interchange/National Institute of Standards and Technology under the Department of Commerce/American National Standards Institute: Assist the National Board in developing and implementing national standard forms for insurance transactions.

4–6. Consumer Product Safety Commission/National Highway Traffic Safety Administration under the Department of Transportation/National Institute of Standards and Technology under the Department of Commerce: Advise and assist the National Board with developing and revising privacy protection safeguards in national system related to administrative simplification.

7. Department of Treasury: If a State fails to comply with Federal requirements, the National Board informs the Secretary of the Treasury who will impose a payroll tax on all employers in the State. The tax will finance the Federal Government in providing health coverage to all individuals in the State and related administrative costs.

8. Department of Labor/the Employee Retirement Income Security Act of 1974 (ERISA): The Department oversees plans operating under ERISA and outside of Health Alliances. This includes corporations with over 5,000 employees, rural electric and telephone cooperatives, Taft-Hartley plans over 5,000 and the U.S. Postal Service.

9. Veterans Administration: Continues to provide health care to veterans. The Secretary shall determine if VA health centers should extend care to dependents of veterans. The VA must also assist the National Board with administrative simplification.

10. Department of Defense: Continues existing health programs and permits the Secretary to "coordinate the military system with national health reform." Also assists the National Board with administrative simplification.

11. Department of Health and Human Services: Expansion of programs within the Department of Health and Human Service's jurisdiction are listed below—numbers 12 to 38. In addition, HHS is to coordinate with the Department of Education on developing a state grant program for high-risk schools, and the Department of Justice on a new fraud and abuse program and assists the Board with administrative simplification. The Secretary is to report to the President on the extent to which each sector of the health care industry is voluntarily restraining costs and has the authority to collect related information.

12. Health Care Financing Administration (HCFA): Expansion of programs within HCFA's jurisdiction. This includes: Medicare, Medicaid and each of their related new and existing programs, and the Office for Research and Demonstrations. Please note expansions of such programs coincides with $238 billion in cuts over the next seven years—$124 billion in Medicare and $114 billion in Medicaid.

13. Medicare: Medicare continues to exist. Current and future beneficiaries may choose to be covered through a Health Alliance. Benefits are expanded to include an out-patient prescription drug benefit and home and community-based long-term care as detailed in under Section I: New Entities (listed above). The plan also calls for savings in the Medicare program of $124 billion over the next seven years (1994–2000).

14–16. Medicaid/Medicaid community long-term care/institutional care: A state may integrate beneficiaries into the Health Alliance. States also may create a new program to include existing Medicaid community long-term care and institutional care with a newly created home and community-based long-term care program. The plan also calls for savings in the Medicaid program of $114 billion over the next seven years (1994–2000).

17–18. Office for Research and Demonstrations under HCFA/Agency for Health Care Policy and Research under the Public Health Service: Administer newly created grants both within their agency and contracted out to determine the impact of health care reform.

19–20. Graduate Medical Education/National Council on Graduate Medical Education: Presently funded under Medicare, Graduate Medical Education funding is to continue with additional funds from health plans.

21. Public Health Service: Expansion of responsibilities for existing programs under the Public Health Service's jurisdiction are detailed below—numbers 22 to 37.

22. Health Services Research Program: Within the Public Health Service (through NIH and other entities) expansion of health services research related to the development of quality and outcome measures and consumer decision making within the Public Health Service (within NIH and other PHS entities).

23. National Institutes of Health: Expansion of prevention and human services research.

24–28. Family Planning / maternal infant health block grant / community health centers / health care for the homeless program / Indian Health Service: Continue to exist with the eventual goal of integrating individuals receiving care through these entities in to the new health care system. Savings are to be reallocated to a new grant program for enhancing rural underserved areas.

29–37. Residency training programs for: rural health including the National Health Service Corps / minority training programs / primary care (new physicians, continuing education and retraining), nurse practitioners, nurse mid-wives, and physician assistants): Expansion of such training programs in areas where they presently exist. Such programs are created where they do not exist and are to replace medical specialty residency positions in areas that are deemed to have too many.

38. National Practitioner Data Bank: Under the Dept of HHS to establish rule for public access to information on malpractice records of providers nationwide.

39. Department of Education: Authorized to work with the Dept of HHS to develop a new grant program to states for health in high-risk schools.

40–41. Department of Justice / Federal Trade Commission: Work together to establish "safety zones" for anti-trust exemptions in encouraging hospitals and other health institutions in the same community to share expensive technology.

42. State government: Assume primary responsibility for ensuring that all eligible individuals have access to a federally qualified health plan. If a state fails to do so, the federal government will assume such responsibilities to be funded by a payroll tax from all residents in the state. A state may create a single-payer system or create regional Health Alliances which contract with health plans. States also must: (1) administer subsidies for individuals and employers; (2) certify health plans; (3) regulate financing of plans within an overall budget; (4) administer data collection, qualify management, and program improvement; and (5) establish and govern health alliances.

43–44. Federal, state, and local law enforcement: Under the All-Payer Health Fraud and Abuse program administered by the Depts of Justice and HHS, will receive additional funds to implement new and existing law enforcement of health care fraud and abuse.

45. Health Plans: Health insurance plans continue to exist but must meet federal requirements as specified directly by insurance market reforms and the guaranteed benefits plan in the text of the plan and as created by the National Board.

46. Government workers: federal (FEHBP), state, and local: Such health plans must also comply with federal requirements and are rolled in to the Health Alliances.

47–52. United States Postal Service / Taft-Hartley plans / Rural Electric and Telephone Cooperatives / self-insuring corporations (over 5,000 employees): Continues to self-insure members and employees in compliance with federal requirements for qualified health plans and premium limits as set forth under this plan.

53–54. Supplemental plans / workers compensation / auto insurance health component and auto insurers: Such plans may continue to exist, however, workers compensation and auto insurance must roll in their health component to the basic health plan. This is applicable to both corporate and regional alliances.

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

Mr. NICKLES. Mr. President, I compliment my friend and colleague from Pennsylvania for his statement.

ARMED FORCES PERSONNEL IN CERTAIN INTERNATIONAL OPERATIONS

Mr. NICKLES. Mr. President, when the Senate takes up consideration of the Department of Defense appropriations bill, I plan on offering an amendment that would prohibit U.S. combat forces from serving under foreign command in U.N. operations, unless authorized by Congress.

Mr. President, I might just mention a couple of things.

One, I have heard a couple of people refer to my amendment as dealing with Somalia. My amendment does not mention the word Somalia. I will tell my friends and colleagues that this amendment was contemplated far and long before the debacle and tragedy that happened earlier this week in Somalia.

As a matter of fact, I had this amendment drafted and prepared to offer on the foreign operations appropriations bill and decided to offer it on the Department of Defense appropriations bill because that is where we fund peacekeeping forces.

My interest in offering this amendment came not so much from Somalia, but from two other real concerns. One, repeated reports that this administration is contemplating committing 25,000 troops to Yugoslavia. Second is a draft Presidential Decision Directive, called PDD–13, which as reported may result in significant U.S. commitments to an international peacekeeping standing armed force. I have serious reservations about that proposed policy.

Mr. President, this amendment is very simple. I have it ready and am going to enter it into the RECORD so people can look at it. I am not saying it is perfect, but the thrust of it is very clear. It says we will not commit U.S. combat forces to any standing international armed force—which could be with the United Nations—nor to a U.N. operation which is under foreign command, unless authorized by Congress.

I might mention, too, this amendment in no way ties the President's hands. As a matter of fact, I think it clarifies his role as Commander in Chief.

The amendment also gives the President emergency authority. If he felt it was in the national security interest to do so, he can place combat forces under foreign command. Yet Congress would have to authorize this within 30 days. We state that the President would have to submit a report to Congress which specifies the role and the mission of such forces, the estimated cost, the probable maximum size, and probable duration of such commitment to the appropriate committees, and then the committees would have time to review, then we would have to pass a joint resolution authorizing the placing of such forces.

We also state that no funds shall be used to commit U.S. combat forces as any part of a standing international armed force.

Some people have talked about the desire and—I started to say the wisdom—I would say the lack of wisdom of

putting U.S. combat forces under an international standing army to respond as called upon under foreign command.

I think that would be a serious, serious mistake, and I do not want to see us drawn into those kinds of conflicts without clearly knowing what was in our national security interests.

So that is the purpose of my amendment.

Again, Mr. President, let me just state: The word "Somalia" is not in this amendment. This amendment was drafted well before the tragedy in Somalia, but I think it is very pertinent. It is very important.

I might mention that this amendment does not affect medical, logistics, communications, humanitarian, training, or temporary observer or liaison activities.

So, we are directing this toward combat troops, and we are saying we do not want U.S. combat troops to be in U.N. operations under a foreign commander, unless authorized by Congress.

So, if the President, the Commander in Chief, would like to see that happen, he is going to have to request this shift to foreign command of Congress, and clearly state their mission. He is going to have to sell Congress and the appropriate committees, and then Congress is going to have to pass a joint resolution authorizing that, which I think is clearly constitutional.

I want to avoid some potentially tragic mistakes.

Again, Mr. President, I deeply regret the tragedy that has recently happened this week in Somalia. This amendment was not drafted to cure that problem. This amendment has been in the works for a long time, but it is drafted to try to, hopefully, avoid pitfalls where we would commit U.S. combat forces to an international body and find ourselves entangled in foreign obligations which we are not prepared, or at least not authorized to do so by Congress.

Mr. President, I ask unanimous consent to print in the RECORD an amendment offered by myself.

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

On page 12, line 17, insert immediately after "installations." the following:

RESTRICTION ON USE OF UNITED STATES ARMED FORCES IN CERTAIN INTERNATIONAL OPERATIONS

(a) PROHIBITION.—None of the funds appropriated or otherwise made available by this Act or any other Act may be used to support United States Armed Forces personnel, other than those engaged in medical, logistics, communications, humanitarian, training, temporary observer or liaison activities, after March 1, 1994, when such forces are:

(1) under United Nations command if such forces would be under the command of foreign officers, unless prior to that date the President has submitted a report to Congress which specifies the role and mission of such forces, the estimated cost, their probable maximum size and the probable duration of such a commitment to the appropriate congressional committees, and such committees have had 30 days to review the consequences of such a commitment of U.S. Armed Forces, and a Joint Resolution authorizing the placing of such forces under foreign command has been enacted; or

(2) a part of any standing international armed force.

(b) The prohibition described in subsection (a(1)) shall not apply if the President determines that (1) national security interests justify a waiver of subsection (a), and (2) the President declares an emergency exists, and he immediately informs the Congress of his action and the reasons therefor, and (3) within 30 days there must be enacted a Joint Resolution of Congress authorizing that such actions are in the national security interests of the United States.

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should notify the Speaker of the House of Representatives and the President of the Senate when there is pending in the United Nations Security Council any resolution that might entail the commitment of United States military personnel, and should seek the advice of the Chairmen and Ranking Members of the appropriate congressional committees prior to instructing the United States Permanent Representative to the United Nations regarding such a pending resolution.

(d) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committees on Appropriations, Armed Services, and Foreign Relations and Select Committee on Intelligence of the Senate and the Committees on Appropriations, Armed Services, and Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives.

Mr. NICKLES. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 101–194, appoints Shepard Lee of Maine to the Citizens' Commission on Public Service and Compensation, vice Walter B. Gerken of California.

LT. COL. FRANK WILLIAM CURTIS

Mr. NICKLES. Mr. President, 12 years ago, Lt. Col. Frank Curtis assumed the difficult challenge of bringing order to the Senate Service Department. That opportunity, if you want to call it that, was given to Frank by our distinguished former majority leader Howard Baker.

Not only was Frank an Oklahoman from Waynoka, but a friend and acquaintance here in the Senate. During that time, I had the occasion to know Frank and listen and learn from his colorful style and character.

As an Air Force officer, Frank was a logistics wonder. Beginning in the 1950s, he pioneered the B–36 fly away kits, used in atomic bomb tests. Later he became the logistics manager of the famed U–2 reconnaissance plane; and in Vietnam, he guided support troops for our combat aircraft. In short, he was a talented and gifted individual with a knack for developing a top-notch product and winning over doubters with his Oklahoma wit and charm.

On July 15, Frank Curtis succumbed to diabetes at the age of 62. Frank will be remembered for his abilities and contributions to his country, including the U.S. Senate. But, perhaps, his greatest contribution was to his family which he counted as his greatest logistical feat. He will be deeply missed by his wife, Janet, his twin daughters, Katy and Leslie, as well as his six grandchildren.

In keeping with the honor due him, he was buried with full military honors at Arlington National Cemetery in July. On behalf of all those in the Senate, I give my condolences to the Curtis family and extend my heart-felt thanks for the years they shared him with us.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada [Mr. REID].

SENATOR BOB KERREY

Mr. REID. Mr. President, when I was growing up, I remember how I used to read about Audie Murphy, who won a Congressional Medal of Honor. A young 18- or 19-year-old man in the European theater, he not only won a Congressional Medal of Honor, he was the most decorated soldier in the Second World War.

As a young boy growing up in a very small town in Nevada, I never thought that I would be able to meet someone that won a Medal of Honor, let alone work with him every day in my profession.

I have had that opportunity. As a Member of the U.S. Senate, I have had the opportunity to serve with a man who won a Congressional Medal of Honor. Senator BOB KERREY, of Nebraska, is a national hero. On a dark night in Vietnam, on an island off the coast of Vietnam, as a commander of a Seal unit, he was very courageous. What he did was deserving of the Congressional Medal of Honor, something that is rarely received. In the process, BOB KERREY lost his leg. BOB KERREY wears an artificial limb.

I am very proud to serve with BOB KERREY. He is a close, personal friend of mine. There is no one in the U.S. Senate that I respect more than BOB KERREY.

When I received a copy of a letter from the College Republican National Committee and its chairman, I was sick to my stomach. This man, by the name of Bob Spadea, says a number of things about my friend BOB KERREY, Congressional Medal of Honor winner.

Today, you and I need to let Senator Kerrey know that this betrayal will not go unnoticed. Self-betrayal—the betrayal of people of his state—and the betrayal of a nation.

The letter goes on a number of sentences later:

In America treason was once punishable by hanging—so despicable was the offense of betrayal.

Another paragraph:

Sign the Republican Petition to Bill Clinton and tell him in no uncertain terms that you do not want a wavering, weak-willed Senator * * *.

This wavering, weak-willed Senator is walking on an artificial limb as a result of being a hero for this country.

I have read this letter. It is trash. This man is trying to raise money, as he says in the letter. I hope he does not raise the money that pays for the postage. I hope he has personally signed a note for the postage. I hope he cannot pay it. I hope they file a law suit against him and assess costs and attorneys fees and garnish his wages, if he works. I hope they take his bank account. I hope they take his car to pay for the postage for this trash.

I feel—as the notes that have been prepared for me say—that I should go into how the letter was obviously written by someone who should not be in college. There is not a complete sentence; certainly not a paragraph in the whole letter.

But I am not going to go into the personal degradation of the person that wrote the letter, other than to say that this man should go to bed this night and think about what he has said and what he has done.

Our country is better than raising money politically by trashing somebody like BOB KERREY. Our country is better than having somebody trying to raise $25 or $35, as he says in this letter, by calling BOB KERREY a traitor to his country.

I hope this man, when he goes to bed tonight, will look at himself inwardly and recognize he has made a mistake and that he should apologize to BOB KERREY and send a letter to everybody that he sent one to originally and apologize to them for what he has done to defame the name of BOB KERREY.

THE GRAZING FEES COMPROMISE

Mr. REID. Mr. President, I come to the floor for a reason this evening. The reason I am here is that I watched—and I was not able to see it all because my staff did not come to me soon enough and I was in a conference—my friend, the senior Senator from New Mexico, on the floor recently talking about the conference that is going on now with the Interior Appropriations Subcommittee.

He said, among other things, that the compromise that has been negotiated with the House is bad for the ranchers; that he cannot believe how it came about. So I would like to take a little bit of time to educate, hopefully, my friend from New Mexico as to how the compromise came about and why it was necessary to compromise this issue dealing with grazing fees.

I have, since I came to the Congress of the United States, both in the House and in the Senate, worked very hard for rural Nevada interests.

When I served in the House of Representatives, I did not represent rural Nevada. I represented metropolitan Las Vegas; basically, a metropolitan area. But I always felt that I represented all of the State of Nevada.

When I served in the House of Representatives, my stationery, even though I represented a congressional district, said Nevada. It did not say First Congressional District. And when I was in the House of Representatives, I fought hard for rural Nevada interests.

Since I have come to the Senate, specifically, Mr. President, I have worked very hard for rural Nevada interests, as everyone in this Chamber, I think, knows.

Because of my position on the Appropriations Committee, I have been in the forefront of the mining and grazing fight for 7 years. I think that my credentials for protecting the West are beyond dispute.

I am not going to talk about mining, but I am this afternoon, because of my friend from New Mexico going to talk about grazing.

For years, prior to my coming to the Senate, grazing has been a contentious issue. Every year we, through the appropriations process, are able to hold up any reforms dealing with grazing. And all the western Senators, including the Senator from Nevada, walk out and declare victory. Victory for gridlock? I hope not. I hope we were declaring victory for fairness and that we would get something done. But now we are going on the seventh year involved in this and still nothing has been done.

Mr. President, you will remember as other Senators will remember, when there was an issue that came up when the interior bill was on the floor, chaired by the President pro tempore of the Senate, when that bill came before the Senate, there was an amendment offered by Senators DOMENICI and REID to establish a moratorium on grazing reform.

Many of my colleagues in the Senate, both Democrats and Republicans—mostly Democrats, but Senators on both sides of the aisle—said to me, we are willing to vote with you on this moratorium, but will you give us your word you will try to resolve this? We are sick of it. We want something done to resolve the issue. And I told those people who said that to me that I would do what I could to try to put to rest this contentious issue.

I was glad to try to do that because this issue is one that needs to be resolved for a number of interests. The most important interests that need this issue resolved are the ranchers. They need stability. They need to put an end to the looming threat of sky-high hikes like we have gotten from the House of Representatives over the years. Some of them passed the House with over 500-percent increases. So, above all, the ranchers needed this issue put to rest.

My friend from New Mexico said, among other things, property values would be destroyed. I think it is about time we stop talking hypotheticals and start talking facts. I know ranchers have called this Senator and have said,

Senator, will you do something to get this issue resolved? I cannot sell my ranch because people are afraid to buy it because they do not know if the grazing fees are going to be $1.86 or $10.86 next year. I cannot borrow money anymore. Or, if I can borrow money, I cannot borrow as much as I used to. It is really affecting the way I operate my ranch.

The compromise that has been submitted to the conference is fair, equitable, and reasonable. It is not a perfect solution to the problem because they do not make them. As I told that conference, prior to my coming to the U.S. Senate I was a trial lawyer. I worked with people's problems. There were times when you could not settle the case and you would have to go to court and a jury would decide it.

I always knew, though, when we had a good settlement. That was when all the parties walked out unhappy. Everybody was unhappy. And that is what we have here. The ranchers are not real happy with the settlement we have obtained. Secretary Babbitt is not happy with the settlement we have obtained. The House Members that are interested in this issue, who have been sending over the 500-percent increases and 600-percent increases over the years, they are not happy. The environmentalists are not happy. But it is a compromise and that is what the art of legislation is; it is compromise. This is a good compromise.

Under this proposal, the grazing fee will be increased about 40-odd percent less over 3 years, rather than 2 years, than what Secretary Babbitt put in his proposed rule. We have done a number of other things that will make grazing fees more realistic. And, keep this in mind, make sure this is on the record: The actual cost of administering the grazing fee program throughout the Western part of the United States would cost, per animal unit month, about $3.70. In 3 years, we are only

going to go up to $3.45. In 3 years we do not even cover the cost.

I am willing to do that because I believe the ranching community contributes to the well-being of the public lands through some of the riparian work they do, and have done, and will continue to do, and other things. So I think that is OK. I am willing to accept that. But this is not a significant increase.

For anyone to talk about the Federal Government being burdensome on ranchers regarding the grazing fee that is proposed in the next 3 years, it will not even cover costs because then, costs will probably be more than they are now.

This also allows the ability not to increase or decrease the grazing fee as suggested by Secretary Babbitt by 25 percent a year but, rather, limits it to 15 percent up or down.

There are other things, I think, that are important. It eliminates the grazing advisory boards and the district advisory councils and substitutes resource advisory councils. This steers us away from advisory boards that are focused only on single land use and is more consistent with what we talk about now, overall management of the land.

We have given the Secretary discretion in use of range improvement funds. This is good for the ranchers. And it is good for the Bureau of Land Management.

We have also made the rules that guide the BLM which this legislation does not cover, comparable to what the Forest Service does. That is the way it should be. You should not have one set of rules on Forest Service lands and one on BLM. They can be right next door to one another.

Unauthorized use: Current regulations require monetary compensation even on range damage that is unintentional. Here is something that certainly helps the ranchers. This change allows ranchers to use nonmonetary settlements in correcting mistakes. You could not do that before. That is what will happen if this compromise is accepted. There is also something that relates to disqualification. This condition allows the BLM to prohibit livestock operators who have had permits canceled due to prior performance from obtaining another permit for a period of 3 years.

That certainly does not seem anything that burdensome or unfair. There is nothing draconian about that. If someone has a grazing permit canceled for a willful violation—not a violation, but a willful violation—they should not be able to get a grazing permit, not forever, but for 3 years. That does not sound unreasonable to me.

There are certain acts, as I have indicated, that are prohibited. I talked about those.

Suspended nonuse: This refers to a situation where it was found that a particular allotment could not support the number of animal unit months specified in the associated permit. This will allow the number of allowable AUM's to be adjusted down and the balance suspended.

Subleasing: Under this provision, the Government will collect a surcharge from permittees who sublease to third parties. We have, throughout the West, and it is one reason grazing gets a lot of bad press, is we have people who obtain permits from the Federal Government and never operate the permits. They do not operate the ranch. They just are in the rental business. They rent their ranches. This would still allow the ranches to be rented, but there would be a surcharge for having done so.

Range improvement ownership: During the tenure of James Watt, he set up the Bureau of Land Management in grazing so it did not track with the Forest Service. One of the things he did was to say if somebody built something on the land, it was his or hers forever.

Let us follow this through logically. If someone in this Senate Chamber rents a home and they decide they want to build a bathroom in that home, when their lease is over with, they cannot take the bathroom with them. That is part of the house.

So all we have done here is, in the future, range improvements will not be those of the permittee. It will be just like the Forest Service. Anyone who has built something during the Watt era, because of his regulation, they will be able to have full ownership and title to that. That is their property forever. That seems fair and reasonable.

Water rights? Also during the Watt years, contrary to what they do on Forest Service lands, if somebody wanted to prove up water in the BLM, they would obtain the water rights. They would own the water rights.

So we have said, "Fine; you own the water rights. We are not going to take anything away from you, but in the future, water rights will be treated like they are on the Forest Service lands." That is the way I think it should be. Valid existing water rights held by committees will be honored under this provision. They can sell them, give them away; they can do anything they want with the water rights.

There are a number of other provisions that are in this proposed change, and I am not going to take more time to discuss them in detail, Mr. President, other than to say that this proposal is a good proposal; it is one that will put this thing to rest once and for all. Next year, we will not be hearing about this issue. I think what we should do, rather than trying to frighten the ranchers about how bad this is, I think we have to be realistic and tell them how good it is.

I think one reason certain people are concerned and upset is that by working out this compromise, a political issue has been put to rest. People will not be able to say that President Clinton is a bad guy; the West should never have voted for him. President Clinton is the first Democratic President in decades who carried significant Western States. I think with this compromise by his Secretary of Interior, he will stand in good stead in the Western United States.

This is fair, and it is reasonable, and I think it shows how the President cares, not only about his part of the country, the Arkansas area—East—but also the Western United States.

We are bringing the Bureau of Land Management regulations and laws into compliance with what we have on Forest Service land. I think this is important.

So I am sorry that a political issue has been taken away from some people on this issue; that they will no longer be able to bad-mouth the Secretary of Interior on this issue. I am sorry that people feel that way. This has been an issue that we have been trying to resolve since I came to the Senate.

I feel that it is important for the Western United States that this matter be put to rest. I hope on Wednesday, when the conference reconvenes, that it will be put to rest, because it is something that has been needed to be done for a long time. It will end the gridlock and demagoguery on this issue, and we should go on and tell the ranchers that they are stewards of the land, and they should treat it the way they have in the past, and they will be in good shape.

This gives land management the added tools they did not have before, and there is nothing wrong with that. A few bad apples—and we know who they were—is enough to spoil the barrel. And if people are good stewards of the land, as 99 percent of the grazing permittees, everything will be fine. If they are not, I think there is going to be some trouble. I think it is time this issue be put to rest. Ranchers now have stability to plan without the looming threat of sky-high hikes we have gotten from the other body.

I hope that, rather than frighten the ranchers, we will work toward promoting their businesses so they can continue to be a significant part of the Western United States and of this country.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Idaho.

Mr. CRAIG. Mr. President, the Senate is currently in what order?

The PRESIDING OFFICER. The Senate is in executive session on the nomination of Mr. Dellinger.

The Senator is recognized.

GRAZING RIGHTS

Mr. CRAIG. Mr. President, this afternoon while this body was discussing

this most important nomination, another issue that the Senator from Nevada just addressed began to unfold in the Senate Appropriations Subcommittee for the Interior, an issue that is extremely important to western grazing States—some 16 States and some 17,800 grazers who seek permission through a permit system to graze their livestock on public lands.

We know that some time, this has been an issue of great concern to this body and to the other body and to a variety of groups across this country who believe that, for some reason, those who seek this permission to graze on public lands were not paying a just and appropriate fee for doing so, and that the action of livestock on public lands was in some form causing land and its values and its resource to deteriorate in such a way as not to be good for the ecosystems of the public grazing lands of the West.

We have debated that issue for a good time—the Senator from Nevada and I and others—over an extended period of time of a good number of years.

We have largely concluded, at least some of us have, that the public land policy so crafted by the Congress of the United States and administered primarily by the BLM, but also by the Forest Service, had continued to improve the environment in such a way as to cause it to be better than it had been in a good number of years; that if it was then not a matter of the environment, what was the reason that some groups had begun to argue that livestock grazing on public lands no longer had its place?

Out of those groups grew a slogan called "Cattle-Free by 93." That slogan echoed across the West, and concerned a lot of citizens who made their livelihood both in small and large ranching by grazing on those public lands. Bumper stickers were attached to the bumpers of trucks and pick-ups across the West that expressed that concern.

None of us believed that it could happen or would happen. There was no basis for it. One of the appropriate uses of our public lands was to graze livestock under the current public policy. Yes, many of us did argue that fees ought to be considered and possibly changed because they may not be at the rate they ought to be, compared with private grazing, although there had been numerous studies to demonstrate that when you graze on public lands versus private lands, there was a good deal more than the ranchers who grazed those livestock had to pay and, therefore, public grazing was as expensive to the individual operator.

We call public grazing, in terminology of the permit, AUM, or animal unit month. That is how the BLM and the Forest Service so determine the charge or the value of an animal unit grazing month on public lands. It is from that basis that this concern has developed.

What we did find in a variety of those studies was that oftentimes grazing on public land, because so much more of the individual rancher's time had to be utilized in moving the cattle, checking the water systems, putting salt out—doing all of the kinds of things that a wise steward of the land ought to do—was costing them $8 or $9 more per animal unit than they were being charged by the Forest Service or the BLM.

So that public graze really was costing the individual who gained that permit $7 or $8 per animal unit, and many of us argued that was enough. That, in many instances, was equal to private graze and, therefore, it was justifiable at the current rate under the current formula; but many disagreed.

That has been the substance of the debate or the basis of the debate on this issue for a good number of years. How did cattle or sheep affect the public land? Were they environmentally sound in the practices and policies under which they graze? Was the fee the proper fee that should be charged so that the public was gaining a reasonable return from this public resource?

Those of us in the West who find a good many of our constituents grazing on public land, and it makes up an awfully important part of the economy of rural Western States, said that those fees were adequate; that there was a formula in place that evaluated the market conditions and applied a grazing fee formula. Others, and especially those in the national environmental movement who really did not believe that cattle and sheep ought to be on public land, said something different.

Well, we debated that for a good number of years, and, of course, we know that in the past year since November things have changed in Washington. To town came a new President, and he brought with him a new administration, new Cabinet people, to administer public policy or to change public policy where they could or felt they should to conform with those principles and issues in which this President believed.

It was not very long after this new administration came to town and Secretary Babbitt was appointed Secretary of the Interior, that this document appeared on the streets of Washington, called "Rangeland Reform 1994."

In it, although it was argued to be a grazing fee increase, was substantive policy change, change that ought not come about unless we in the Congress or the appropriate authorizing committees actually sat down and looked at the policy and held public hearings and took public input upon the consequences of this kind of action.

But, of course, we did not do that, and the reason we did not do that was because we have not yet had time to do so. The grazing industry, though, of the public land, those 16 States of the West, did meet with Secretary Babbitt and Jim Baca, the Director of the BLM, and they said, "Let us work together. Let us see if we cannot strike a compromise. Let us try the reasonable grazing fee increase, and we will address some of those ecological concerns that you have under your rangeland ecosystems management approach."

Those meetings took place, and out of those meetings was crafted a piece of legislation, a bill that is now in the Energy and Natural Resources Committee of this Senate under the authorship of Senator CAMPBELL of Colorado and Senator WALLOP of Wyoming. It increased grazing fees, and it dealt with a variety of other environmental concerns that had been expressed by the Secretary of the Interior. We have not had hearings on it yet. We have not had the opportunity because this proposal only came out in August, and, of course, the bill was proposed in August.

Why, then, is the Senator from Nevada in the 11th hour of negotiations dark into the night proposing massive, sweeping changes in grazing fees and grazing policy in this country before the Interior Subcommittee of Appropriations at this time, not having consulted with any other western Senators, only negotiating with, interestingly enough, authorizing members from House committees, not from Senate committees?

Well, I am not sure why. You heard the Senator a few moments ago argue stability, we need stability in the public land communities of the West. You are darned right we need stability, Mr. President. This document proposed by the Secretary of the Interior threw the Western States' small ranching communities into absolute chaos. Why? Because the Secretary of the Interior was talking about taking away private water rights under Federal law, was talking of changing grazing tenures.

What does that mean? Well, it simply means that a ranching family who had a grazing permit for 50 or 60 years could have it taken away from them, and, therefore, the value of their ranch would be destroyed and the banker would say, "Hey, I am calling your note because you no longer have the capacity to graze 500 cows; you have the capacity only now to graze zero under your amount of private land because the Secretary of the Interior has taken away something that you viewed, and I as your banker, viewed as a value and the IRS itself viewed as a value."

It is a phenomenally complex issue. Oh, on the streets of America it is the big cattle barons of the West somehow getting more for less. There are not 17,800 cattle barons or sheep ranchers in the West, but there are thousands and thousands of small family operators living in communities of 200 or 300

who are barely making a living from the public land, who use it wisely and responsibly under public policy, who are taking their directions today from the BLM in the management of those lands.

Where then is this crisis of urgency that the Senator from Nevada talks about? Where is all of the need for phenomenal changes proposed in the document of "Rangeland Reform 1994"?

I am not sure. The authorizing committee has not had a chance to meet. The Senators have not had a chance to hold public hearings to see what the impact of these policies are going to be. But we now know that in the dark of night, last night and early this morning, was negotiated a major fee increase of well over 100 percent in 3 years, that subleasing and temporary nonuse and advisory boards that these ranching families were members of to advise the BLM on the wise management of the land, and that water rights and tenure would all be wiped away by a simple act in a committee that had not held hearings, had not asked the affected parties to come in and sit down and show them what it was all about.

We are really talking about small town U.S.A., about families, small operations, the buying of goods and services, a dramatic impact upon the economy of a region.

I was in Bruneau, ID, the weekend before last, a community of about 50 people, ranching families who have made their living for over two generations from the land. There were no sleek black Cadillacs pulled up to the parking meter because there are no parking meters and there are no sleek black Cadillacs in Bruneau, ID. There were some dusty pickups and there were a lot of young men and women who had driven in from their ranches 30 and 40 and 50 miles away out in the public lands, and they were saying to me, Senator, what is Bill Clinton doing to us? Why does he want us off the land? Why is he and his Secretary of Interior Bruce Babbitt proposing to take away water rights that I own? Is that not a Federal taking? Am I going to have to now use the limited amount of money I make to sue the Federal Government in court because they are taking away from me my property?

That is what the Senator from Nevada has now just proposed to do. I hope that the Appropriations Committee will not do that. I cannot believe that any Senator would want to stand in this Chamber and take away a property right. We have never done that at the Federal level unless we compensated for it. And yet waters rights in every Western State is a property right, and we know that. And it was granted by the State. It is something you take to the bank and you bank on, because it has value like the home you own in the suburbs.

Those are the tough issues we are going to have to deal with here. I cannot believe that this administration would declare war on the West. They have done it now in grazing. They are doing it in mining. They are attempting to do it by no desire to deal effectively with the Endangered Species Act. It is a fragile balance we have in large public land States like Idaho where over 64 percent of the total State of Idaho is owned by the citizens of this Nation and not by private landholders. It is Federal land. And we take very seriously our rights to use that land, and the public policy that should be determined in the appropriate authorizing committees as to how that land ought to be managed is important to Idaho and Western States.

So why now is there a back-door approach toward solving what is a problem, what deserves to be addressed, and the industry has come forward with a very comprehensive bill and has proposed to change? Why not allow the authorizing committees to go forward, to hold the hearings, to adjust the grazing fee to make sure that those cattle remain on the land in a responsible fashion?

Those are the issues at hand. I must tell you that I have grown extremely disturbed and frightened that this administration does not believe that the West is for people; that it is some kind of rural playground where Easterners can go and spend their money and see the sights and recreate on the land. That is a tragic attitude if in fact that is the attitude that exists. But when I see "Rangeland Reform 1994," I have to believe that that is the attitude, that they were unwilling to sit down and talk out the differences and work up a reasonable compromise. They will start taking land and taking rights and taking values and destroying what for well over 100 years has been a responsible and reasonable fashion for the management of public lands and for the effective utilization of their resources.

Two weeks ago I stood here on the floor and I offered an in-house memo that was from a group of employees in the Department of the Interior to Secretary Babbitt and his Director of BLM, Jim Baca.

In their own language, they said grazing fee increases are but a straw man. What is more important is the policy change.

Well, if it is the policy change that is more important, then, Secretary Babbitt bring that policy change before the Energy and Natural Resources Committee, let us have hearings on it, let us see what the impact is going to be. Let you not sit at your desk behind closed doors and arbitrarily decide how you are going to change major law.

I now find out why the Reid-Miller-Babbitt compromise deals with so much substance. Because even though the Secretary of Interior thought by executive order he could change law, he found he could not. That is why it is not just a fee increase. He found out now he has to use us. I use the word loudly when I say use "us", not for hearings, not for public notice, not for public dissemination to reaction, but quickly, through the Interior Appropriations Subcommittee, to get his way for this President in their assault and their war against the West.

It is a tragic and sad day if this is their approach that this administration will use in the formation of public policy.

I yield the remainder of my time.

NOMINATION OF WALTER DELLINGER OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The Senate continued with the consideration of the nomination.

Mr. KERRY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is in executive session considering the nomination of Mr. Dellinger.

ORDER OF PROCEDURE

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to proceed as if in morning business.

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

SOMALIA

Mr. KERRY. Mr. President, this has been a tumultuous week in some respects in Washington because of the situation in Somalia. Not just tumultuous, it has been a very difficult week for all of us as Americans because we have had a lot of deja vu about Vietnam, about Lebanon, about the soldiers killed. We feel a sense of confrontation and impotence simultaneously. The situation in Somalia elicits a lot of different feelings from Americans.

This week has also been difficult because we lost 12 young American soldiers, another 75 or more have been wounded. And one young brave American pilot, Michael Durant, who hails from my region of the country, from our neighboring State of New Hampshire, is now being held hostage by a warlord, Mohamed Farah Aideed, who seeks power at any and all costs, including the lives of innocent Somali women and children. Five more soldiers are reported missing, and this morning's news suggests that more American servicemen may be wounded or dead as a result of another attack yesterday on the airport in Mogadishu.

Like every American, I was saddened and angered, deeply, deeply angered, and hurt, by the pictures of Somalis dragging a dead American soldier through the streets. The blatant disrespect for human life, which is such a

contradiction to the mission that we went there for, that we put our soldiers at risk for, is difficult for all Americans to deal with. It is unconscionable, and clearly it demands a response.

But, Mr. President, I must say I have also been jarred by the reactions of many of our colleagues in the U.S. Senate and in the Congress. I am jarred by the extraordinary sense of panic that seems to be rushing through this deliberative body, and by the strident cries for a quick exit, an immediate departure notwithstanding the fact that what we are doing in Somalia does not bear any resemblance to Grenada, to Panama, to Iraq, and most importantly, to Vietnam.

This is not a Vietnam. It is not a potential Vietnam. This is a very different kind of operation. This reality does not excuse the lack of debate in this country. It does not excuse the failure to explain the mission, or to ensure that the mission is clear. None of that is excused. But, Mr. President, I do not believe that appropriate reaction is the reaction that we have heard from so many of our colleagues.

The choice for the United States of America is not between two alternatives only: staying in or getting out. There are many other choices in between which better reflect the aspirations and hopes of our country and, most importantly, better reflect the reasons that those 12 young Americans who gave their lives went to Somalia in the first place.

Mr. President, there is no question that some people think we have no business being in Somalia. There is no question that some people can legitimately make the argument that the mission has so changed that we should not be there now. Just moments ago, the President addressed some of these feelings.

But I am convinced, Mr. President, that sober reflection and careful analysis of the stakes, of the choices, and of the risks would bring us to concur with what the President of the United States has just announced to the Nation.

We must recognize that any decision that we make about Somalia is not just a decision to get our troops home. It is not just a decision about looking out for the interests of the United States.

There are extraordinary ramifications attached to the choice that we make in the next days in the Congress and in this country. What we choose to do will certainly affect the fate of Michael Durant. It will certainly affect the fate of other hostages, if there are other hostages. It will send a signal to other renegade elements throughout the world about American resolve under fire.

Over the years, we have spent countless dollars and sustained loss of life to influence disparate elements and the course of history in other countries, for example Vietnam. I want to emphasize that there is no similarity between the stakes in this mission and those that were presented in the course of arguments about Vietnam—a war that was the longest in American history and that most Americans supported for a good 7 or 8 years before a consensus developed to take a different course of action.

What we choose to do now will affect the Somali people and the future of this particular U.N. operation in extraordinary ways.

But it will also have deep implications for the projected peacemaking operation in Bosnia. It will influence the role that the United States can play as the one remaining superpower in the world and that we intend to play in the international community, and in future multilateral peacekeeping operations.

Mr. President, we have heard much rhetoric on this Senate floor about transitions in the world, about the so-called new world order, which we all know is long on new and short on order today.

But the fact is that nothing we choose to do will be the same as it was in the course of that bipolar. East-West struggle of the last 50 years. So as we decide in Somalia, we should consider carefully what impact our decision will have on the new order and on the operational capacity of the United Nations, of NATO, or of other international organizations to maintain stability in the world.

I believe, Mr. President, that the choice we make will have extraordinary ramifications. I also submit that because the President set a withdrawal date of 6 months from now, he has relieved the agony of that choice. It is not half as difficult as it might have been were there not a finality to the engagement of American troops in Somalia. But, Mr. President, because of the importance of the commitment we have made to international order over these last 50 years, we should consider carefully how these next days play out with respect to Somalia.

First of all, we should not let our outrage over events overtake our ability to make a rational and sensible decision that the American people can understand and support. I believe the President of the United States has offered that kind of rational decision.

It was President Bush who made the decision last December to involve the United States of America in Somalia. It was a decision produced in large part by television diplomacy. Nevertheless it was a decision that we, in our sense of conscience, as a nation, made. And it was made, I might add, with considerable national consensus. We went over there to relieve a desperate humanitarian situation. By that time, 300,000 Somalis had died from the famine and from civil war, hundreds of thousands more were at risk. We can truly say today that perhaps 1 million are alive who might not have been were it not for our effort.

By last December, Somalia had fallen into a state of literal chaos, racked by factional fighting and marauding armed bandits. The economy had collapsed. Civil authority ceased to function. The U.N.-brokered cease fire among Mogadishu's warlords had broken down. As a result the United Nations' peacekeeping operation, UNOSOM I, failed in its mission to provide adequate security for the delivery of relief supplies.

So in response to that situation, in the full light of day, the United Nations Security Council, on December 3, authorized the use of "all necessary means", including force, to establish "as soon as possible a secure environment" for the humanitarian relief operation in Somalia. Six days later, American troops began to be deployed to Somalia under Operation Restore Hope, in support of the Security Council's decision to intervene.

Before dispatching United States troops to Somalia, President Bush spelled out the mission in a televised address to the Nation. He said: "Make no mistake about it, we and our allies will make sure that aid goes through."

That was the mission. That has been the fundamental mission with some exceptions and unfortunate aberrations.

The following day, Defense Secretary Dick Cheney, told the American people: "We are prepared for hostilities, should they occur * * * and if necessary, to take preemptive action."

Everybody supported that. I did not see many of our Republican colleagues running down to the Senate floor to say, wait a minute, Secretary Cheney, what do you mean we are going to take preemptive action, that we are prepared for hostilities?

We know there was a risk, Mr. President.

A few days later, President Bush reiterated that point in a letter to Congress:

> We do not intend that U.S. Armed Forces deployed to Somalia become involved in hostilities. Nonetheless, these forces are equipped and ready to take such measures as may be necessary to accomplish their humanitarian mission and defend themselves, if necessary * * *.

As to the duration of the mission, the President's letter indicated that American forces would remain in Somalia "only as long as necessary to establish a secure environment for humanitarian relief operations." That is what we signed on to, and that is what the American people expected. We would then turn over those operations, as President Clinton has just said we will do, to the United Nations' peacekeeping force assigned to Somalia. In his letter President Bush went on to say:

"While it is not possible to estimate precisely how long the transfer of responsibility may take, we believe that prolonged operations will not be necessary." And so again, I believe President Clinton's decision today is in keeping with the original intent.

The American people and both Houses of Congress through separate resolutions supported the deployment of American troops to Somalia because the purpose of the mission was clear and it was acceptable and the duration of the mission was supposed to be relatively limited.

Our forces were sent to Somalia for one and one purpose only, Mr. President: to pave the way for the delivery of humanitarian relief. We understood that the mission was not without risk. Somalia was, and continues to be, a hotbed of guns and heavy weapons, many of which we and our Soviet adversary supplied during the cold war in the competition for influence in the Horn of Africa. We are the ones who put the weapons there that are now being fired at us.

We knew that American soldiers might be wounded in Somalia and that there might be casualties. But at the time we were willing to accept that risk because we saw the mission in legitimate, conscribed terms, the force was deemed to be sufficiently large to minimize the possibilities of confrontation, and the operation was under our control.

In the last few days, Mr. President, many of our colleagues, particularly those on the other side of the aisle have chastised the present administration for its failure to bring the boys home before the casualties ensue. If our troops had faced a blaze of bullets at that now-famous landing on the shores of Mogadishu in December instead of the glare of CNN cameras or if shortly thereafter there had been an enormous confrontation, I am not sure my colleagues would have been so quick to criticize the situation. I think they would have registered support for the President at that moment, and there would have been a greater opportunity to try to examine what the alternatives were.

As far as I am concerned, Mr. President, we made the right decision when we went into Grenada and into Panama, even though we knew casualties were a possibility. I believe, the previous administration made the right decision when it sent our forces to Somalia last December. Operation Restore Hope was a reflection of America at its best. It demonstrated the depth of our humanitarian spirit and the critical role of the United States in multilateral actions. With our participation and command, the U.N. task force in Somalia [UNITAF] was able to achieve its objective. Ports, Airports, and other corridors for the delivery of international relief were opened. Food began to move and the threat of famine began to ebb.

I think that the President today made the right decision to try to establish a process which will maintain the capacity of our forces, protect them, and to disengage while simultaneously upholding the mission we have set out to accomplish.

UNITAF's mission ended 4 months ago, in May, but American forces remain in Somalia as active participants in a U.N. operation which is distinctly different and more far-reaching than the one we originally signed up for. The American people understand this full well. They know that American soldiers and pilots are being wounded and killed for objectives which the present administration has until today failed to spell out or to restrain. That is why we are now mired in this debate over Somalia. That is why the calls for withdrawal resonate through this Chamber.

Seven months ago, at the end of March, the U.N. Security Council adopted a resolution expanding the U.N. mission in Somalia from establishing the conditions for the delivery of humanitarian relief to creating conditions for economic and political rehabilitation and recovery. The United Nations set out to lay the foundations for economic and political stability in Somalia through a multi-faceted operation that includes political reconciliation, political and administrative institution building, economic recovery and development, refugee repatriation, and security. The estimated length of time for this operation, called UNOSOM II, was 2 years.

Mr. President, the United States, through our representative to the United Nations, endorsed and voted for this operation. In fact, the Clinton administration agreed to leave some 3,000 American troops in Somalia to perform logistics for the other units under U.N. command and to make the 1,300-man Rapid Reaction Force, under United States command, available to the United Nations to provide rapid support for other U.N. units under attack. The Reaction Force was subsequently supplemented by an Army Ranger unit. As a result, U.S. forces have been on the front lines of the United Nation's efforts to establish security in southern Mogadishu and to capture Aideed.

Mr. President, I think one of the reasons that we are so torn about what has happened in recent days, frankly, is that we did not adhere to one of the painful lessons of the Vietnam period which is, a President should not send American forces into harm's way without a genuine national consensus.

Unfortunately, in candor, I must say the present administration failed to seek that consensus when it agreed to allow our forces to participate in UNOSOM II, an operation that has gone awry.

I believe that extensive consultation on and explanation of this issue several months ago would have benefited everybody and made it much easier to deal with the questions we face now or might have enabled us to avoid them altogether.

The American people and the United Nations and certainly the administration would have avoided the confrontation that we now find ourselves in.

I believe that the administration should have explained UNOSOM's objectives and the rationale for American participation in it. Had that occurred we would have been in a position to make a far more reasoned decision, absent the outrage that has been brought on by the events of the last days.

The fact of the matter is that did not happen. We are in Somalia and we have learned the hard way that there are real tangible costs to that involvement. We are now confronted with difficult questions. Should we leave? If so how and when? For however long we stay, what are the conditions under which we stay? Some will say 6 months is too long. Some will say it is not long enough. Some will say that there is no chance whatsoever for any of the objectives to be achieved and that we still ought to move faster to get out.

I recognize that UNOSOM II has had difficulties, but we ought to acknowledge also that, apart from about a 15-square mile area within Mogadishu, in the rest of Somalia UNOSOM II has had some extraordinary successes. With our help and that of the Ethiopians and the Eritreans, the United Nations has been able to forge an agreement among a broad range of Somalia parties for a transitional government at the national level and for governing structures at the regional and local levels. This agreement could provide the basis for further reconciliation. In some parts of Somalia, regional councils are already being set up. Security has been reestablished in most of the country with the exception, as I say, of that one southern portion of Mogadishu where there are a certain number of followers of Mr. Aideed.

With U.N. assistance, the Somali police force that was widely respected among all Somalis prior to the civil war has begun to be reconstituted. Initiatives are being taken to rebuild Somalia's judicial system.

I might ask my colleagues to look back quickly to a place called Cambodia. Japan took casualties and there was a hue and cry to get their troops out. But Japan hung in there, and the result was that there was an election, and a new government. Something good came out of that peacekeeping effort.

Notwithstanding the encouraging signs that I just articulated about Somalia, serious mistakes have been made in the U.N. operation to date. The military component has dominated

the rest of the operation and none of us intended that. The United Nations Secretary General Boutros-Ghali and his appointed head of the operation in Somalia, Adm. Johnathan Howe, frankly seem to have become obsessed with capturing Aideed.

It should not have been hard for reasonable people to make a judgment about the difficulty or the odds against capturing Aideed successfully without a sound intelligence network on the ground and without a structure to support that kind of operation.

All the United Nations has succeeded in doing is raising Aideed's stature among those who support him and frankly enhancing his power, and, I might add, in making U.S. forces the best recruiting ticket that Mr. Aideed ever had.

A far more prudent course of action would have been and clearly now is, as the President has articulated, to isolate Aideed by working through the many Somalis who support the U.N. presence and have a vested interest in rebuilding Somalia and by working with other countries in the region that have a far better understanding of Somali history and society.

It is also very clear, Mr. President, that the U.N. operation needed to be redirected even before this week's result. Now it is an imperative and I think the President has appropriately made that clear. In addition, President Clinton has set a specific deadline, and he has told U.N. officials that the United States must build up the capability of its forces in Somalia, reinvigorate the political process directed toward the establishment of some form of working governmental structure and involve neighborhood African countries in that process.

I would applaud the fact that the President is guaranteeing the protection of the troops who are now there and that he has sent Ambassador Oakley back—an individual whose competence and experience in the region is obvious.

Mr. President, given Somalia's history, I am personally very skeptical that the United Nations can truly succeed in laying the cornerstones for a stable Somalia. Had that been the choice before we put the troops in, I am convinced that most Senators here would have said that that should not be the mission.

The President's chosen course of action makes it clear to Aideed and to others in the international community that the United States is not simply walking away from its responsibilities because the operation has become difficult. It strengthens the capacity of the U.N. force in the short term while simultaneously putting the United Nations on notice that we do not intend to stay in Somalia indefinitely. I believe it provides the best combination of our message. It provides the United Nations with a reasonable period of time to marshal other forces and to redirect its operation to enhance the prospects for success.

Mr. President, for years we have lamented the inability of the United Nations to act. With the demise of the Soviet Union and the end of the cold war, the United Nations finally has the opportunity to meet the aspirations of its creators. As the one remaining superpower, we have the opportunity to play a critical role in this process. And I applaud the President for choosing to try to do that. The way we handle our involvement in Somalia will be key to the ability of the United Nations to undertake peacemaking efforts in the future. Let us be clear that we understand what UNOSOM is at this point in time and what it is not. UNOSOM is not a warmaking effort. And Somalia is not Vietnam. We are not in Somalia to fight an ideology or an enemy nation. The country is not overrun by guerrillas jumping out at our forces at every turn.

The present U.N. operation in Somalia ought to be limited to those objectives we can reasonably expect to achieve. We should bend over backwards to say that it is, in these next few months. To end the suffering of the Somali people at the hands of their own warlords, I believe it is appropriate for us to try—and I emphasize try—to afford them an opportunity to break the cycle of famine and war and to build a foundation for a more stable country.

We cannot guarantee that outcome Mr. President. We have never been able to. But we have joined with other nations in a bold and noble effort, to try to do that for humanitarian purposes.

I applaud the President for now choosing to help to put us back on that humanitarian track.

One of the stated objectives of UNOSOM II is to establish a sufficient level of security to allow other activities—humanitarian, economic and political—to continue.

There is no doubt in my mind that the U.N. strategy for establishing security in Mogadishu has been a failure. But that is not a sufficient reason for the United States to withdraw at this moment, to cut and run. What we need to do is to get the United Nations back on track.

We need to adopt a military strategy that limits the risks, not only for our forces but for those of other participating nations. We need to abandon the chase for Aideed and concentrate, instead, on marginalizing him through diplomatic and political means. We need to ensure that there is sufficient United States manpower and equipment in Somalia to shore up our forces in the short term while making plans to replace them over the longer term. Judging from the information I have seen to date, U.S. and U.N. forces were poorly equipped for the operation they undertook last weekend, and the backup plan was sorely inadequate, to say the least. We need to insist that the actual deployment of U.S. forces on the ground minimizes, as much as possible, the potential for hostage taking. Finally, we need to force the United Nations to reinvigorate the other components of the operation particularly the political elements of the peacemaking process. If we do these things which the President now says we will then it makes sense to keep our forces in Somalia until the end of March.

Mr. President, we are in a situation now where withdrawal would send the wrong signal to Aidid and his supporters. It would encourage other nations to withdraw from the U.N. effort in Somalia and no doubt would result in the total breakdown of the operation and possibly the resumption of the cycle of famine and war which brought the United States and other members of the international community to Somalia in the first place. Rightly or wrongly, the Bush administration committed us to this operation. We, as a nation, have accepted this responsibility. We should not panic and flee when the going gets rough. If we are going to withdraw, we have an obligation to do so in a responsible manner, in a way that does not undermine the operation or leave the Somali people to a worse fate. I think the President's plan, as currently outlined, will allow us to step aside responsibly.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I have not had the opportunity to hear the entire statement of the Senator from Massachusetts, but I must say, what I heard, was stated with thoroughness and the courage. The insight that he continues to provide this body with regard to a number of issues relating to foreign policy is respected and deeply appreciated.

I, for one, would like to call attention to the fact that he has made a very important contribution with his statement this afternoon.

You know, Mr. President, the urge to generate money is a powerful one.

It can unleash amazing creativity. It has built great enterprises and accomplished wonderful feats.

But the urge to make money has its dark side, too. Since time immemorial people have lied, stolen, and treated one another in the most despicable ways—all for the sake of money.

And rarely, Mr. President, has there been a more graphic demonstration of the depths to which people are willing to sink to raise money than the fundraising letter sent out recently by the chairman of the College Republican National Committee.

This is a letter which all but accuses one of our Nation's most decorated war

heroes of treason. The ugliness pours from the pen of its writer. Despicable, wavering, weak, betrayal, treasonous. All of these words are used in this letter attacking our colleague, BOB KERREY.

And toward what end is this torrent unleashed against a man whose stature makes the words used against him just a ridiculous irony? We know what the answer is. The answer is to raise money.

That's right, someone has somehow managed to convince himself no name in the book is too awful to be laid next to the name of BOB KERREY, so long as it will help him convince people to give his organization money.

The transgression for which the author of the letter imagines Senator KERREY has gone from war hero to traitor overnight is the vote. BOB KERREY cast for the deficit reduction proposal presented to the Congress by the President of the United States. He made a tough call on an important, very controversial issue.

There were those that night and those today who agree or disagree with the position that Senator KERREY took. But that, Mr. President, is what is now called Senator KERREY's transgression—doing his job.

Frankly, Mr. President, it is really not necessary for me to defend BOB KERREY against this sort of episode. His abilities, his record, his decency, and leadership defend themselves.

But once in awhile it is necessary to stop for a moment and label trash and greed for what they really are. This letter attacking our colleague, BOB KERREY, is trash. It is motivated by greed and hyperpartisanship. I hope it will be promptly and thoroughly repudiated by responsible Republican leaders.

PRESIDENT CLINTON'S SPEECH ON SOMALIA

Mr. MITCHELL. Mr. President, I would like to make a brief statement with respect to the situation in Somalia.

Mr. President, the President has stated his intention to remove American forces from Somalia by no later than March 31 and hopefully before then.

The initial American effort involved 28,000 U.S. troops. It was the proper and genuine desire to return American troops to this country as promptly as possible and replace them with forces from other nations that led to an increasing U.N. presence and participation. The establishment of a secure environment within which to make a successful humanitarian effort was successful until June, when an attack was made upon U.N. forces.

Unfortunately, as a result of that and succeeding events, the political effort, the effort to bring about a political settlement which would permit the continuation of the American withdrawal and their replacement by troops of other nations, was deemphasized in favor of a military effort.

The President has now reemphasized the importance of a political settlement, with the active assistance of other African nations and the participation of additional troops from other United Nations countries. He has appointed Ambassador Robert Oakley to return to the region to advance the diplomatic process.

The President indicated determination to work for the security of all Americans missing or held captive. This is important for all Americans. There can be no consideration of complete American withdrawal so long as a single American is held captive. Any American in that position must be treated properly and released or there will be the most severe consequences. There are differences of opinion among Members on this subject as there are differences of opinion among Members of Congress.

But I want to say to my colleagues that I have talked to a number of my constituents who called about this matter. Several of them said "We want immediate withdrawal." When I asked them, "Do you mean immediate withdrawal and leave Americans there?" They say, "No, that is not what I mean by 'immediate.' I just mean some time in the near future."

Mr. President, that is what the President of the United States has proposed. He has proposed to do this in an orderly way that will permit us to build upon the success that occurred prior to June and that will result in a continuation of the downward trend of the number of American troops in Somalia which peaked at 28,000 and is now below 5,000 in a way that will enable us to withdraw under circumstances that do not result in a reversal of the previous humanitarian efforts and that permit the possibility of a successful diplomatic process. I commend the President for his statement.

I also, Mr. President, thank and commend Senator DOLE for his positive statement made, following the President's remarks. It was a constructive comment, and I look forward to working with him and other Senators as the Senate debates this matter next week.

HEALTH CARE REFORM

Mr. DASCHLE. Mr. President, let me just briefly comment on a piece of legislation introduced by some of our colleagues in the House of Representatives. Congressmen COOPER and GRANDY and a number of Republicans and Democrats have put their collective work together in a health care reform bill introduced yesterday.

I, for one, want to applaud that effort. I applaud the contribution they made and their continued interest and involvement in what is going to be clearly one of the most important issues that we, in this Congress, will face; in my view, health reform will be a landmark piece of legislation; one of those hallmark legislative efforts that we will look back on decades from now, hopefully with pride and some satisfaction.

I applaud them for their effort and their cooperation and their work.

And I also hope that they, like we, will continue to work together on this matter.

I had the opportunity to examine the legislation this morning, and I must say I am concerned about a number of the shortcomings in the bill that I hope we can address. Their desire, like mine and many others, is to achieve universal access.

I believe the bill, as it is now written, falls short in guaranteeing everyone will have health care that is always there regardless of one's employment, regardless of one's economic situation, regardless of one's health status.

Universal coverage has to be a fundamental building block upon which we build health care reform. And I think, in this particular case, as well intended as this legislation is, it falls short.

I am also concerned, Mr. President, about the bill's failure to detail the basic benefits that will be covered. It is critical that we all agree upon what the benefits ought to be. I think there is general agreement that there should be a core benefits package for which we in Congress take responsibility. We cannot delegate that responsibility to someone else.

That, too, is an issue that I think we have to address in the coming months and an area in which I believe this bill falls short.

The third concern is one of portability and the problems of job lock that we have talked about so much about. It is not only job lock, it is employment lock.

Businesses have told me in recent months that they are troubled by the fact that they cannot hire employees at times because their health insurance company tells them that that particular employee has a preexisting condition, or a family member has therefore their insurance rates would rise so dramatically that it would not be economically advantageous to hire that particular employee. The President and the First Lady have attempted to address that very serious problem in their legislation. The bill introduced by my colleagues in the House fails, in my view, to address that problem as seriously and adequately as I think we must.

I think we have to agree on a set of principles, a set of goals that we want to achieve through health reform. The President has said there are six goals,

and I think those are appropriately delineated. I hope we can assess all legislation, in both the House and the Senate, against those six goals.

For example, universal coverage and effective cost containment are goals the House version fails to adequately address. We really cannot be confident that this legislation, as currently written, will contain costs. But the means of achieving that goal is something upon which I think there can be a good deal of compromise and future collaborative effort.

I think it is important we do work together and I certainly recognize the contribution made by all of our colleagues who have seen fit to put their names on that bill. I look forward to working with them in the weeks and months ahead.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, I know my distinguished colleague and friend, Senator BOREN, wants the floor here, too, and I will not be long. I appreciate his indulgence while I make some remarks about the situation in Somalia.

SOMALIA

Mr. DECONCINI. Mr. President, like all Americans, I was horrified to watch on CNN the film footage of the body of an American soldier being dragged through the streets of the Somali capital, Mogadishu. I was sickened to read about the casualties among the 100 elite U.S. soldiers who were trapped by Somali militiamen during the search and seizure mission. These men were sent into a politically dangerous situation without an adequate backup plan and were pinned down for at least 4½ hours before U.N. troops were able to come to their assistance.

While the problems with that particular mission may not be entirely attributable to the United Nations, the tragic loss of American lives points to the regrettable course of events which has led the United States to involve our soldiers in an expanded mission, far beyond the humanitarian initiative envisioned by former President Bush and our military leaders last December which had the overwhelming support of this body and of the American public.

How did we go from the praiseworthy mission of ensuring the delivery of food and medical aid to save the lives of starving Somalis to placing American soldiers under the command of the United Nations and charging them with the task of nation building and political reconciliation in clan-torn Somalia?

Over the past year we have strayed greatly from participating in humanitarian relief efforts to getting bogged down in a multinational effort which increasingly appears focused on hunting down a criminal warlord and local thug.

While I believe these criminals should be brought to justice, that is not part of the United States mission and it is not what the public was told we were going to do in Somalia.

It is not our responsibility to set up a government for the Somali people or to involve ourselves in their internal political struggle. That is the responsibility of the Somalis. The President pointed out today he is prepared to help. But our policy must not be to use American soldiers to achieve this for the Somali people. We can, however, assist this process by other means. The President indicated today that he is sending Ambassador Oakley back to that part of Africa to work with the Ethiopians and Eritreans to bring about political stability.

But building political institutions is not what Congress and the American people strongly supported when we were debating Operation Restore Hope.

Our initial operation, in which U.S. troops led multinational forces to allow humanitarian relief to reach the Somali people, ended on May 4 of this year. That operation literally saved the lives of hundreds of thousands of Somalis who were denied food and medical assistance by rival warlords. The American people properly responded to the tragic events which put so many Somalis on the brink of starvation by supporting Operation Restore Hope. It is a mission of which we can be justifiably proud.

I was in Mogadishu in April. I saw the successes of our mission. I saw the Somali people thanking the United States military for delivering the humanitarian relief that saved their lives and that of their families.

However, since the United Nations took over command of the U.S.-led multinational humanitarian mission, the political objectives sanctioned by U.N. Resolution 814 have taken total precedence over our efforts to relieve the heart-wrenching conditions of the Somalis.

In my view this was the mistake. The U.N.-led multinational mission, operating under U.N. Resolution 814, has far wider objectives than those of the original U.S. mission. U.N. Security Council Resolution 814 authorized the use of force, not only for relief purposes, but also to promote and advance political reconciliation and to reestablish national and regional institutions and civil administration throughout Somalia.

These are objectives greatly different from those contained in prior U.N. resolutions. They are objectives which belong to the Somali people. They do not belong to the U.S. Armed Forces. It is not our responsibility to use U.S. soldiers to pursue such goals, and certainly not under U.N. command.

There are two objectives which the President must reaffirm—which he did today—along with others. First and foremost, he must commit to do everything necessary to protect the safety of the American soldiers who are currently in Somalia and to use whatever means necessary to secure the release of any Americans being held hostage.

In order to do so, the President is prepared to commit additional forces. The announcement today that an additional 1,700 soldiers will be sent to Somalia may not be enough because of the conditions that have developed and the rivaling warlords.

The American people, I believe, expect us to do everything to get the hostages out. I think the President made very clear this afternoon that this is his objective. He is not going to rest until that occurs. Anybody who harms an American soldier, or an American, is going to be held responsible.

Once the security of U.S. soldiers is achieved, the United States must return to the purely humanitarian relief effort. Our mission should be based either offshore or in areas that are secure, not in the streets of Mogadishu. Our mission should be to remain ready to provide support to U.N. troops if humanitarian operations come under siege, but not to pursue a wider U.N. objective.

Americans are proud of the heroic efforts of our soldiers who have saved countless lives. I believe most Somalis, too, recognize the great humanitarian service our country has performed. We must return to the original mission—and we must do so without delay.

The President this afternoon made it very clear that our objective is to get out of Somalia as soon as possible. Our immediate objective is to secure the release of all American soldiers being held hostage. We are not going to stand by and permit hostages to be held indefinitely.

In the White House meeting today, the President went through the history of Operation Restore Hope and our mission in Somalia. Having met with the President this morning, I believe he was very up front. We have made some mistakes in Somalia. Now we have the responsibility to restore to the humanitarian mission which we did so well and of which we can be proud.

Mr. President, I think the President stood well. I hope the Nation will stand behind him. I truly believe that he is sincere in extracting U.S. troops as soon as possible. He even set a date, which I do not believe is the wisest thing to do because then people will say, "Oh, you didn't make it, so you are a failure," if you are 1 week later. But the President was up front about establishing a time and a process of how to get out of Somalia.

I think it is the right thing to do. I hope this body, as we debate this next week, will come to the same conclusion. To cut and run is not the answer.

Those who say, "I'm not talking about cutting and running, I'm talking about getting out in 30 days, 45 days, 90 days," in fact, that is what it amounts to. You just cannot pick up and leave, and leave soldiers and military people there who are unprotected, some of them held hostage today—and there may very well be confirmation that there is more than just one as time goes on.

Mr. President, it is a great challenge for our country. I think President Clinton is up for it. I think he has laid out a plan. I believe it is very clear. It was not a long statement. He is very determined on getting the United States out of there and with doing the job right. I think that is paramount of what this is all about.

I thank the Chair and I yield the floor.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

A SINGLE VOICE

Mr. BOREN. Mr. President, I want to compliment my colleague from Arizona for the remarks he just made. He serves the Senate well on the Select Committee on Intelligence. I had the privilege of working with him on that committee—and I had the privilege of assuming those responsibilities prior to his becoming chairman—during the 6 years I chaired that committee.

One of the things that I learned from that responsibility—and I learned it again and again and I think we have to learn it as a nation—it seems over and over again, as we look back at the history of this country and our involvement in international affairs and, indeed, the involvement of other nations, the one lesson we have learned is that whenever it is possible, it is far better for this country at a time of crisis to be able to speak to other nations and to the rest of the world with a single voice. We only confuse matters when all of us try to speak; 535 Members of Congress cannot be Commanders in Chief. We cannot be negotiators. We cannot be Secretaries of State or Secretaries of Defense. There is but one Commander in Chief in this country, and that is the President of the United States. The more he is able to speak with clarity to the rest of the world, with the authority of our Government behind him in critical situations, the better off we are.

That is why, whether we have been in Democratic administrations or in Republican administrations, I have often pleaded with my colleagues for expressions of bipartisan support to a President in the midst of a crisis so that he can do just that.

I do so again today. I listened to the President's remarks this afternoon. They were clear, they were direct, they could not be mistaken in terms of their meaning, and they were logical in terms of the process that he followed in reaching the decisions that he has made.

The President has indicated to us that this is a complex situation. All of us understand that it is a complex situation. And he has appealed to us, particularly those of us in the Congress, to give him the time to put in place the appropriate steps to extricate ourselves and our military personnel from Somalia; to bring our troops home, but to bring them home in a way that will bring all of them home, that will bring all of them home safely so that those who remain in the intervening time are not put under greater risk, and to bring all of them home in a way that will not make it more likely that American troops will be put at risk at some future time in Somalia or somewhere else.

What a message we would send to the rest of the world, not only now, not only in this situation, but in situations that we cannot now even imagine in other parts of the world where Americans might be involved or put at risk, if it appears that we react with such shortsightedness and emotionalism, that the moment we run into a trouble situation, we immediately cut and run as some said. That is a message to those in the future to simply try to inflict harm on Americans and Americans will move out of the way and no longer be there and no longer be an impediment to whatever those people want to do. What a terrible precedent that would set.

We also understand that we are living in a very different kind of world in which the United States cannot be the policemen to the rest of the world. We cannot do it all by ourselves. For one thing, we cannot financially afford to bear the burdens of maintaining order and peace and tranquility in all of the regions of this world all by ourselves. And, therefore, we must and we should involve ourselves in multilateral action so that other nations can help us bear the burden.

When we looked at what happened in Somalia, the American people were confronted on the news—and let us think back to how it looked 2 years ago or 1½ years ago when we saw on television the faces of starving people, we saw innocent children dying in the streets. The American people said, we want something done, but at the same time, the American people said, We cannot afford to do it all by ourselves and we should not have to take the risks all alone. This is a worldwide responsibility. That was a sensible approach then, and it is a sensible approach now.

If we are going to be confronted time and time again with the choice of doing nothing when we are confronted with a situation like this, or doing it all by ourselves, we are going to find ourselves making a choice that is unacceptable either way we go. If we can develop a mechanism in which other nations of the world with their financial resources help us shoulder not only the financial burden but even, more importantly, the human risk involved in such intervention, it is a much fairer approach, as far as Americans and American young people and American taxpayers are concerned.

So, Mr. President, this is not a time for us to move without thinking things through. All of us saw those terrible scenes depicted on television. We saw what was happening to young Americans halfway around the world. Every single one of us was outraged. Every single one of us had the thought of what if that young person were my son, how would I feel about it?

We should feel that sense of responsibility as Members of the Senate, as trustees of this institution, our political institutions and as participants in these kinds of difficult decisions. But we have a responsibility to not only think in the short-term or to react with our emotions or to allow ourselves to reach out in anger without thinking about the consequences, because if we reach out in anger with an unwise retaliation, for example, we could find ourselves even more deeply embroiled in what, in essence, is a civil war in that country raging among several factions, and we could lead ourselves into a situation that would cost even more American lives, unnecessarily and tragically.

If we pull out immediately, if we do it next week without resolving the fate of those Americans who have been taken prisoner, what do we say in terms of our responsibility to them? If we pull out precipitously without putting additional forces in to protect those troops that are there, we could cause more casualties simply because we reacted with emotion and we have reacted with anger instead of with full thought and logic.

If we pull out without at least in some way giving the forces at work a chance to establish a framework that might lead to some kind of disarmament and order in the society, at least some hope for it, we pull out in a way that will almost assure that a few months from now or a year from now we are, once again, going to be confronted on the evening news with those scenes of starving people and innocent children dying in the streets all over again. And then what do we say as Americans? Do we care less about that now than we did 2 years ago? We will be torn all over again about what to do.

So it is not a simple matter, Mr. President. It is not a matter just of Somalia; it is a matter of how the United States is going to conduct itself in this new post-cold-war era. It is a matter that may well determine as a precedent

whether or not we have effective multilateral responses where other nations bear their fair share in dealing with crises in the future. How we handle this situation may well determine whether the United States will have the moral authority or the leadership ability to get other nations to do their part in the future.

So it is a time to stop and think about that because the decision we make here may affect the course of our foreign policy and the course of international relationships in the world not only for now or this month but for this decade and well into the next century. It calls for wisdom, not immediate reaction, because we have the lives not only of those at stake in Somalia now but we have the lives of unnamed, perhaps as yet even unborn, young Americans in the future potentially at stake if we do not think this through in the right way and set up a framework not only now but for the future for dealing with these situations.

The first order of business ought to be for the Congress of the United States, after commenting upon the President's address, to not seek to legislate on this matter now. We ought to allow the President to speak with a single voice as long as he is speaking sensibly, as he did today, and we ought to at least give him the flexibility of managing this situation rather than writing down in every single detail what the President is going to be ordered to do hour by hour. It would be like playing in a card game with someone holding cards close to the vest and legislating that a mirror should be put up behind the President who is playing our hand.

Now, I know we all like to weigh in on these matters, and I know all of us share the outrage and we are overcome with emotion just as our constituents are, but there is a time when we have to exercise some responsibility as Members of the Senate and do it in a bipartisan way and to think beyond tomorrow morning, to think into next year and into the next century.

Mr. President, there is no doubt that mistakes have been made. There is no doubt that we need to get our mission back on track and to redefine it. The American people are right in demanding that and Members of this House who would demand it are correct. The President has indicated that he is on the road to doing just that.

Four or 5 days after our troops first landed in Somalia, Senator LEVIN, representing the Armed Services Committee, Senator PELL, the chairman of the Foreign Relations Committee, and I, as chairman of the Intelligence Committee, at that time went to Mogadishu. We were the first Members of the U.S. Congress from either House to be there. The Marines were still sleeping in open air. There were no facilities for them. They had literally just arrived.

In those first few hours, they had already established a secure situation. The fighting had stopped, and it was within a week that the relief personnel were able to move in and start the delivery of food. That happened because, as I said at the time, we had a uniquely talented, well-qualified team that knew what their mission was and were working together in a completely integrated fashion to achieve it.

We had the intelligence community sitting right with the commander of our American troops, Gen. Robert Johnston, an exceptional military leader, seated for at least half the day, spending at least half the hours of the working day with Ambassador Bob Oakley, our chief diplomatic representative. And because we had the diplomatic, military, and intelligence leadership in representation of this country working hand in glove with no space between them, literally glued to each other each working day, working as a team, we were able to have remarkable success in the early weeks and months of our operation in Somalia.

Most of the members of that team then departed, General Johnston and, of course, Ambassador Oakley. From that point in time we began to lose our focus. The United Nations and other nations and individual commands began to drive the operation.

One of the absolute hallmarks of that early period insisted upon by Ambassador Oakley and General Johnston was that we were not there to take sides between warring factions. I recall Ambassador Oakley stating he would not even meet with one of the warlords without the others being present because he did not want anybody to have a suspicion that he was saying one thing to the leader of one faction and something different to another.

And so we sought to be absolutely evenhanded, and we did it with great care and we did not engage ourselves as protagonists in that civil war. And because of that perceived fairness and evenhandedness, we were able to bring about to a large degree, at least temporarily, a disarmament of some of the warring fashions, and we were able, with safety and with a minimum of casualties and injuries, to deliver that humanitarian relief and even start the process of political dialog between the factions.

Now, somewhere along the way—and since I have no longer been involved in those responsibilities in the Intelligence Committee I have not followed it day to day, but somewhere along the way clearly we lost our way from that good beginning and we began to lose our credibility as being an evenhanded force that was there to help the people with no other ax to grind and no other secret or hidden agenda of favoring one faction over another.

Mr. President, it is time I think to recreate that team. One of the wisest things the President did today was to ask Ambassador Oakley to come back into the service and to be dispatched to Somalia to look into the situation. He can give the President of the United States and the Congress better advice on this matter than any other person I know available to us in the United States.

It is my hope that, likewise, the President might see fit to ask Gen. Robert Johnston, who commanded those marines who first landed, to also go, as he has asked Ambassador Oakley to go, to examine for him as a personal adviser to the President the military situation there to make sure we can bring the military situation back as it should be, serving the mission as it was originally defined.

I would hope that the assets of the intelligence community, as they were being very effectively in the beginning, could be drawn together into one coordinated program again.

So the President has set forth the right guidelines. The President has asked us to give him time. The President has asked us to let him speak for the United States of America. We should give him time, and we should not attempt to legislate in ways that tie his hand. We should let him speak with clarity for the United States. That is the best thing we can do, to assure the safety and security of the young people who are there on the ground wearing our uniform. That is the best thing we can do in terms of establishing sound precedence for multilateral actions in the future in areas of the world that we do not even yet imagine, where we cannot even predict.

That is the best thing we can do in terms of establishing a situation in Somalia where we have an opportunity perhaps to leave in a way that a year from now we will not be back to the same situation with the mass starvation which took us into that country in the first place.

So, Mr. President, let us on both sides of the aisle unite behind the proposition the President should be given a chance to deal with this situation along the lines he set out in his speech today.

I again urge the President to put back together that good team. You have tapped Ambassador Oakley. Ask Gen. Robert Johnston to go back with him simply to look at the situation, to advise, make sure those who were there in the early stages from the intelligence community go back, to put back that exceptional team to offer you an evaluation of what that situation is now.

We learned another lesson. Several of us for a long period of time urged that President Truman's original conception of establishing a standing military force that would train together under the auspices of the United Nations should be accomplished. President

Bush at one time offered the possibility of Fort Dix or some other installation that would no longer be utilized actively by American forces could be used for such training.

I am not getting into the argument of what forces should take over the command structure, whether American troops should be under the command of someone not an American or any of the rest of them.

However we resolve that issue, I know one thing. If we have troops that are identified in advance from the various countries that are donated to multilateral forces, if those troops have an opportunity to train together, get communications equipment that will enable them to talk to each other in emergency situations, get an agreed upon mode of procedure, an order of battle, a response rule that is common to all, a common way of approaching different situations by virtue of training together and working together when we get into these situations, rather than creating harm or dangers inadvertently sometimes for troops from other nations because they follow such different military policies and tactical procedures, we will be able to go into these situations with much more cohesion, with military officers knowing each other, with troops who trained together who have the same procedures for acting in emergency situations, that is bound to improve the security of multilateral forces that are involved in any kind of engagement of this kind in the future.

I hope that will be done. I hope we have also learned that lesson. We do not know how long we are going to have the opportunity to have the nations of the world join together in a way to try to create a new world order. We do not know how long we will have to put some flesh on the bones of that kind of concept, whether or not it is an international inspection regime to stop the proliferation of dangerous weapons and in which all of the leading nations of the world abide by responsible behavior participate or whether it is the development of some kind of effective multinational response where all of us are clearly watching to make sure that the mission does not stray off course. Whether we do that, we do not know how long we have to create this kind of mechanism or this kind of structure.

We were reminded just last week that the window of opportunity could close overnight without warning. We saw that with what happened in Moscow. We are the first generation of Americans out of the last four that is living in a world in which we are not burdened by superpower confrontation or the threat of massive wars of retaliation between superpowers hanging over our heads.

We have been given an opportunity to creatively build a new structure, a whole new set of institutions, perhaps better dealing with the lack of order and dangers and proliferation of weapons in the rest of the world.

That is the time to think. That is the time to think long range. That is the time to behave logically because we do not know how long we will have the opportunity. It is a task we should be moving on, and we have been moving on all too slowly.

The last thing we should do in the midst of a totally changed world situation with new opportunities never given to any generation is to act hastily and without thought in a way that would undermine the reputation and credibility of this Nation, in a way that would cast in doubt the ability of this country to ever lead or participate in multinational operations in the future, in a way that would likely lead to a return to the same conditions of starvation and mass disorder that was present in Somalia before we ever entered so that the sacrifices would be made would be sacrifices tragically made in vain because the same situations of starvation would return and we must not act in haste in a way that would endanger the lives of our American troops and those being held prisoner at this moment.

It is time for calm deliberation. That is in the national interest. It is a time for the Congress to stand aside and not legislate at this moment but instead give the President of the United States the bipartisan support he deserves, to give our Commander in Chief time to deal with this situation—flexibility to deal with this situation in a sound way.

As I said in the beginning, there cannot be 535 Commanders in Chief. There cannot be 535 military commanders or diplomatic negotiators. There can only be one in the United States. If we are going to have any chance to thread through this difficult and complex situation where there are no easy answers, we need to give the President of the United States that opportunity to lead. The soundness and the logic of his remarks today should merit our giving him that opportunity.

I see the distinguished minority leader just came on the floor. Let me commend him as he and I have worked together on so many occasions often with a Republican President with me as a Democrat saying allow a Republican President to have the opportunity to lead and speak for the Nation.

I compliment the Senator from Kansas on the remarks which he made earlier indicating that he is among the number of those who want us to think this through carefully, to do it in a bipartisan way, to do it in a cooperative way with our Commander in Chief as prudence would dictate. I compliment him on that.

I hope the rest of us in the Senate of the United States on both sides of the aisle will have the good sense to also follow that path.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island [Mr. CHAFEE].

VIOLENCE AGAINST WOMEN ACT OF 1993

Mr. CHAFEE. Mr. President, I am pleased today to join as cosponsor of S. 11, Violence Against Women Act of 1993, which was introduced by my friend and colleague, Senator BIDEN.

Since its introduction in the Senate in the beginning of this session, I have been taking a close look at this comprehensive piece of legislation. I have followed the Judiciary Committee's deliberations carefully and have reviewed the committee's report which was presented to the full Senate on September 10. After thorough consideration, I am pleased to note that there are a number of improvements that have been made to this act. I want to give it my wholehearted support.

The problem of violence against women has many ugly faces. Women encounter violence on the streets, on college campuses, in our public transit systems, and sadly, even in their own homes. The statistics in the United States really are mind-numbingly familiar—every week, 21,000 women in the United States of America report to the police that they have been beaten in their homes; a women is raped every 6 minutes; 20 percent of adult women have been sexually abused.

Listen to this statistic, Mr. President. According to the Surgeon General, violent attacks by men represent the number one health risk to adult women in America. Think of it—not breast cancer, not car accidents, not AIDS, but violent attacks exceeds all of those as the number one problem against women, the number one health risk. It is a shameful situation. I am hopeful that this bill will help address it.

I would like to take a moment to touch on the particular issue of gun violence. In my opinion, we will not begin to deal with violence against women, or violence in general, for that matter, until we do something about the prevalence of guns in our society, particularly handguns.

Given the dangers that they face every day, many women in our society understandably live in fear of being attacked. In order to assuage their fears, they take a variety of precautionary measures—and we are familiar with what they do wisely. They avoid walking alone at night. They stay away from certain neighborhoods. A growing number are unfortunately turning to handguns for their protection.

Everything we know about handguns kept in the home tells us that handguns are not the answer to violence against women. Indeed, a study published yesterday by the New England

Journal of Medicine reaffirmed earlier findings that a gun kept for self protection is much more likely to cause the death of a friend or a loved one than to deter any intruder.

Mr. President, I would like to read from today's Washington Post which reports on this study which I referred to, the study conducted by the New England Journal of Medicine.

This is the article:

Challenging the common assumption that guns protect their owners a multi-state study of hundreds of homicides has found that keeping a gun at home nearly triples the likelihood that someone in the household will be slain there.

There is a three times greater chance that someone in the household will be slain if a gun is kept right in the household.

The study, published in today's edition of the New England Journal of Medicine, found no evidence—

No evidence, Mr. President—

that guns offer protection, even against intruders into the home. Instead, guns are much more likely to cause the death of a member of the household than they are used to kill in self-defense, the study reported. Most often the homicides are committed by a family member or close friend.

This is a quote from the study.

"Clearly, the evidence from this study and previous work shows that the risks outweigh any possible benefit of guns in the home," said Frederick P. Rivara of the University of Washington, one of the authors of the study.

Again, quoting from the study.

"The majority of people who have a handgun keep it at home and the majority have it specifically for self-protection," Rivara said. "The study showed no evidence of a protective effect" compared with death rates in comparable households without guns.

"Even when there was forced entry and a struggle against an assailant," Rivara said, "guns offered virtually no protection because they often were used against the homeowner or prompted the intruder to use another gun."

And so it goes, Mr. President.

I ask unanimous consent that this article be printed in the RECORD.

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

(From the Washington Post, Oct. 7, 1993]

HOMICIDE RISK FOUND TO OUTWEIGH BENEFIT OF GUN FOR HOME PROTECTION

(By Barbara Vobejda)

Challenging the common assumption that guns protect their owners, a multi-state study of hundreds of homicides has found that keeping a gun at home nearly triples the likelihood that someone in the household will be slain there.

The study, published in today's edition of the New England Journal of Medicine, found no evidence that guns offer protection, even against intruders into the home. Instead, guns are much more likely to cause the death of a member of the household than they are to be used to kill in self-defense, the study reported. Most often, the homicides are committed by a family member or close friend.

"Clearly, the evidence from this study and previous work shows that the risks outweigh any possible benefit of guns in the home," said Frederick P. Rivara, of the University of Washington, one of the authors of the study.

"The majority of people who have a handgun keep it at home and the majority have it specifically for self-protection," Rivara said. "The study showed no evidence of a protective effect" compared with death rates in comparable households without guns.

Even when there was forced entry and a struggle against an assailant, Rivara said, guns offered virtually no protection because they often were used against the homeowner or prompted the intruder to use another gun.

The same research team found in a previous study that the risk of suicide increases fivefold in homes where guns are kept.

In an accompanying editorial in today's issue of the journal, editor in chief Jerome P. Kassirer calls for more stringent restriction of handguns and assault weapons and "routine warnings about this risk by physicians and other health workers."

"In parts of the country we've reached a killing threshold," where the escalation of firearm deaths has increased public support for gun control, Kassirer said in an interview. "But the lawmakers are still cowed by the NRA," he said, referring to the National Rifle Association.

Led by Emory University professor Arthur L. Kellermann, the research team studied the records of three populous counties: King County, Wash., which surrounds Seattle; Cuyahoga County, Ohio, containing Cleveland; and Shelby County, Tenn., around Memphis. Rivara said the counties offered a sample representative of the entire nation because of the mix of urban, suburban and rural communities.

Although 1,860 homicides took place during the study period, the team looked only at those that took place in the homes of the victims—about 400 deaths. The homicides took place from 1990 to 1992 in Cuyahoga County and from 1987 to 1992 in the two other counties.

For each case, the researchers identified the neighborhood, sex, age and race of the homicide victims; then they conducted interviews to find a matching group of control subjects with nearly identical descriptions. They compared lifestyles, alcohol and drug use, violence and other characteristics of the paired groups to determine the factors that distinguished homicide households.

The researchers found that homicides are much more likely to be committed in households where there has been previous violence and where a household member uses drugs or has been arrested previously.

Even when those and other variables, such as the safety of the neighborhood, were factored out, members of households with guns were found to be 2.7 times more likely to experience a homicide than those in households without guns.

In nearly 77 percent of the cases, victims were killed by a relative or someone they knew. In only about 4 percent of the cases were victims killed by a stranger. In most of the remaining cases, the identity of the persons who committed the homicides could not be determined.

Jim Mercey, acting director of the division of violence prevention at the Centers for Disease Control in Atlanta, said the study was "a great leap forward in our understand of his problem" because it was the first to quantify how gun ownership affects individuals risks. Previous studies have shown how the availability of firearms in a city, for example, increases homicide rates in that city.

Paul Blackman, research coordinator at the National Rifle Association, dismissed the study, saying it was "seriously flawed" because most of the homicides that took place in those counties did not take place in homes and because of its focus only on homicides, and not on other incidents as well involving guns.

"Absolutely nothing can be learned about the protective value of firearms by studying homicides," Blackman said, citing surveys and other studies indicating that "99.8 percent of the protective uses of guns are nonfatal."

Mr. CHAFEE. Despite this and other previous studies, Mr. President, the insidious myth persists that a handgun will make you safer. Look at this advertisement from the July 1992, Ladies Home Journal. What a tender scene. A mother tucking her child into bed. There is the mother tucking the child into bed with the child holding a doll. Underneath are two handguns: The compact Colt 380 and the new Colt All-American. The caption above reads: "Self-protection is more than your right * * * it is your responsibility."

The message is clear: To neglect the purchase of a handgun is to fail in your job as a parent. "Self-protection is more than your right, it is your responsibility." It is an ad by Colt Manufacturing Co.

Sadly, Mr. President, this advertising campaign is working. Women handgun owners are rapidly growing as a group. Five years ago, only 5 percent of those who signed up for the National Rifle Association introductory personal protection course were women. Today, instructors say the number stands between 50 and 75 percent of those in the courses.

In my view, preying on the fears of women in this manner is absolutely unconscionable. We know beyond a doubt that in the vast majority of instances, handguns do not deter violence, they foster it. Yet, companies like Colt, and Smith and Wesson—which sells the ever popular Lady Smith handgun—continue to cash in on the false security that handgun ownership suggests.

That is why the Rhode Island Coalition Against Domestic Violence, which has voiced strong support for the Violence Against Women Act, has also endorsed my Public Health and Safety Act. My bill, S. 892, would ban the sale, the manufacture, and possession of handguns in the United States, except for selective units such as the police, military, licensed guards, and so forth.

Mr. President, I thank the sponsors of the Violence Against Women Act for developing and refining this thoughtful legislation. That is the legislation I previously referred to, authored by Senator BIDEN's committee. I thank them for taking the time to respond to my questions about its many provisions.

I am hopeful that the Senate will act on it in the near future, so that we can take the first step toward dealing with this horrible problem of violence against women.

I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. BOREN. Mr. President, on behalf of the majority leader, I ask unanimous consent that the cloture vote scheduled for Wednesday, October 13, may be vitiated; that on Wednesday, October 13, beginning at 11:30 a.m., there be 1 hour for debate on the nomination, equally divided between Senators BIDEN and HELMS; that upon the use or yielding back of that time, the Senate stand in recess until 2:15 p.m., and that a vote occur without any intervening action or debate on the nomination of Mr. Dellinger at 2:15 p.m. on Wednesday, October 13.

Mr. DOLE. Mr. President, reserving the right to object. I will just make a brief statement.

This agreement has been discussed with the senior Senator from North Carolina [Mr. HELMS] and the junior Senator [Mr. FAIRCLOTH]. Both have agreed that they do not want the Senate to engage in any further delay in considering Somalia.

The Senators had hoped to proceed yesterday with considering the Defense appropriations bill. Since we did not do that, they are prepared not to object to this consent agreement.

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

ARTICLE ABOUT SENATOR DOLE

Mr. CHAFEE. Mr. President, I just want to say this while the Republican leader is on the floor. I understand there was, I guess you could label it a scurrilous article written in Rolling Stone magazine about the Republican leader. I have not seen it, but I am sure it is as I heard it described. It is something that should not have been written. It attacks motives rather than actions.

I think we have too much of that going on in this Nation, Mr. President. I saw the article that Bill Spadea, national chairman of the Young Republicans, a letter he distributed about Senator KERREY. All we can do is say that youth errs, and we have to give some kind of absolution, for I can only assume that Mr. Spadea is a young man who wrote this article about Senator KERREY. Where he describes Senator ROBERT KERREY as a wavering, weak-willed Senator, this is the only Senator in the U.S. Senate who won the Congressional Medal of Honor.

I think it is time that we toned down this political rhetoric. Former Senator Cranston, as I understand it, wrote the article dealing with our Republican leader.

But Mr. Spadea should go back and rethink his letters. Apparently, in your fundraising letters, you meant to make them 4 pages long and you meant to attack somebody. Mr. Spadea said that. I read his comments, and I think he ought to reconsider something that really is not very dignified.

Mr. DOLE. Mr. President, I thank the Senator from Rhode Island. The bottom line is that whether young or old, you can get carried away sometimes and say things you probably do not mean.

In any event, I have commented on that earlier, and I have written Mr. Spadea a letter suggesting that they ought to hire a new direct mail operative and somebody else to write the letters. I know it sometimes is right on the edge of how far you can go in this direct mail business. You get people excited enough to send in money. But I do not think anyone would send money in based on the letter I read today. I hope they will make that correction.

Mr. President, the Senator from Rhode Island was talking about the Biden domestic violence bill. I think what happened there, there has been a couple of domestic violence bills, one Republican bill I have introduced, along with others, and Senator BIDEN'S bill. I think what we have been doing is trying to work out a compromise, and I hope we have just about reached that point where we would have a bipartisan approach to domestic violence.

It is not a partisan issue, as the Senator from Rhode Island pointed out. We hope we can reach an agreement and take up that bill sometime in the next 2 or 3 weeks.

Mr. CHAFEE. I commend the Republican leader for his work on that, and I certainly hope and look forward to joining in that effort, because we all want to do something about it.

I am sure that the input of the distinguished Republican leader will be very, very helpful to it.

Mr. DOLE. I yield to the Senator from Louisiana.

VISIT TO THE SENATE BY THE PRIME MINISTER OF THAILAND

Mr. JOHNSTON. Mr. President, it is with a great deal of pleasure that I introduce to the Members of the United States. Senate Prime Minister Likphai Chuan, of Thailand. Thailand, as we all know, is a very great friend of the United States, and the Prime Minister, of course, is very well known and well regarded in this country and all over the world.

We are especially fortunate to have him here in our country. We are glad to have him, and I welcome him.

I yield the floor.

REMEMBERING GEN. JAMES H. DOOLITTLE

Mr. DOLE. Mr. President, September 27 was a sad day for all Americans. Last Monday, as I am sure many here know, Gen. James H. Doolittle passed away at age 93. This past Friday afternoon, General Doolittle was memorialized at the Fort Myer Memorial Chapel and buried at Arlington National Cemetery. I think it only appropriate that we take a minute to honor this true American hero.

General Doolittle had a long and distinguished military career. In 1922, he completed the first one-stop, cross-country flight from Pablo Beach, FL, to San Diego, CA. In 1929, he made the first ever blind flight, relying only on instruments to take off, fly a set course, and land.

However, General Doolittle is best remembered for his service during World War II. On April 18, 1942, just 4 months after the attack on Pearl Harbor, he led a squadron of 16 B–25 bombers from the deck of the aircraft carrier U.S.S. *Hornet* on the first aerial raid on the Japanese mainland.

A string of Japanese victories had followed the attack on Pearl Harbor, and the morale of the American people was at an all time low. All of that changed with General Doolittle's attack on Tokyo. Following his raid on the Japanese mainland, the spirit of the Nation soared, and America's morale received a boost when it was needed most.

For his actions over Japan, General Doolittle was awarded the Nation's highest military decoration, the Medal of Honor. But his service did not end there. He went on to serve in the European theater. As Commander of the 8th Air Force, he directed the strategic bombing of Germany until the end of the war.

General Doolittle's life was marked by courage, dedication, and sacrifice. He was a man who loved his country and served it well. We would all do well to emulate Gen. James H. Doolittle, a true American hero who will be greatly missed.

TRIBUTE TO FRED B. ANSCHUTZ

Mr. DOLE. Mr. President, I rise to pay tribute today to Fred B. Anschutz, a son of my hometown of Russell, KS, as his family gathers today in Denver to mourn his loss.

Fritz, as we knew him, brought his wisdom and good luck in oil exploration to new ventures throughout the Western United States—in minerals exploration, ranching, and transportation.

Yet, this fine gentleman will be remembered equally as a compassionate man whose first priority was his family and whose first concern was those in need. Further, his support for endeavors which enhanced our quality of life is broader than we may realize.

LUCK AND SAVVY

In northwestern Russell County, during the height of what was known as

the oil boom, Fritz drilled an untapped pool of oil. This and several subsequent successes in the Great Plains and Wyoming made him an important player in oil exploration.

In an atmosphere of untamed good times with major successes and major disappointments, those were the days when a person's word was his promise and when deals were consummated with a handshake.

We view Fritz Anschutz and these men as important to the history of Russell and to stimulating confidence in exploration of the rich minerals beneath the Great Plains.

Today, Fritz, along with his son, Phil, and daughter, Sue, have parlayed their hard work and good fortune into oil development, ranching, and railroads in Colorado, Utah, Wyoming, and California.

PHILANTHROPIST AND HUMANITARIAN

Throughout his lifetime of risk taking, this modest and unassuming man saw to the needs of those in the Colorado area through the Anschutz Foundation. On the campus of the University of Kansas, our alma mater, his endowment of academic scholarships and funding of athletic facilities and programs is deeply appreciated as critical to the health and success of this major academic institution.

CHERISHED HIS FAMILY

Fritz and his late wife, Marian, carefully nourished and protected their son and daughter while at the same time teaching them to be smart business people, good parents, and humanitarians.

And as his family gathers today in Denver to pay its final tribute to Fred B. Anschutz, this Senator from Kansas joins in honoring the great heritage that Fritz has left us and extends heartfelt sympathy to his children, Phil and Sue, and to his grandchildren and great grandchildren.

We have lost a true entrepreneur and a true humanitarian.

SOMALIA

Mr. DOLE. Mr. President, I do believe that President Clinton deserves our support on a bipartisan basis in the efforts now in Somalia. He has indicated just a couple of hours ago that he does plan to withdraw all except a few hundred troops no later than March 31. I believe there is a specific plan, and I was encouraged by the fact that it seems to be an American plan, not a United Nations plan.

One thing that frustrates average Americans is that they seem to believe that the United Nations are directing our forces and we are the force taking the risk, suffering the casualties and suffering the death of good Americans in Somalia, and it is hard for the American people to accept. It is not that we do not respect the United Nations, but I do believe that the average American—and I think with justification—feels that they do not have the competence to direct the military operations.

So now the President said today—he used the word "we" time after time after time—we will do this and we will do that and we will do this. I believe with those several statements the United States will be in charge, in control, and will certainly make our task much, much easier in Somalia.

There are still some humanitarian efforts being undertaken, and this is necessary to protect our forces there. Most Americans agree we should not make any hasty withdrawal as long as there is one American held captive. He is, I guess, referred to under the rules as a detainee, but he is, in fact, a prisoner of war. So until that brave young man is released and any other that might be held—I think there are five Americans missing in action—I doubt any Americans, if at all, would suggest we beat a hasty retreat.

Finally, we had the experience during the Gulf crisis, some of it quite partisan. It is my hope that can be avoided. The last thing we need is a big partisan debate after the President submitted his plan and suggested a date for withdrawal. It may be earlier, or he may have to come to us next year and say maybe we cannot do it by that specific date.

But at least there is a plan. It is specific. It is an American plan, and I hope that we will have a broad bipartisan support giving the President the flexibility that he may need. The President has all the information—we have some of it—but he has the information on a daily basis, on an hourly basis, on a minute-by-minute basis. And I believe he has the force structure to make the proper decision.

I urge my colleagues that this is not a time to pick a partisan fight over the issue of Somalia. There will be other partisan debates. We will have our disagreements. Keep in mind that this was on the President's doorstep when he assumed the office of the Presidency.

If it is Bosnia, I might have a different view, because we have not yet injected American troops into that area of the world. But on this particular issue, it is my view that that President has earned the day and deserves our support. I hope it will be broad and across the aisle in both the House and the Senate.

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

The PRESIDING OFFICER (Mr. FEINGOLD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NOMINATION OF WALTER DELLINGER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The Senate continued with the consideration of the nomination.

Mr. BIDEN. Mr. President, I ask unanimous consent that a list of appointed acting officials be printed in the RECORD.

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

Name	Appointed "acting"	Nominated	Confirmed and appointed by President
SOME RECENT "ACTING" OFFICIALS NOMINATED FOR PAS POSITIONS			
Webster L. Hubbell	4/8/93 (Assoc. AG)	4/7/93	5/28/93
George J. Terwilliger [1]	11/22/91 (Deputy AG)	2/18/92	4/13/92
Wayne A. Budd [1]	3/27/92 (Assoc. AG)	3/3/92	4/13/92
Robert S. Mueller III	3/31/90 AAG/Crim.)	9/1/90	10/12/90
Vicki A. O'Meara	7/9/92 AAG/ENR)	3/13/92	
SOME "ACTING" AAGS FOR OLC NOMINATED FOR AAG/OLC			
Timothy E. Flanigan	10/17/91	4/9/92	8/12/92
J. Michael Luttig	5/25/90	6/28/90	10/12/90
Douglas W. Kmiec	7/15/88 (as of 7/8/88)	7/27/88	10/17/88
John M. Harmon	3/3/77 (as of 2/4/77)	5/5/77	6/29/77

[1] Previously confirmed in PAS position as U.S. Attorney.

Mr. SIMON. Mr. President, I strongly support the nomination of Walter Dellinger to head the Department of Justice Office of Legal Counsel.

There are two critical requirements, in my mind, for this position. The Assistant Attorney General must be an outstanding legal scholar and must have integrity.

Walter Dellinger more than meets these requirements. He is renowned for the brilliance of his legal analysis. Indeed, for this reason he has been called upon by the Judiciary Committee numerous times since I have served on the committee.

I don't always agree with Mr. Dellinger. For example, he has often expressed misgivings about the effect of the balanced budget amendment, something I care very deeply about, on our constitutional system. But whether or not one agrees with all his views, one thing is clear: Mr. Dellinger has brought an enormous sense of integrity and wisdom to his legal work. Let me give you an example.

Mr. Dellinger wrote a series of articles, a few years back, about the dangers of amending the Constitution to criminalize flag burning. It would have been easy for him to remain silent in the midst of widespread public opinion against flag burning. But maintaining silence would not have been a wise course. Flag burning is an abhorrent practice, but it can not be used to justify abridging rights under the first amendment. Walter Dellinger has provided important legal analysis on this and many other issues. He stood tall and let his voice be heard.

And this, ultimately, is why I endorse him—he is a man who has been

unafraid to apply his extraordinary legal capabilities to the most difficult issues of the day. He is a man who believes, as our Founding Fathers did, in the ideal of civic courage.

One of Walter Dellinger's heroes, I know, is Justice Brandeis. In his brilliant concurring opinion in Whitney versus California, Justice Brandeis wrote these stirring words:

> Those who won our independence by revolution were not cowards. They did not fear political change. Those who won our independence believed that the freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of truth * * * that the greatest menace to freedom is an inert people; that political discussion is a political duty; and that this should be a fundamental principle of American government.

I am proud to endorse Walter Dellinger because he is a man who is unafraid to speak his mind about some of the most vexing public issues of the day—a man, in other words, of real civic courage.

MORNING BUSINESS

NATIONAL CHILDREN'S DAY BELONGS IN OCTOBER

Mr. PRESSLER. Mr. President, I would like to raise several concerns regarding Senate Joint Resolution 139, legislation that would change the date of "National Children's Day" from the second Sunday in October to the Sunday before Thanksgiving. I raise this issue as the author, 4 years ago, of the first resolution giving congressional recognition to this special day.

My first concern is that changing the date is insensitive to the volunteers who work nationwide on National Children's Day activities. For many who give their time to properly celebrate this day, the proposed change has come as a shock.

In my home State, Father Robert J. Fox, who is the national chairman of National Children's Day for the Catholic Church, informed me that pamphlets and literature have already been printed with the traditional date, which is this coming Sunday. In fact, regardless of what action Congress may take, Father Fox said he will continue to observe National Children's Day on the traditional second Sunday of October.

Second, I am concerned that a late November date is a poor choice for children. In my State of South Dakota, as in many States across the Nation, the frequently inclement weather in late November deters outdoor activities. Early October has milder weather, often beautiful Indian summer days, and is generally a better time for those planning events to honor our Nation's young people.

Third, celebrating National Children's Day in October has become an established tradition. To change that would end this growing tradition. Governors have issued State proclamations. Children's events have become annual occurrences. Many impoverished children are made to feel special because of this commemorative day.

In addition, changing the date is not what the late Dr. Patrick and his wife, Mary McCusker, had in mind when they founded Children's Day 45 years ago on the campus of Notre Dame University. Mary, now in an Omaha nursing home, is upset with the pending change. Mary McCusker and Father Fox's purpose, as is mine, is to establish one day, now and hereafter, to honor our Nation's children.

Mr. President, National Children's Day should remain in October. I hope that the proponents of changing the date would respect the wishes of those who made this day a reality—from Mary McCusker to Father Fox—and keep National Children's Day where it is.

POLICY OF FEDERAL FINANCING BANK

Mr. HEFLIN. Mr. President, for several years, I, and many of my colleagues, have actively supported a change in the policy of the Federal Financing Bank [FFB] to allow REA borrowers to refinance high interest loans.

I was very pleased that the Reconciliation Act included refinancing authority and I am also pleased that H.R. 3123 permits REA borrowers to pay a fee and obtain a 7-percent cap on the interest rate on these financed loans. This cap will enable REA borrowers to select short term interest rates while guarding against future increases above the 7-percent level.

REA borrowers will pay hundreds of millions of dollars in penalties in order to refinance FFB loans. By contrast, foreign governments were not required to pay any penalty at all when they refinanced more than $8 billion in FFB loans.

Mr. President, section 306(c) of the Rural Electrification Act provides for three types of penalties: First, penalties on post-1983 FFB loans; second, penalties on pre-1983 loans that have reached a 12-year maturity date for repricing as specified in the loan agreements; and third, penalties on pre-1983 loans which have not reached the 12-year maturity point.

In the case of this third category, it is my understanding that the penalty formula has been designed so that the FFB obtains the same value in the penalty payment as it would receive if the borrower waited until the 12-year period to refinance the loan. In order to do this, section 306(c) specifies that the penalty in the case of these loans will be the present value of 1 year of interest on the loan, plus the present value of the difference between two loan payment streams. In calculating this penalty it is extremely clear to me that the reason that section 306(c) refers to the present value of 1 year of interest is that borrowers are to be charged 1 year of interest discounted to present value based on the period between the refinancing date and the 12-year maturity date. In the case of these loans, treasury will receive the 1-year interest penalty before the 12-year maturity has elapsed, and so the provision specifies that there must be a present value determination to account for this early payment.

It would be contrary to both the plan language of section 306(c) and the intent for FFB to interpret the present value of 1 year of interest as authorizing FFB to charge a borrower 1 year of interest without discounting this amount to present value based on the difference between the refinancing date and the 12-year maturity date.

I have every expectation that FFB will implement section 306(c) in the manner I have outlined and as intended by Congress.

HELEN KAMER

Mr. LUGAR. Mr. President, I note with sadness the passing of Helen Kamer, a native of Sellersburg, IN, who since 1961 provided outstanding service to her country as a secretary in the State Department.

Helen Kamer represented the best of Government workers. She was a tireless achiever who maintained a special sense of humor under the most pressured situations. Her contributions to American interests in the Middle East and elsewhere should not be underestimated.

While Presidents, Secretaries of State and Ambassadors receive public acclaim for achievements, it is not often recognized that their successes are dependent upon many hours of professional and devoted work of others. No person exemplifies these professionals better than Helen Kamer.

Helen was on Secretary Kissinger's airplane when, through shuttle diplomacy, the disengagement agreements were negotiated between Egypt and Israel and between Syria and Israel. She was at Camp David in 1978 and supported the efforts of the American diplomatic team in facilitating the peace accords between President Sadat and Prime Minister Begin. Working out of a temporary trailer, Helen was one of three secretaries who worked day and night to produce drafts, talking points, statements and dozens of other documents essential to the search for peace.

After Camp David, Helen remained a part of the process which implemented peace between Israel and Egypt. She was chief assistant and secretary to the U.S. Ambassador in Cairo when the last phase of the Egyptian-Israeli peace agreement was implemented.

Presidents and Secretaries of State came and went, as did special Middle East peace negotiators, but Helen remained, tirelessly promoting American interests by working for peace. Helen Kamer was one of the unsung heroes of America's search for peace in the Middle East.

In 1975, Helen was named the State Department's "Secretary of the Year." She set a standard of professionalism and commitment to which all Americans can aspire. This Hoosier remains an outstanding example of those who commit themselves to tirelessly and professionally serve their country.

EDITORIAL BY HARRY S. DENT, OCTOBER 7, 1993

Mr. THURMOND. Mr. President, some of our colleagues no doubt remember my good friend, Harry S. Dent, from when he was my administrative assistant during the 1970's. Harry is a man who has devoted his life to helping others and has rendered many great services to the people of South Carolina and the United States. Harry served as a special assistant to President Nixon and in the Ford and Bush administrations. He now devotes his life to serving God through his Columbia, SC-based ministry.

As one of my State's most prominent religious leaders, Harry often is called upon to contribute to the public debate on leading social issues. Just this past weekend, the State newspaper published an article by Harry that I thought was particularly insightful and I would like to share it with each of you. I ask unanimous consent that excerpts of this article be inserted into the RECORD following my remarks.

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

EXCERPTS OF EDITORIAL

(By Harry S. Dent)

In today's America, even in the Bible Belt, most people do not appreciate God's teachings against destruction of the family.

Sure, we can do what we please in America! But, our emphasis on rights over responsibilities is devastating Americans and our families.

When God created humans, He commanded obedience. Also, He provided freedom of choice and judgment. Adam and Eve fell for the siren song of the serpent: Don't obey God; you can live by your own rules. This is America today; situation ethics, moral relativism, "but it won't happen to me!"

Yet, God has a special plan for the family. Pop and Mom are to be "one," not two. Pop is designated as the spiritual leader and role model for leading the family as to what is right versus wrong. So, the first training ground for righteousness is the nuclear family: Pop, Mom and the kids.

Today about half of the nuclear families are exploding in selfishness (our sin nature) by today's Adams and Eves. *The Wall Street Journal* reports that "70 percent of the juvenile offenders in long-term correctional facilities grew up without a father in the household." . . . Even the liberal *Atlantic Monthly* bemoaned the destruction of the American family in a cover story, "Dan Quayle Was Right!"

We all need to be concerned for America and our kids and grandkids. *Newsweek*, says we are bequeathing to them huge financial, moral and social deficits. But God has a big heart. He provides for forgiveness and a new start. . . .

U.S. News & World Report writes that a majority of parents would rather enjoy the pleasures of the world than a stable family. . . .

But, there is hope where there is faith. The Bible is packed with reality and common sense for guiding us past the siren songs of life. Why? Because there is love. Through the Bible, God is showing us how to avert destruction of ourselves and our posterity through unconditional love, nurture and training righteousness for families. St. Paul says it best in II Timothy 3:16: "All Scripture is given by inspiration of God and is profitable for teaching, rebuking, correcting, and training in righteousness. . . ."

Oh how we need to get into God's Book! It's in our own interest and that of America and our precious posterity.

MILITARY ORDER OF IRON MIKE AWARD

Mr. WARNER. Mr. President, each year the Marine Corps League presents the Military Order of Iron Mike Award. This award recognizes an individual who has made an exceptional contribution to the U.S. Marine Corps and to the Nation. The award is named after the landmark statue, Iron Mike, located at the Marine Recruit Depot, Parris Island, SC. This bronze rendering of a World War I vintage marine figure is instantly recognizable to every marine. He is symbolic of iron will and uncompromising spirit that characterizes the Corps.

The list of recipients of the Iron Mike Award is indeed distinguished. It includes former Commandants like Lew Walt and Lou Wilson; former Senate colleagues like Dewey Barlett and Steve Symms; entertainment personalities like Bob Hope and John Wayne.

The recipient of this year's award is not as famous as Hope or Wayne. He has not won as many elections as Barlett or Symms. Moreover, he has not served as long as Walt or Wilson. But no recipient ever deserved it more. This year's recipient is Arnold Punaro. He is one of the usung heroes that makes the U.S. Senate work. He is known to all of us as the staff director of the Senate Armed Services Committee.

The award was presented to him at the annual meeting of the Marine Corps League in Washington last month.

His gracious acceptance speech reveals the influence his experience as a combat marine has had on the sense of commitment that characterizes his service to the committee, the Senate, and the Nation. This same sense of commitment that we witness each day won for him the Bronze Star for Valor and the Purple Heart over 23 years ago in a jungle stream in the Que Son Mountains of Vietnam. Mr. President, the Armed Services Committee is proud of Arnold and his achievements. I know I speak for most members of the committee when I express congratulations.

Mr. President, Arnold Punaro's speech as well as the citation accompanying this award and General Carl Mundy's introduction deserves the attention of the Senate.

Accordingly, Mr. President, I ask unanimous consent that they be printed in the RECORD.

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

CITATION FOR MR. ARNOLD PUNARO, 1993 RECIPIENT OF THE NATIONAL MARINE CORPS LEAGUE "MILITARY ORDER OF THE IRON MIKE AWARD"

The National Marine Corps League takes pleasure in conferring the "Military Order of the Iron Mike Award" on Arnold Punaro for service as set forth in the following citation:

As a Marine, as the Staff Director of the Senate Armed Services Committee and a Patriot, Arnold Punaro has demonstrated his unwavering commitment to insuring a United States capable of protecting its worldwide interests and a strong Marine Corps prepared to act as the nation's expeditionary force in readiness. As one of the Corps' strongest advocates on the Hill, he has successfully worked for legislation supporting a strong national defense. During his more than 20 years of tenure on the Senate Armed Services Committee, he has compiled an unequalled record as a proponent of his country and Corps. He has been instrumental in the successful approval in Congress of hundreds of proposals and budget activities crucial to the Marine Corps. These have included making the Commandant a permanent Member of the Joint Chiefs of Staff and the Assistant Commandant a permanent four star billet. Also, insuring approval of dozens of weapons systems essential to the Corps to include the LSD-41 Class Ships, the Landing Craft, Air Cushioned Program, the AV8-B Harrier, the Light Armored Vehicle, the V-22 Osprey, Hospital Ships, and WASP Class Amphibious Ships. His work on legislative proposals that support military personnel and their families is without parallel. It includes the Nunn-Warner Benefits Package of 1978, the Variable Housing Allowance, Additional Pay and Benefits related to the Persian Gulf Conflict, the Special Joint Duty Credit Program, and separation initiatives related to the draw down of the Armed Forces.

Further, he has been a leader in their fight to keep the active Marine Corps at an end strength of 177,000, the Marine Corps Reserve at 42,000, and to insure amphibious assault and maritime prepositioning shipping to support at least 2 and ½ Marine Expeditionary Brigades.

Arnold Punaro's exceptionally outstanding service reflects great credit upon himself and is in keeping with the highest examples of leadership in government service.

Given under my hand, this 25th day of August, in the year of our Lord, one thousand nine hundred and ninety three. Signed, Frank Meakem, National Commandant.

REMARKS OF GENERAL CARL MUNDY, COMMANDANT OF THE MARINE CORPS, IN INTRODUCING ARNOLD PUNARO TO RECEIVE THE 1993 MILITARY ORDER OF THE IRON MIKE AWARD

When a Marine serves his country in uniform every day, he serves somewhat in the spotlight. But wearing the uniform of a citizen Marine or Reserve Marine means service to the country and to the Corps which oftentimes goes unnoticed. I can assure you that it's never unappreciated by those of us who know what the people in the Total Force side of our Corps do that some call the Reserve side that I would prefer to simply call Marines. Tonight the spotlight deservedly shines on Colonel Arnold Punaro, United States Marine Corps Reserve. As I said earlier, when I began this evening, a pillar, literally a pillar of those who raise and provide Armies and maintain Navies, Marine Corps, and Air Forces.

After Spring Hill College in Mobile, Alabama, graduated him in 1968 he was Commissioned as a 2nd Lieutenant of Marines. He was awarded the Bronze Star for Valor and a Purple Heart for wounds received as a Platoon Commander in Vietnam. Arnie then left the active component and has worked for Senator Sam Nunn, the distinguished Chairman of our Senate Armed Services Committee in its national security matters since 1973. Laboring tirelessly behind the scenes for over two decades, Arnold Punaro can count among his many achievements most of the major programs which will help to define the Marine Corps' combat readiness and power projection into the next century. Literally, as I said to you, I know of no one who has contributed or on a day-to-day basis, contributes more to our Corps than this great American.

So tonight I take pride in introducing a combat veteran from LIMA three-seven, the veteran Staff Director of the Senate Armed Services Committee, a friend to all Marines and certainly to me, Colonel Arnold Punaro, United States Marine Corps Reserve, who is the recipient of the Military Order of the Iron Mike Award.

REMARKS BY ARNOLD L. PUNARO, RECIPIENT OF THE MILITARY ORDER OF THE IRON MIKE AWARD AUGUST 25, 1993

Thank you.

General and Mrs. Mundy, General Gray, other General Officers, Commandant Meakem, my wonderful wife, Jan, and my son, Joe, fellow Marine Corps Leaguers and Marines and friends of the Marine Corps.

Twenty three years ago in a jungle stream, in the Que Son Mountains of Vietnam a young Marine Corporal dashed from a totally safe position to help a seriously wounded Second Lieutenant.

Cpl. R.L. Hammonds had been in Vietnam over 12 months and would—within five days—rotate back to his home in Texas.

What made Cpl. Hammonds choose danger over safety? Choose his fellow Marine over his personal welfare?

Perhaps Cpl. Hammonds possessed the raw courage of the Marines at Belleau Wood who stormed into withering German machine gun fire. When dusk came, the Marines had captured the objective taking more casualties than in the first 143 years combined.

Perhaps Cpl. Hammonds recalled a pork-chop shaped island in the Pacific that was the nastiest death trap ever prepared by the Japanese. This epic of human bravery translated into Nimitz's legendary quote that on Iwo Jima "uncommon valor was a common virtue."

Perhaps Cpl. Hammonds looked back to the "attack in another direction" of the 7th Marines who faced devastating cold and 100,000 Chinese in Korea's fiercest fighting. Historian Allan Millett said the Chosin Reservoir withdrawal remains one of those military masterpieces that occur when skill and bravery fuse to defy rational explanation.

Perhaps Cpl. Hammonds looked ahead to the liberation of Grenada and Panama; to the lightening-fast breach of mine fields, barbed wire, and fire trenches to free Kuwait; or to the alleviation of human suffering in Northern Iraq, Bangladesh or Somalia—or to those Marines poised today offshore at the tinderbox of the world—the Balkans.

Marines like Cpl. Hammonds were ready because of a seamless web of character, courage, commitment and success in combat that defines and describes the United States Marine Corps.

Today, however, there are forces at work that would rip and tear at this seamless web—forces that, if successful, could significantly reduce the Corps ability to meet the nation's tasking in the future.

These forces may be more dangerous than the frontal assaults on the Corps' existence in the late 40s because: they are subtle—not direct; they are incremental—not revolutionary; they occur over time—not immediately; they are led by budget bureaucrats—not warriors.

Let me mention four major areas of concern. They relate to the fighting size of the Corps, the speed and lift of the Corps, the power of the Corps and the values of the Corps.

In terms of the size, there are forces that would slash the Corps to below 160,000—the smallest since before the Korean War, despite increased operational commitments. A determined fight to keep the active Marine Corps at 177,000 and the Marine Reserve at 42,000 has enlisted the shock troops of the Marine Corps League and the many other Marine organizations and friends of the Corps. So far, Congress has supported the higher levels—yet key decisions will be made next month. One final push is needed. Now is the time to fix bayonets and take the Hill—Capitol Hill.

In terms of the speed and the lift of the Corps—that is the ability to get Marines to the fight quickly with the right gear and sustainability—there are forces who would eliminate the revolutionary descendant of vertical envelopment pioneered in 1946. Thank goodness the same pencil pushers who tried to kill the V-22 were not around when the helicopter was invented. For the first time in three years, Congress will not have to have to add money for the V-22—it is in President Clinton's budget. The challenge now is a year-to-year effort to insure a cost-effective development, a successful flight test program with adequate funding levels and the earliest operational deployment.

In a related area, there are forces that would cut back the needed assault or amphibious shipping. Marines can do a lot of things but they can't walk on water to reach the battlefield. As part of a smaller surface Navy, we must fight to retain a modern amphibious fleet with 12 big decks like the Wasp and with the new LX class ship to provide the needed combat footprint and sustainability.

In terms of the power of the Corps; the ability to prevail once reaching the battlefield—equipment deficiencies identified in Desert Storm such as night fighting, communications and intelligence, mine countermeasures, and aviation upgrades are being corrected. One only has to look around at the marvelous technology on display here to see the tremendous support available—and Congress must provide the funding to buy it.

But one key area is not 100% certain—the advanced amphibian assault vehicle—the "skip a generation" triple a-v which is the essential teammate of the V-22, the landing craft air cushion, V-STOL aircraft and the LX.

The success of the Marine Corps in the future will depend on a combination of a fighting Corps of 177,000 backed up by a reserve of 42,000, with the speedy V-22 flying off new assault ships alongside AV-8Bs with LCAC's skimming over the beaches and the triple A-V keeping pace—all with realtime intelligence and command and control to rapidly adjust during the assault.

Our actions today will determine into the next century: the fighting size of the Corps, the speed and lift of the Corps, and the power of the Corps.

These are the winning combination of punches needed for "operational maneuver from the sea"—the ability of the Corps to do it better, quicker and cheaper far beyond today's horizon.

We can be encouraged in all these areas by the strong leadership and support at HQMC and the receptive ear of Secretary Aspin and his new team who are longstanding Marine supporters. But we must all fight those forces that would push these decisions in the wrong direction.

We must also take on the preservation of core values—that is both Corps as in Marine Corps and core as in fundamental.

The first Corps—the Marine Corps—must continue to spin that seamless web of combat power and courage while adapting to changing circumstances. That shouldn't be hard for a Corps that has always cut against those who insist on the "conventional wisdom."

Before World War II, conventional wisdom scoffed at the idea of amphibious assault from the sea.

Before Korea, conventional wisdom suggested the helicopter had little military value.

Before Vietnam, conventional wisdom denigrated the Marine's intense focus and training in combined arms, jungle and mountain warfare.

Before the 1980s, conventional wisdom snickered when the Marine decided to emphasize quality and high school graduates—rather than quantity—accompanied by the recruiting slogan of "we didn't promise you a Rose Garden."

Before the Persian Gulf War, conventional wisdom questioned the Marine's revitalization of the Marine Air Ground Task Force and maneuver warfare, the purchase of Maritime Prepositioning ships, and the light armored vehicle.

And I am sure conventional wisdom today is second-guessing the Marine's examination of new roles and missions, special MAGTFs, joint task forces, adaptive force planning, and combat development systems—while always keeping the focus on the Marine's expeditionary character as well as the "911" force in readiness at bargain basement prices.

We must also fight to maintain core or fundamental values that put the mission first, the unit second and the individual third. The proposal to open the ranks of the military to homosexuals is inconsistent with this approach.

In this fight in the halls of Congress, no one stood more resolute than my boss, Senator Sam Nunn.

In this fight in the corridors of the Pentagon, no one was more steadfast—no one displayed more courage under significant pressure than our Commandant, General Carl

Mundy, General Mundy—your Corps and your country salutes you.

But in the fights ahead on the size of the Corps, on the speed and lift of the Corps, on the power of the Corps and on the values of the Corps, we must insure that our leaders do not stand alone—that men and women like Cpl. Hammonds answer the call to protect the Corps' future.

But someone will have to fill in for Cpl. Hammonds for, not far from here, on the hallowed grounds of the Vietnam Memorial, you will find his name chiseled in stone along with 13,072 of his fellow Marines. Cpl. Hammonds died in that jungle stream 23 years ago helping the wounded Second Lieutenant.

I was that Second Lieutenant whom Cpl. Hammonds shielded from additional bullets and harm, and I stand before you tonight deeply grateful for this award but fully realizing that no one person can take credit for the accomplishments in the citation. Whatever any of us do is made possible by Marines like Cpl. Hammonds who choose danger over safety and who put their fellow Marines first and their own personal welfare second.

Let each and every one of us tonight make that same choice and each and every day in our own way help a fellow Marine and his or her family provide a better Marine Corps and one that will be ready twenty-three years from now with the needed size, speed and power and anchored in bedrock values.

And while these fights might seem as distant from this room as a rifle's crack and a muzzle flash, as a radio's squawk, or the growl of a light armored vehicle, to the Marine on the cutting edge in the fleet Marine Force, it is part of their everyday existence.

And when we, the Marines of today, make that final muster with the Marines of Belleau Wood, of Iwo Jima, of the Frozen Chosin, of Desert Storm, of Somalia, and with Cpl. Hammonds—and they ask the question—what did you do in this fight: did you waiver? did you falter? did you fail?

We must all answer and report: Not on my watch.

God Bless our Corps and our country; Semper fidelis Cpl. Hammonds, and thank you Marine Corps League.

NEW AID PROGRAM FOR EAST TIMOR

Mr. PELL. Mr. President, I am very pleased to announce today that the United States Agency for International Development [USAID] has decided to initiate a substantial 3-year program in East Timor. The aid program will focus on strengthening local representative organizations, promoting productive employment, and improving the quality of life for the Timorese.

The situation in East Timor is deplorable. For many years I have expressed my concerns over the human rights situation there, resulting from the actions of the Indonesian Government that invaded East Timor in 1975. The Indonesian Government repeatedly has used as an excuse for its occupation of East Timor the effort it has made to improve the lives of the East Timorese following centuries of Portuguese colonial rule.

If only the Indonesians had improved East Timor as much as the rest of Indonesia. Out of 27 provinces, East Timor is the poorest. Annual per capita income in 1989 was $181, compared to a national average of $448. Infant mortality is the second highest in Indonesia with 100 deaths per 1,000 births, caused in part by low rates of immunization, lack of clean water, nutritional problems from vitamin and protein deficiencies, and shortages of medicine and trained medical personnel. In the capital city of Dili less than 40 percent of the households receive piped water.

In terms of education East Timor has also been neglected. Over 60 percent of the work force have never attended school. Only 13 percent have completed primary school. With only one university and one polytechnical school, enrollment is below the national average. Those who do graduate have limited employment opportunities.

East Timor's economy is largely based on agriculture, employing 90 percent of the population. The main crops of rice, corn, cassava, sweet potato, and coffee have low yields. Increasing employment opportunities need to be found in other industries, but the Indonesian military indirectly exercises monopoly control of the economy, depressing prices for products while receiving the profits from trade. Indonesians staff most of the positions in the provincial government and any large businesses. The East Timorese are thus caught in a vicious hold of enforced deprivation.

Key aspects of the new American aid program include:

Supporting non-governmental organizations [NGO] to promote conservation farming and to encourage diversified cropping, to develop water systems and to provide health and nutrition education;

Supporting the development of indigenous nongovernmental organizations by establishing an institutional and human resource center to provide management and financial training;

Supporting an Asian Foundation program to provide training and technical assistance to local governments and to provide training and resources for local journalists;

Allocating resources to educational facilities in East Timor to strengthen local faculties;

Expanding United States assistance in improving basic infrastructure in East Timor, in particular providing a substantial portion of housing loans under the United States Housing Guarantee Program to East Timor cities;

Using funds available under the Public Law 480 title II commodity program to provide additional funding for community-based programs for shelter, infrastructure, urban environmental improvement, microenterprise development, and NGO capacity building; and

Conducting an ongoing research program in the needs of the East Timor community.

This program, as the administration notes in its report to me, "will bring with it greater USG [United States Government] presence which will help ensure attention to the human rights issue in East Timor."

I enthusiastically welcome this new program for that reason. However, I know the capacity for abuse and misdirection in aid programs to politically sensitive areas, such as East Timor. I intend to monitor closely the implementation of this program to ensure, first, that the East Timorese directly benefit; second, that East Timorese institutions are strengthened, and third, that the Indonesian authorities do not influence the recipients of this assistance.

I would hope, for example, in developing specific projects USAID will consult closely with representatives of the East Timorese, especially with the Catholic Church in East Timor, led by Bishop Bello.

As Margaret Carpenter noted during her confirmation hearing to be Assistant Administrator for Asia and Near East of the U.S. Agency for International Development, in response to a question by me, "Institutional and human resource development is crucial to fostering development and ensuring that the Timorese people have a say in defining their needs and means for their economic development." Unfortunately, the Indonesians have allowed them little voice to date. I hope our new program will.

STATEMENT ON THE NOMINATION OF MORTON H. HALPERIN TO BE ASSISTANT SECRETARY OF DEFENSE FOR DEMOCRACY AND PEACEKEEPING

Mr. KENNEDY. Mr. President, the nomination of Morton H. Halperin to be Assistant Secretary of Defense for Democracy and Peacekeeping is currently pending before the Armed Services Committee. I welcome this nomination, and look forward to Dr. Halperin's confirmation.

Those of us who have worked with Mort Halperin in the past know that our Nation will benefit from having such an intelligent, creative, hard-working individual in this important leadership post.

The position for which Dr. Halperin has been nominated, Assistant Secretary of Defense for Democracy and Peacekeeping, is a new position created in the Defense Department to deal with the dramatic global changes since the end of the cold war. With the fall of communism, the long-term security of our Nation will depend heavily on our success in promoting democracy and stability in the international community.

Dr. Halperin has the experience and the knowledge to play a key role in developing a sensible policy for conducting and supporting peacekeeping operations, providing humanitarian assistance, and formulating new means for

promoting democracy, thereby preventing threats to the United States before they develop.

Mort Halperin has outstanding career credentials that attest to his ability to serve in the position for which he has been nominated. Currently a senior associate at the Carnegie Endowment for International Peace, Dr. Halperin is also Baker professor in the Elliot School of International Affairs of the George Washington University. He has taught at Harvard, Yale, Columbia, and MIT, and he has written extensively on defense policy, international affairs, and arms control.

Dr. Halperin has served in the Government as senior staff member of the National Security Council under President Nixon, and prior to that as Deputy Assistant Secretary of Defense for International Security Affairs under President Johnson, for which he won the Meritorious Civilian Service Award from the Department of Defense.

Despite his credentials, despite his impressive service to our Nation in the past, and despite the confidence expressed in him by the President and the Secretary of Defense that he will serve the Nation proudly, some Members of this body have chosen to oppose the nomination of Dr. Halperin before he has even had this hearing in the Armed Services Committee, without knowing all the facts, and without allowing Dr. Halperin an opportunity to answer questions about his record and his views.

An example of this situation occurred on the floor today. The Senator from South Carolina cited press reports, based on an unnamed source, stating that Dr. Halperin had advised Secretary Aspin against sending armored forces to Somalia to reinforce our troops there over the past month. The Senator went as far as to assign partial blame to Dr. Halperin for the tragedy in Somalia this past weekend.

After the Senator's statement this afternoon, a member of my staff spoke to Dr. Halperin, and questioned him directly on the reports about advice he provided to the Secretary. Dr. Halperin stated categorically that he had been in no way involved in the decision as to whether the Department of Defense would order additional armored forces to Somalia.

To me, this fact is a stunning example of why all Members deserve to hear the full story about Dr. Halperin straight from Dr. Halperin. The Armed Services Committee will give him that opportunity, and I urge all Senators to await the committee's action. In the meantime, Senators should be aware that Dr. Halperin has the strong support of many eminent Americans and I ask unanimous consent that a list of these individuals, leaders in the field of American security, may be printed in the RECORD.

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

MEMBERS OF THE DEFENSE AND INTELLIGENCE COMMUNITIES WHO HAVE ENDORSED MORTON H. HALPERIN

Former Secretaries of State: Cyrus Vance, Edmund P. Muskie.

Former Secretaries of Defense: Robert S. McNamara, Clark Clifford, Elliot Richardson, Harold Brown.

Former Deputy Secretary of Defense and Ambassador Paul H. Nitze.

Former Directors of Central Intelligence: William E. Colby, Admiral Stansfield Turner (USN Ret.).

Former Deputy Director of CIA for Intelligence (and former Director of the Department of State Policy Planning Staff) Robert R. Bowie.

Former Special Assistant to the President for National Security Affairs McGeorge Bundy.

Former Deputy Special Assistants to the President for National Security Affairs: Carl Kaysen, Francis M. Bator.

Former Head of the Institute for Defense Analyses General W. Y. Smith (USAF Ret.).

Lieutenant General Robert E. Pursley (USAF Ret.).

Former Ambassadors: Raymond Garthoff (to Bulgaria), Donald F. McHenry (to the United Nations), James F. Leonard (to the United Nations), Ralph Earle II (to Salt II and Director of ACDA), Arthur Hartman (to the Soviet Union), Jonathan Dean (to MBFR Talks).

Congressman Howard L. Berman (Chairman, Subcommittee on International Operations of the Committee on Foreign Affairs).

Former Congressman Stephen Solarz.

Former Undersecretary of the Navy David E. McGiffert.

Former Undersecretary of the Air Force (and Deputy Assistant Secretary of ISA in DoD) Townsend Hoopes.

Former Assistant Secretaries of Defense: Lawrence J. Korb, Ambassador Paul C. Warnke (and Director of US ACDA).

Former Deputy Assistant Secretaries of Defense: Richard C. Steadman, Laurence S. Finkelstein.

Former Deputy Director, US ACDA, Spurgeon M. Keeny, Jr.

Former Assistant Director of the US ACDA (and Chairman of the Board, The Henry L. Stimson Center) Barry Blechman.

Former Senior Staff Member, National Security Council, Jan M. Lodal.

Editor, Foreign Policy Magazine, Charles William Maynes.

President, The Henry L. Stimson Center, Michael Krepon.

Professor, U.S. Naval Academy, George Quester.

ADJOURNMENT OF THE TWO HOUSES OVER THE COLUMBUS DAY HOLIDAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 161, a concurrent resolution providing for adjournment of the House and Senate, just received from the House, that the concurrent resolution be agreed to, and the motion to reconsider laid upon the table. And I am authorized to state this request has been cleared with the Republican leader.

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

So the concurrent resolution (H. Con. Res. 161) was agreed to, as follows:

H. CON. RES. 161

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, October 7, 1993, or Friday, October 8, 1993, pursuant to a motion made by the majority leader or his designee, it stand adjourned until noon on Tuesday, October 12, 1993, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, October 7, 1993, pursuant to a motion made by the majority leader or his designee, in accordance with this resolution, it stand recessed or adjourned until noon on Wednesday, October 13, 1993, or at such time as may be specified by the majority leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

EXECUTIVE SESSION

THE EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the following nominations: Calendar Order Nos. 367, 377, 378, 379, 380, 381, 382, 403, 404, 406, 407, 408, 409, 410, 412, 416, 417, 418, 419, 421, 422, 430, 431, 432, 444, 445, 446, 447, 448, 449, 450, and all nominations placed on the Secretary's desk in the Coast Guard and Foreign Service.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table, en bloc; and that the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF ENERGY

Tara Jeanne O'Toole, of Maryland, to be an Assistant Secretary of Energy (Environment, Safety and Health), vice Paul L. Ziemer, resigned.

DEPARTMENT OF STATE

John D. Negroponte, of New York, a career member of the Senior Foreign Service, class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Philippines.

EXECUTIVE OFFICE OF THE PRESIDENT

John Roggen Schmidt, of Illinois, for the rank of Ambassador during his tenure of service as the Chief U.S. Negotiator to the Uruguay round.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Margaret V.W. Carpenter, of California, to be an Assistant Administrator of the Agency for International Development.

Carol J. Lancaster, of the District of Columbia, to be Deputy Administrator of the Agency for International Development.

ASIAN DEVELOPMENT BANK

Linda Tsao Yang, of California, to be U.S. Director of the Asian Development Bank, with the rank of Ambassador.

DEPARTMENT OF ENERGY

Daniel A. Dreyfus, of Virginia, to be Director of the Office of Civilian Radioactive Waste Management, Department of Energy.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mary Jo Bane, of Massachusetts, to be Assistant Secretary for Family Support, Department of Health and Human Services.

Shirley Sears Chater, of Texas, to be Commissioner of Social Security.

THE JUDICIARY

Herbert L. Chabot, of Maryland, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office. (Reappointment)

DEPARTMENT OF STATE

Roger R. Gamble, of Virginia, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Suriname.

William Dale Montgomery, of Pennsylvania, a career member of the Senior Foreign Service, class of counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bulgaria.

Richard A. Boucher, of Maryland, a career member of the Senior Foreign Service, class of counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cyprus.

Peter F. Romero, of Florida, a career member of the Senior Foreign Service, class of counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ecuador.

Parker W. Borg, of Minnesota, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Iceland.

Thomas Michael Tolliver Niles, of Kentucky, a career member of the Senior Foreign Service, class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece.

Edward Joseph Perkins, of Oregon, a career member of the Senior Foreign Service, class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Australia.

William Lacy Swing, of North Carolina, a career member of the Senior Foreign Service, class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Haiti.

Richard W. Teare, of Ohio, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Papua New Guinea and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands and Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Vanuatu.

Theresa Anne Tull, of New Jersey, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Brunei Darussalam.

PEACE CORPS

Carol Bellamy, of New York, to be Director of the Peace Corps, vice Elaine L. Chao, resigned.

DEPARTMENT OF COMMERCE

David J. Barram, of California, to be Deputy Secretary of Commerce.

DEPARTMENT OF LABOR

Anne H. Lewis, of Maryland, to be an Assistant Secretary of Labor.

Katharine G. Abraham, of Iowa, to be Commissioner of labor Statistics, U.S. Department of Labor, for a term of 4 years vice Janet L. Norwood, term expired.

NATIONAL SCIENCE FOUNDATION

Neal F. Lane, of Oklahoma, to be Director of the National Science Foundation for a term of 6 years.

DEPARTMENT OF STATE

Madeleine Korbel Albright, of the District of Columbia, to be a Representative of the United States of America to the Forty-eighth Session of the General Assembly of the United Nations.

Edward S. Walker, Jr., of Maryland, to be an Alternate Representative of the United States of America to the Forty-eighth Session of the General Assembly of the United Nations.

Victor Marrero, of New York, to be an Alternate Representative of the United States of America to the Forty-eighth Session of the General Assembly of the United Nations.

Karl Frederick Inderfurth, of North Carolina, to be an Alternate Representative of the United States of America to the Forty-eighth Session of the General Assembly of the United Nations.

Sam Gejdenson, U.S. Representative from the State of Connecticut, to be a Representative of the United States of America to the Forty-eighth Session of the General Assembly of the United Nations.

William F. Goodling, U.S. Representative from the State of Pennsylvania, to be a Representative of the United States of America to the Forty-eighth Session of the General Assembly of the United Nations.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD, FOREIGN SERVICE

Coast Guard nominations beginning Malcolm D. Stevens, and ending Patrick M. Gorman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 7, 1993.

Coast Guard nominations beginning Gordon D. Garrett, and ending Joseph R. Castillo, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 14, 1993.

Coast Guard nominations beginning Jon D. Allen, and ending Robert M. Dean, IV, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 4, 1993.

Foreign Service nominations beginning Paul Snow Carpenter, and ending James G. Wallar, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 14, 1993.

STATEMENT ON THE NOMINATION OF DR. TARA J. O'TOOLE

Mr. JOHNSTON. Mr. President, the members of the Committee on Energy and Natural Resources have carefully examined the background and qualifications of Dr. Tara J. O'Toole, who has been nominated by President Clinton to be Assistant Secretary of Energy for Environment, Safety and Health.

There were some initial misgivings about memberships that Dr. O'Toole had listed on the official papers she provided to the committee. Dr. O'Toole met with many members of the committee, as did Secretary O'Leary. The vast majority of the committee was satisfied with Dr. O'Toole's explanations and impressed with her credentials. After a thorough hearing, the committee voted 18 to 2 to recommend her confirmation to the Senate.

Dr. O'Toole indicated in her Senate papers that she had been a member of a group that was referred to before Dr. O'Toole joined as Marxist-Feminist Group I. In the late 1970's this informal women's discussion group changed its name to Northeast Feminist Scholars. Dr. O'Toole did not join the group until several years later when she was in her medical residency at Yale. Having heard this explanation, most of the members of the committee were convinced that while it might have been smarter for Dr. O'Toole to list this group by its current name, she clearly is not a Marxist.

What Dr. O'Toole is, however, is highly qualified for this job.

The Assistant Secretary for Environment, Safety and Health is responsible for ensuring the health and safety of the public and the workers involved in the cleanup of the nuclear weapons complex.

Dr. O'Toole is a medical doctor with a speciality in occupational health. She received her medical degree from George Washington University, completed her residency at Yale University, and received a masters of public health from Johns Hopkins University.

For the past 4 years, Dr. O'Toole has studied the problems of the cleanup program of the Department of Energy as a senior analyst at the Congressional Office of Technology Assessment. She was a principal author of the study Complex Cleanup, outlining the problems of nuclear weapons complex cleanup. Dr. O'Toole was project director for the followup study, Hazards Ahead, about worker safety in the cleanup.

The cleanup of the nuclear weapons complex is one of the most costly and difficult jobs facing America today. Dr. O'Toole's specialized medical training and her professional background combine to make her a most qualified person to tackle the public health and occupational safety aspects of this problem.

STATEMENT ON THE NOMINATION OF TARA O'TOOLE

Mr. LOTT. Mr. President, today, we consider the nomination of Tara O'Toole, to be the Assistant Secretary for Environment, Safety and Health at the Department of Energy. It is a position of great importance and responsibility.

The nominee will be responsible for the nuclear safety policies and practices for 20,000 Federal workers and

146,000 DOE contractor employees. The nominee will establish and oversee all worker protection programs at DOE and investigate all serious accidents.

The power of the position is substantial. The nominee has the authority to determine and shutdown unsafe operations, at DOE military and civilian facilities. Moreover, the nominee independently oversees DOE compliance with State and Federal environmental laws.

The nominee will have substantial access to and influence over sensitive U.S. military and civilian nuclear programs.

It is a position directly related to national security. I want to emphasize that point to my colleagues. This nomination—to this position—should not be taken lightly. We should discharge our duties very, very carefully.

For the RECORD, the following insert outlines the responsibilities and authority of the Assistant Secretary of Environment, Health and Safety as described by the Department of Energy.

I ask unanimous consent that the outline be printed in the RECORD.

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

THE OFFICE OF THE ASSISTANT SECRETARY FOR ENVIRONMENT, SAFETY AND HEALTH

The Office of the Assistant Secretary for Environment, Safety and Health:

Establishes occupational health and safety policies, including nuclear safety policies and practices, for 20,000 federal workers and 146,000 DOE contractors employees.

Provides independent oversight of the adequacy of Department of Energy (DOE) field office and contractor environment, health and safety programs at DOE facilities.

Is the only organization that independently oversees the adequacy of worker protection programs at DOE. (DOE is exempted from inspections and enforcement of regulations by the Occupational Safety and Health Administration by virtue of its authority under the Atomic Energy Act of 1954.)

Investigates all serious accidents at DOE facilities.

Has authority to shutdown unsafe operations at DOE facilities.

Provides independent oversight of DOE compliance with state and federal environmental laws.

Mr. LOTT. Mr. President, in this context, we need to examine the nominee's experience and the organizations to which she joined as a member. We need to understand the nominee's views on nuclear energy and how she will carry out her responsibilities.

I have very serious reservations over the qualifications of the nominee. There are three serious shortcomings. First, the nominee's lack of managerial experience.

Second, in a position so critical to national security, her membership and participation with certain groups cause great concern.

And third, her memberships in environmental organizations which oppose any form of nuclear energy and actively practice civil disobedience to oppose nuclear energy and storage. This leads me to additional questions on the nominee's agenda and objectivity.

I believe that it is critical that the Senate and the American public understand the nominee's background, experience, and views which will affect our national policy and security.

I would also like to address what appears to be the administration's attempts to silence legitimate discussion concerning this nomination. The following is an excerpt from the administration:

Spurious charges have been leveled against Dr. Tara O'Toole that harken back to the McCarthy era.

There we have the defense but no real informative discussion. Anyone who raises legitimate questions concerning the nominee is smeared by the McCarthy label. It is a time-honored tradition, but brought to a new high in the era of political correctness—such charges stop needed, healthy debate. In this case, it is clearly an attempt to stifle any debate on policy implications and national security—it is an undignified diversion.

Having said that, I would like to take this opportunity, for the record, to outline my concerns over this nominee. The first is over the nominee's ability to manage the size of the organization for which the nominee will be responsible.

No one questions the nominee's academic qualifications, her credentials as a physician or as a researcher. However, this position requires extensive managerial skill and expertise which is not reflected in the material submitted to the committee. The Assistant Secretary for Environment and Health is directly responsible for managing and administering an organization of approximately 400 employees—which in turn oversees and affects the policies and practices of 20,000 DOE employees and 146,000 contract employees.

The nominee comes to the Department at a time when the ability to create effective organizational structures and systems is critical to successfully meet the complex challenges of cleaning up DOE facilities.

However, the area which causes me the greatest concern is not the lack of managerial experience, but the nominee's memberships in various organizations and the positions and views of those organizations.

We define ourselves by the groups or organizations to which we belong. If one joins the Republican or Democratic Party, for the most part, it is because of a shared set of political beliefs with one of the parties. If a person joins a church, it is because they share a common set of beliefs or faith with members of that church. At the same time, people usually do not join a group or organization if they disagree or do not share its views or beliefs.

As a result, this body has, on many occasions, concluded that membership in certain organizations is an important consideration in determining whether a nominee is fit for office or confirmation. For example, if someone belongs to an organization or club which discriminates on the basis of religion, race, or gender, it is assumed that such association reflects that nominee's views. If such views are at odds with our stated national policies and objectives, it can serve to disqualify that person from holding a public position.

I believe it is reasonable to continue looking at one's memberships in trying to determine whether a nominee is right for the job.

I ask unanimous consent to print in the RECORD the committee form which the nominee filled out listing her various memberships.

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

U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Addendum to Statement for Completion by Presidential Nominees.

Nominee: Tara O'Toole.

Position to which nominated: Assistant Secretary of Energy for Environment, Safety and Health.

EMPLOYMENT RECORD

Occupational Medicine Fellow, Johns Hopkins University School of Public Health, Johns Hopkins Hospital, Baltimore, Maryland: 7/88–7/89.

Senior Analyst, U.S. Congress Office of Technology Assessment, Oceans and Environment Program, 600 Pennsylvania Avenue, S.E., Washington, D.C.: 8/89–Present. Analyst and contributing author responsible for those aspects of 1991 OTA report "Complex Cleanup" that dealt with potential off-site health impacts of contamination at DOE facilities. Project director of "Hazards Ahead," 1993 OTA report that addressed health and safety threats faced by cleanup workers at DOE facilities. Member of team conducting OTA study of environment, safety and health aspects of nuclear weapons dismantlement in U.S. and in Russia. (This report will be released in Fall 1993.)

Professional Memberships (all memberships—no offices held): American Public Health Association: 1977–present; Association of Occupational and Environmental Health Clinics: 1989–present; Society for Occupational and Environmental Medicine: 1989–present; American College of Occupational and Environmental Medicine: 1987–present; Society for Research and Education in Primary Care Medicine: 1984–87; American College of Physicians: 1984–87; American Association for the Advancement of Science: 1988–present; American Medical Women's Association: 1992–93.

Social, Charitable and Civic Memberships (all memberships—no offices held): Women's Housing Coalition, Baltimore, Maryland: 1990–present; Natural Resources Defense Council: 1989–present; Greenpeace: 1989–1992; Sierra Club: approx. 1990–91; Environmental Defense Fund: approx. 1990–92; National Abortion Rights Action League: 1989–present; Central American Health Network: 1988–1992; Marxist/Feminist Group: present; Physicians for Social Responsibility: 1979–

present; Physicians for Reproductive Health: 1990-92; George Washington University School of Medicine Alumni Fund: 1991-present; Physicians for a National Health Care Plan: 1990-present; WETA: 1990-present.

Mr. LOTT. Mr. President, in filling out the forms for the confirmation process, the nominee submitted, that she belonged to an organization called the Marxist/Feminist Group. No one else wrote that down. It is not something others cooked up. Moreover, she listed herself as a present member.

According to the nominee's affidavit, the nominee joined the group in 1981 and continued as a member through 1993. It is not something the nominee did back in the hey day of the late 1960's or early 1970's—or in period of youthful idealism. No, she listed herself as a current member.

The administration's defense is that the name of this group had changed 3 years prior to the nominee joining the group in 1981. If that is the case, why did the nominee not submit the name of the group as the Northeast Feminist Scholars [NFS] instead of the Marxist/Feminist Group?

In truth, the group continued to go by the name the Marxist/Feminist Group—if not formally, at least informally.

Now, the nominee claims that even though she joined an organization called the Marxist/Feminist Group, she did not endorse marxism nor did she assume anyone else in the group endorsed marxism.

My question is, if one does not believe or never believed in marxism to some degree, why would anyone join anything called the Marxist/Feminist Group?

For the record, the White House response to Senators JOHNSTON and WALLOP, Dated July 6, 1993, makes some rather unbelievable statements.

For example:

Dr. O'Toole has never endorsed marxist theory, nor has she ever had the impression that any other members of the Northeast Feminist Society [NES] (Marxist/Feminist Group) held such beliefs.

Dr. O'Toole never assumed that membership in NFS (Marxist/Feminist Group) would suggest to anyone that she endorsed marxism.

In this case, it is hard to believe that she, at some time, did not believe, to some degree, in marxism. The administration's defense seems disingenuous at best. It strains reasonable credibility.

It would be more credible to say:

Yes, I did try marijuana and I did inhale, or yes, I once believed in marxism, but now I neither smoke marijuana nor believe in marxism.

The nominee also submitted that she belonged to an organization called the Central American Health Network from 1988 through 1992. The nominee's membership in this organization, combined with her membership in the marxist feminist organization, raise additional questions, as to her underlying beliefs and views in relation to national and public policy.

It also begins to establish a pattern of the nominee joining organizations which oppose and disagree with U.S. military and nuclear policy.

The Central American Health Network was established in 1983, in large part due to the group's opposition to United States policy in Nicaragua, Guatemala, and El Salvador.

The network was nonprofit and humanitarian. It delivered medical supplies and helped upgrade primary care in these three countries.

I do not question the nature of what the organization was trying to do. However, the group's bias and judgment is open to question.

The organization worked through the Sandinista Ministry of Health in Nicaragua from 1983 to the present time. However, in Guatemala and El Salvador, the health network refused to work with the governments of either country. Their position is understandable considering the human rights violations of Guatemala and El Salvador during that period.

However, it is hard for me to understand why the human rights abuses and violations in Guatemala and El Salvador are any less offensive than the gross abuses and violations occurring during that same period in Nicaragua.

The network's cooperation and work through the Sandinista government prior to free elections appears to be an implicit endorsement of that regime and rejection of U.S. policy. Likewise, their refusal to work with the anti-Marxist governments and ministries in El Salvador and Guatemala is a condemnation of both countries and the United States alliance with those countries.

In my view, if their objective was only humanitarian, a more appropriate position would have been to condemn the abuses occurring in all three countries and to work only through nongovernmental entities.

However, it appears, based on its actions and from discussions with the Central American Health Network, that the organization was more favorably inclined to support the Marxist regimes and movements of the region—and to oppose both U.S. policy and the regional nonmarxist governments.

In addition, I have strong reservations of confirming someone to this position who has belonged to an organization which opposes all forms of nuclear energy and the storage of nuclear waste.

The nominee lists membership in Greenpeace from 1989 to 1992. During that period of time, Greenpeace so strongly opposed nuclear energy and storage that it practiced civil disobedience in opposition.

There is probably no greater issue of national importance at the Department of Energy than the resolution of how to safely store the Nation's military and civilian nuclear waste. I am greatly concerned that the nominee may come with such biases that these efforts could be jeopardized.

And so a legitimate question is, How can this nominee objectively approach the very complex issues of nuclear weapons, power, and cleanup without a bias or agenda which may work against the national security interest.

In summary, these memberships, not only the ones I have mentioned, but the other memberships listed by the nominee, suggest a predisposition for extremism and radicalism. In my view, this position is too sensitive, too complex, and the risks too high to confirm such a nominee.

I do believe that the nominee has noble intentions; however, I fear the nominee would approach her assignments from a fundamentally flawed framework.

Consequently, I cannot support or consent to this confirmation. My purpose today is to establish the record as to why I am opposing this nominee.

I hope I am proven wrong. The Secretary of Energy strongly supports the nominee as do other members of the Energy Committee. These are endorsements on which I place great value.

But, ultimately, the President and the Secretary of Energy are responsible and will be held accountable. They must ensure that our energy policy promotes the Nation's energy and security interest—they must ensure that this nominee carries out such policies and not an agenda which would work against the Nation's best interest.

STATEMENT ON THE NOMINATION OF DANIEL A. DREYFUS

Mr. WALLOP. Mr. President, I rise in support of the nomination of Dr. Daniel Dreyfus to be Director of the Office of Civilian Radioactive Waste Management for the Department of Energy.

We are fortunate indeed that such a talented and dedicated public servant is willing to take on the difficult and controversial task of overseeing the long-term management and disposal of this Nation's nuclear waste. Dr. Dreyfus' engineering training, his familiarity with the scientific issues which will be facing him, and his ability to deal with the political obstacles that exist, uniquely qualify him for this position.

Dr. Dreyfus has had a long career in the area of energy policy and planning. His years of Government experience, both with the Senate Energy and Natural Resources Committee and with the Department of the Interior, as well as his private sector experience, have prepared him well to take on the extremely important and challenging responsibilities of the Office of Civilian Radioactive Waste Management.

Mr. President, I believe Dan Dreyfus will be a great asset to the Department of Energy, and I urge my colleagues to support his nomination.

STATEMENT ON THE NOMINATION OF DAVID R. BARRAM

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is considering the nomination of David R. Barram for the position of Deputy Secretary of Commerce. The Committee on Commerce, Science, and Transportation held Mr. Barram's confirmation hearing on September 15, 1993, and reported his nomination on October 6, 1993.

Traditionally, the Deputy Secretary of Commerce has served as the Department's chief operating officer, or its internal manager. Management of the Department of Commerce [DOC] operations covers a wide range of complex activities, from the development of trade, technology, and telecommunications policy to oceans and atmospheric issues. While directing DOC has always been challenging, the Department's diverse programs are particularly important today as the world focuses more closely on economic competition and new international alliances.

On the edge of the 21st century, DOC stands as the lead Federal agency for major economic and technology initiatives. The operation of these diverse programs with tighter budgets requires an innovative and experienced manager.

Mr. Barram has such experience. He has a long and distinguished career managing world-class high-technology companies such as Apple Computer, Silicon Graphics, and Hewlett-Packard. His accomplishments and talents are familiar to many of my colleagues in the Senate.

Most recently, Mr. Barram held the position of vice president and chief financial officer of Apple Computer, Inc. During his tenure, he was involved in several reorganizations of the company intended to ensure that the company could compete in the ever-changing high-technology marketplace. Prior to his position with Apple Computer, Inc., Mr. Barram served as the first chief financial officer of Silicon Graphics.

In addition, Mr. Barram has demonstrated a commitment to advancing educational goals and is a member of the board of directors for the National Center on Education and the Economy, a nonprofit organization. He has served on the State of California Schools Operations Committee and has authored articles on education and business.

Mr. Barram graduated from Wheaton College with a bachelor of arts in 1965 and received his master's degree in business administration from Santa Clara University in 1973.

Mr. Barram's expertise in managing premiere high-technology firms will be an asset to DOC and to the administration. Therefore, I urge my colleagues to support the President's nomination of David R. Barram to be the Deputy Secretary of Commerce.

DEPARTMENT OF THE ARMY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the following nomination reported today by the Armed Services Committee: Gen. George A. Joulwan, to be general; I further ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD as if read; that upon confirmation, the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nomination, as confirmed, is as follows:

IN THE ARMY

The following named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be general

Gen. George A. Joulwan, [redacted], U.S. Army.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

REPEALING OF REQUIREMENT THAT UNDER SECRETARY FOR HEALTH IN THE DEPARTMENT OF VETERANS AFFAIRS BE A DOCTOR OF MEDICINE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1534, relating to a repeal of a requirement that the Under Secretary for Health in the Department of Veterans Affairs be a doctor of medicine, introduced earlier today by Senators ROCKEFELLER and MURKOWSKI; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relative to the passage of this item appear at the appropriate place in the RECORD.

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

So the bill (S. 1534) was deemed read three times and passed, as follows:

S. 1534

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

SECTION 1. REPEAL OF REQUIREMENT THAT UNDER SECRETARY OF VETERANS AFFAIRS FOR HEALTH BE A DOCTOR OF MEDICINE.

(a) REPEAL.—Subsection (a)(2) of section 305 of title 38, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by striking out "shall be a doctor of medicine and"; and

(2) in subparagraph (A)—

(A) by striking out "in the medical profession,"; and

(B) by striking out the comma after "policy formulation".

(b) TECHNICAL CORRECTION.—Subsection (a)(1) of such section is amended by striking out "a Under Secretary" and inserting in lieu thereof "an Under Secretary".

QUALIFICATIONS FOR VA'S UNDER SECRETARY FOR HEALTH

Mr. ROCKEFELLER. Mr. President, I am delighted that the Senate is acting on this bill which I introduced, along with my good friend, the ranking minority member on the Committee on Veterans' Affairs, Senator MURKOWSKI. This legislation would modify current law so as to allow the Under Secretary for Health of the Department of Veterans Affairs to be other than a medical doctor. Under current law, section 305 of title 38, United States Code, which dates from 1946, the Under Secretary for Health must be a doctor of medicine.

Mr. President, proposals to change this current law limitation have been discussed for a number of years but have never moved forward. I believe that there are two compelling reasons for now taking action on this proposal—one immediate and one more long term.

Mr. President, the longer term and more important, reason for supporting this change in law is related to the future of the VA health care system as we embark upon national health care reform. I am satisfied that the President's proposal, under which VA will be allowed to compete with other providers for patients from among the veteran population, is the right way for VA to go. Were VA to remain outside of the future health system, I believe that it would be very detrimental to the system's long term survival. However, for VA to be competitive in the coming competitive environment, there will have to be some significant changes in how the system is managed and marketed.

As Secretary of Veterans Affairs Jesse Brown said in his letter transmitting this legislation, which I will place in the RECORD at the conclusion of my remarks, "The position of Under Secretary for Health is that of an executive. An individual serving in the position must possess health care management skills, and must be capable of developing and directing implementation of health care policy." I agree completely with this view and also agree with Secretary Brown's further statement that "[m]any very capable and experienced persons who have these skills do not also possess the degree of doctor of medicine."

Mr. President, the more immediate reason for making this change relates to the compelling need to find a highly qualified candidate to fill the currently vacant position of Under Secretary for Health. The process to find someone for this position began early this year. The

search committee that was established to find a candidate screened a large number of applications from M.D.'s, but, of the four individuals finally selected, none was available for nomination to the position.

Mr. President, while I am satisfied that the search process was carried out in an appropriate manner and that there were some highly qualified candidates among those screened by the search committee, the fact is that there is no nominee for this critical position many months after it was known that the position would be open. The process must go forward as soon as possible to identify further candidates.

As consideration has been given to how to proceed further with this search, VA proposed amending the law so as to remove the requirement that the Under Secretary be an M.D., thereby allowing VA to solicit applications from a wider pool of potential applicants. The anticipation is that this change will generate interest in the position from among VA non-M.D. managers as well as non-M.D.'s involved with other health systems.

Mr. President, although I would think that it would be clear, let me state unequivocally that I am not antiphysician nor should this legislation be viewed this way. I have the highest regard for those who are doctors of medicine and would be quite happy to have the President nominate an M.D. to be the next Under Secretary for Health. At the same time, I do not believe that only a physician can fill that position.

Mr. President, I plan to work, along with Senator MURKOWSKI, other members of our committee, and our colleagues in the House, to gain final enactment of this legislation in the near future.

Mr. President, I ask unanimous consent that the September 16, 1993, letter from Secretary Brown, which transmitted this legislation to the Senate, be printed in the RECORD.

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

SECRETARY OF VETERANS AFFAIRS,
Washington, September 16, 1993.

Hon. AL GORE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: We are transmitting a draft bill, "To amend title 38, United States Code, to delete a requirement that the Under Secretary for Health in the Department of Veterans Affairs be a doctor of medicine."

The Under Secretary for Health in the Department of Veterans Affairs is the head of VA's Veterans Health Administration, and is responsible for administering a health care system consisting of 171 medical centers, 371 outpatient clinics, 131 nursing homes, and 36 domiciliaries. The Veterans Health Administration employs over 200,000 individuals, and its budget for Fiscal Year 1993 was just under $15 billion. The position of Under Secretary for Health is that of an executive. An individual serving in the position must possess health care management skills, financial management and budgeting skills, and must be capable of developing and directing implementation of health care policy. Many very capable and experienced persons who have these skills do not also possess the degree of doctor of medicine, and are excluded from serving as the Under Secretary. Such persons include the heads of many large health care institutions. This draft bill would permit consideration of those individuals.

VA estimates that there would be no cost associated with enactment of the draft bill.

The Office of Management and Budget advises that there is no objection from the standpoint of the administration's program to the submission of this legislative proposal to the Congress.

Sincerely yours,

JESSE BROWN.

Mr. MURKOWSKI. Mr. President, I am pleased to join with the chairman of the Committee on Veterans' Affairs, Senator ROCKEFELLER, in introducing legislation which would allow a nonphysician to serve as VA's Under Secretary of Health.

Current law requires that the position be filled by a medical doctor. This bill would eliminate that requirement and instead allow the President to appoint, and the Senate to confirm, a woman or man who is not a physician. Of course, the legislation would not preclude the nomination, confirmation and service of a physician should the President select a physician for the office.

The Under Secretary for Health is responsible to the Secretary of Veterans Affairs, the President, the Congress, and ultimately the American people for the health care provided to America's veterans by the Department of Veterans Affairs. He or she will serve as the head of the Veterans Health Administration, an organization of 200,000 health care providers operating through a system of 171 medical centers, 371 outpatient clinics, 131 nursing homes, and 36 domiciliaries. He or she will be given stewardship of a budget of approximately $16 billion in the year to come. Each day finds approximately 85,000 veterans as patients in a VA facility. Each year, VA provides over 23 million outpatient visits.

The Under Secretary for Health faces one of the most challenging missions in the Federal Government. Many, perhaps most, of these challenges are not just the challenges of medicine. They are instead the challenges inherent in the leadership of such a widespread, complex organization. To be sure, some of the challenges are the challenges of the clinical practice of medicine. To be successful, the Secretary of Veterans Affairs must be able to call upon a VA leadership team with expertise and skill in both medicine and management.

This legislation will allow the President and Secretary to decide for themselves if the medical expertise is most needed at the under Secretary level as well as throughout the Veterans Health Administration. This legislation would allow VA the same freedom that private health care systems have to select the best possible person for their top leadership. This legislation would be one step toward implementing the goals of the Vice Presidents' effort to reinvent government by reducing statutory micromanagement of Federal personnel decisions. I urge my colleagues to join me in support of this legislation.

HIGHER EDUCATION TECHNICAL AMENDMENTS OF 1993

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 218, S. 1507, the Higher Education Technical Amendments bill; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements thereon appear in the RECORD at the appropriate place, as though read.

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

So the bill (S. 1507) was deemed read three times and passed, as follows:

S. 1507

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Technical Amendments Act of 1993".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 2. EFFECTIVE DATE FOR PELL GRANTS FOR INCARCERATED INDIVIDUALS.

Section 410 of the Higher Education Amendments of 1992 (20 U.S.C. 1070a note) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) that the changes made in section 401(b)(8)(B), relating to Federal Pell Grants for incarcerated individuals, shall apply to the awarding of Federal Pell Grants for periods of enrollment on or after July 1, 1996;".

SEC. 3. BASIC EDUCATIONAL OPPORTUNITY GRANTS.

The second sentence of section 401(a)(1) (20 U.S.C. 1070a(a)(1)) is amended by inserting ", except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment" before the period.

SEC. 4. EARLY INTERVENTION APPLICATION.

Section 404G (20 U.S.C. 1070a–27) is amended—

(1) in the first sentence, by striking "an appropriation" and inserting "to be appropriated"; and

(2) by striking the second sentence.

SEC. 5. INTEREST RATES FOR NEW BORROWERS AFTER OCTOBER 1, 1992.

The matter preceding subparagraph (A) of section 427A(e)(1) (20 U.S.C. 1077a(e)(1)) is

amended by inserting "(other than a loan made, insured or guaranteed under section 428A)" after "this part".

SEC. 6. FORBEARANCE CLARIFICATION.

Subparagraph (A) of section 428(c)(3) (20 U.S.C. 1078(c)(3)(A)) is amended by striking "for the benefit of the student borrower serving in a medical or dental internship or residency program".

SEC. 7. UNSUBSIDIZED LOAN INTEREST RATES.

Paragraph (4) of section 428H(e) (20 U.S.C. 1978–8(e)(4)) is amended by striking "427A(e)" and inserting "427A".

SEC. 8. PRESERVATION OF BORROWER CLAIMS AS DEFENSES.

Paragraph (1) of section 432(m) (20 U.S.C. 1082(m)(1)) is amended by adding at the end the following new subparagraph:

"(E) PRESERVATION OF BORROWER CLAIMS AS DEFENSES.—

"(i) The promissory note prescribed by the Secretary shall include the following provision:

"'ANY HOLDER OF THIS NOTE IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH I COULD ASSERT AGAINST THE SCHOOL IF (1) THIS LOAN IS MADE BY THE SCHOOL OR (2) THE PROCEEDS OF THIS LOAN ARE USED TO PAY TUITION AND CHARGES OF A SCHOOL THAT REFERS LOAN APPLICANTS TO THE LENDER, OR THAT IS AFFILIATED WITH THE LENDER BY COMMON CONTROL, CONTRACT OR BUSINESS ARRANGEMENT. MY RECOVERY UNDER THIS PROVISION SHALL NOT EXCEED THE AMOUNT I PAID ON THIS LOAN.'

"(ii) For purposes of this subparagraph—

"(I) an institution shall be considered to refer loan applicants to a particular lender if the institution urges, suggests, or otherwise recommends that loan applicants borrow from the lender and the lender is on notice of such recommendation by the institution at the time the loan is made, unless the institution does no more than identify the lender as an available source of student loans; and

"(II) a business arrangement exists if the lender and the institution agree to engage in cooperative activity with regard to the making of loans for students in attendance at the institution, except for activity specifically and expressly required by this Act or regulations issued by the Secretary.

"(iii) Notwithstanding the provisions of section 433.2 of title 16, Code of Federal Regulations, the provisions of clauses (i) and (ii) shall apply to all loans made, insured or guaranteed under this part.".

SEC. 9. COHORT DEFAULT RATE.

(a) FINDINGS.—The Congress finds that—

(1) many institutions of higher education with high cohort default rates have avoided or sought to avoid loss of eligibility under the Federal Family Education Loan Program by alleging improper servicing or collection of the defaulted loans taken into account in determining their default rates;

(2) institutions of higher education bear a fair share of the blame for the increased level of defaults in such program;

(3) since a borrower remains responsible for paying on a loan even if there is improper loan servicing or collection it would not be fair to forgive the institution of higher education for the default based on such errors, and exclusion of such loans would result in a misleading cohort default rate which is not reflective of the institution's performance;

(4) providing institutions of higher education with access to servicing or collection records relating to loans taken into account in determining the institution's cohort default rate, for the purpose of appealing the loss of eligibility, would frustrate the statutory purpose of reducing student loan defaults because collection and review of the records could not be completed within the statutory time frames for such review; and

(5) it is unnecessary to afford institutions of higher education such access to loan records because the statutory threshold percentages for loss of eligibility due to high cohort default rates are substantially above the preferred level of such rates for eligible institutions.

(b) SIMPLIFICATION OF DEFINITION OF COHORT DEFAULT RATE.—Subparagraph (B) of section 435(m)(1) (20 U.S.C. 1085(m)(1)(B)) is amended by striking all beginning with ", and," through "calculation of the cohort default rate".

(c) EFFECTIVE DATE AND SAVINGS PROVISION.—

(1) EFFECTIVE DATE.—The amendment made by subsection (b) shall be effective on the date of enactment of this Act and shall apply to all determinations made by the Secretary under section 435(m)(1)(B) of the Higher Education Act of 1965 on or after that date, including determinations made on or after such date for fiscal years for which the Secretary made determinations under such section prior to such date.

(2) SAVINGS PROVISION.—The amendment made by subsection (b) shall not affect a determination of institutional eligibility made before the date of enactment of this Act.

SEC. 10. FEDERAL WORK-STUDY PROGRAMS.

Paragraph (5) of section 443(b) (20 U.S.C. 2753(b)(5) is amended to read as follows:

"(5) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement shall not exceed 75 percent for academic year 1993–1994 and succeeding academic years, except that the Federal share may exceed such amounts of such compensation if the Secretary determines, pursuant to regulations promulgated by the Secretary establishing objective criteria for such determinations, that a Federal share in excess of such amounts is required in furtherance of the purpose of this part;".

SEC. 11. COST OF ATTENDANCE.

Section 472 (20 U.S.C. 1087ll) is amended—

(1) in paragraph (10), by striking "and" after the semicolon;

(2) in paragraph (11), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(12) for a student who receives a loan under part B or D of this title (or on whose behalf the parent of such student receives a loan under section 428B or part D), an allowance for the actual cost of any loan fee, origination fee, or insurance premium charged to such student or such parent on such loan, or the average cost of any such fee or premium charged by the Secretary, eligible lender, or guaranty agency making or insuring such loan, as the case may be.".

SEC. 12. CLARIFICATION REGARDING IRS FILINGS.

Section 479 (20 U.S.C. 1087ss) is amended—

(1) in subsection (b)(3)—

(A) in subparagraph (A), by inserting "(including any prepared or electronic version of such form)" before "required"; and

(B) in subparagraph (B), by inserting "(including any prepared or electronic version of such return)" before "required"; and

(2) in subsection (c)—

(A) by amending subparagraph (A) of paragraph (1) to read as follows:

"(A) the student's parents were not required to file an income tax return under section 6012(a)(1) of the Internal Revenue Code of 1986; and"; and

(B) by amending subparagraph (A) of paragraph (2) to read as follows:

"(A) the student (and the student's spouse, if any) was not required to file an income tax return under section 6012(a)(1) of the Internal Revenue Code of 1986; and".

SEC. 13. DISCRETION OF STUDENT FINANCIAL AID OFFICER.

Section 479A (20 U.S.C. 1087tt) is amended by adding at the end the following new subsection:

"(c) ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES.—

"(1) IN GENERAL.—A student financial aid administrator shall be considered to be making an adjustment for special circumstances in accordance with subsection (a) if—

"(A) in the case of a dependent student—

"(i) such student received a Federal Pell Grant as a dependent student in academic year 1992–1993 and the amount of such student's Federal Pell Grant for academic year 1993–1994 is at least $500 less than the amount of such student's Federal Pell Grant for academic year 1992–1993; and

"(ii) the decrease described in clause (i) is the direct result of a change in the determination of such student's need for assistance in accordance with this part that is attributable to the enactment of the Higher Education Amendments of 1992; and

"(B) in the case of a single independent student—

"(i) such student received a Federal Pell Grant as a single independent student in academic year 1992–1993 and qualified as an independent student in accordance with section 480(d) for academic year 1993–1994, and the amount of such student's Federal Pell Grant for academic year 1993–1994 is at least $500 less than the amount of such student's Federal Pell Grant for academic year 1992–1993; and

"(ii) the decrease described in clause (i) is the direct result of a change in the determination of such student's need for assistance in accordance with this part that is attributable to the enactment of the Higher Education Amendments of 1992.

"(2) AMOUNT.—A financial aid administrator shall not make an adjustment for special circumstances pursuant to this subsection in an amount that exceeds one-half of the difference between the amount of a student's Federal Pell Grant for academic year 1992–1993 and the amount of such student's Federal Pell Grant for academic year 1993–1994.

"(3) ACADEMIC YEAR LIMITATION.—A financial aid administrator only shall make adjustments under this subsection for Federal Pell Grants awarded for academic years 1993–1994, 1994–1995, and 1995–1996.

"(4) SPECIAL RULE.—Adjustments under this subsection shall only be made in fiscal year 1993 if an Act that contains an appropriation for fiscal year 1993 to carry out this subsection is enacted on or after the date of enactment of the Higher Education Technical Amendments of 1993.".

SEC. 14. CORRESPONDENCE RULE WAIVER.

Subparagraph (B) of section 481(a)(3) (20 U.S.C. 1088(a)(3)(B)) is amended by inserting ", except that the Secretary, for good cause as determined by the Secretary, may deem a nonprofit institution that provides a 4-year or 2-year program of instruction for which such institution awards a bachelor's or associate's degree to be in compliance with the provisions of this subparagraph" before the semicolon.

SEC. 15. WAIVER OF ABILITY TO BENEFIT RULE FOR CERTAIN SCHOOLS.

Subparagraph (D) of section 481(a)(3) (20 U.S.C. 1088(a)(3)(D)) is amended by inserting ", except that the Secretary, for good cause

as determined by the Secretary, may deem an institution that has entered into a contract with a Federal, State or local government entity to serve students described in section 484(d) to be in compliance with the provisions of this subparagraph" before the period.

SEC. 16. DEFINITION OF ACADEMIC YEAR.

Paragraph (2) of section 481(d) (20 U.S.C. 1088(d)(2)) is amended by inserting ", except that the Secretary may waive the 30-week requirement described in this paragraph for good cause as determined by the Secretary" before the period.

SEC. 17. TREATMENT OF UNCOMPENSATED FINANCIAL AID APPLICATION PREPARERS.

Subsection (f) of section 483 (20 U.S.C. 1090(f)) is amended by striking "the preparer of such financial aid application" and inserting "any individual who receives compensation from an applicant or an applicant's family for the purpose of preparing such financial aid application, and nothing in this paragraph shall be construed to require an individual who does not receive such compensation to include such information on such application".

SEC. 18. STUDENT ELIGIBILITY FOR FORMER TRUST TERRITORIES.

Subparagraph (B) of section 484(a)(4) (20 U.S.C. 1091(a)(4)(B)) is amended by inserting ", except that the provisions of this subparagraph shall not apply to students from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau" after "number".

SEC. 19. DISCLOSURE OF COMPLETION OR GRADUATION RATE.

Subparagraph (A) of section 485(a)(3) (20 U.S.C. 1092(a)(3)(A) is amended by striking "beginning on July 1, 1993, and each year" and inserting "within 270 days after the date on which the Secretary issues final regulations implementing the provisions of this paragraph and each July 1".

SEC. 20. INDEPENDENCE OF ACCREDITING AGENCIES.

Subparagraph (A) of section 496(a)(3) (20 U.S.C. 1099b(a)(3)(A)) is amended by striking "subparagraph (A) of paragraph (2)" and inserting "clause (i) of paragraph (2)(A)".

SEC. 21. OPERATING PROCEDURES FOR ACCREDITING AGENCIES.

The matter preceding paragraph (1) of section 496(c) (20 U.S.C. 1099b(c)(1)) is amended by inserting "determining an institution of higher education's eligibility to participate in programs under" after "purpose of".

SEC. 22. FINANCIAL RESPONSIBILITY STANDARDS.

Subsection (c) of section 498 (20 U.S.C. 1099c(c)) is amended—

(1) in paragraph (3)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "may" and inserting "shall"; and

(ii) by inserting "that provides a 2-year or 4-year program of instruction for which the institution awards an associate's or bachelor's degree" before "to be"; and

(B) by amending subparagraph (C) to read as follows:

"(C) such institution submits a report to the Secretary from an independent certified public accountant that certifies that the institution has sufficient resources to ensure against the precipitous closure of such institution, including the ability to meet all of such institution's financial obligations (including refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary); or"; and

(2) by adding at the end the following new paragraph:

"(6)(A) In carrying out the provisions of this subsection the Secretary shall establish financial responsibility standards that include requiring an institution of higher education to maintain an asset-to-liability ratio of 1:1.

"(B) For the purpose of computing an asset-to-liability ratio described in subparagraph (A) and paragraph (2), an institution—

"(i) may count as a current asset the equity (the difference between book cost and the mortgage owed) in facilities (land and buildings) owned and occupied by such institution and used to provide education and training services described in such institution's official publications;

"(ii) in the case of an application for recertification under this section, shall take into consideration the depreciation and current value of such facilities determined in accordance with a professional appraisal; and

"(iii) shall use the lesser value between the equity value and the current value of such facilities.".

SEC. 23. NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS.

Section 551 (20 U.S.C. 1107) is amended—

(1) in paragraph (1) of subsection (b), by striking "the Federal share of";

(2) in subparagraph (B) of subsection (e)(1), by striking "share of the cost of the activities of the Board is" and inserting "contributions described in subsection (f) are"; and

(3) by amending subsection (f) to read as follows:

"(f) MATCHING FUNDS REQUIREMENT.—

"(1) IN GENERAL.—The Secretary shall not provide financial assistance under this subpart to the Board unless the Board agrees to expend non-Federal contributions equal to $1 for every $1 of the Federal funds provided pursuant to such financial assistance.

"(2) NON-FEDERAL CONTRIBUTIONS.—The non-Federal contributions described in paragraph (1)—

"(A) may include all non-Federal funds raised by the Board on or after January 1, 1987; and

"(B) may be used for outreach, implementation, administration, operation, and other costs associated with the development and implementation of national teacher assessment and certification procedures under this subpart.".

SEC. 24. COOPERATIVE EDUCATION.

The matter preceding paragraph (1) of section 802(b) (20 U.S.C. 1133a(b)(1)) is amended by inserting "the Secretary shall reserve such amount as is necessary to make payments in such fiscal year, in accordance with section 802 of the Higher Education Act of 1965 (as such Act was in effect on July 22, 1992) to each institution of higher education that was, on the date of enactment of the Higher Education Amendments of 1992, operating a cooperative education program under such section pursuant to a multiyear award. Of the remainder of the amount appropriated in such fiscal year" after "fiscal year".

SEC. 25. PACIFIC REGIONAL EDUCATIONAL LABORATORY.

The matter preceding paragraph (1) of section 101A(b) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311a(b)) is amended—

(1) by striking "Center for the Advancement of Pacific Education, Honolulu, Hawaii, or its successor entity as the Pacific regional educational laboratory" and inserting "Pacific Regional Educational Laboratory, Honolulu, Hawaii"; and

(2) by inserting "or provide direct services regarding" after "grants for".

SEC. 26. DISTRIBUTION OF FUNDS TO POSTSECONDARY AND ADULT PROGRAMS.

Section 232 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2341a) is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting "or consortia thereof" before "within"; and

(B) in the second sentence—

(i) by inserting "or consortium" before "shall"; and

(ii) by inserting "or consortium" before "in the preceding";

(2) in subsection (b)—

(A) in paragraph (1), by inserting "or consortia" after "institutions"; and

(B) in the matter preceding subparagraph (A) of paragraph (2), by inserting "or consortia" after "institutions"; and

(3) in subsection (c)—

(A) in paragraph (1), by inserting "or consortium" after "institution"; and

(B) in paragraph (2), by inserting "or consortia" after "institutions".

SEC. 27. GRADUATE PROGRAMS.

Notwithstanding any other provision of law, if an individual received multiyear fellowship assistance under part B, C, or D of title IX of the Higher Education Act of 1965 in fiscal year 1992, then the Secretary of Education shall apply the provisions of such parts (as such parts were in effect on July 22, 1992) for the remainder of the duration of such multiyear fellowship assistance.

SEC. 28. PATRICIA ROBERTS HARRIS FELLOWSHIP PROGRAM.

The Secretary of Education may use funds made available to carry out part B of title IX of the Higher Education Act of 1965 (20 U.S.C. 1134d et seq.) for fiscal year 1994 to carry out the provisions of section 27 for individuals eligible for multiyear fellowship assistance under part B (as such part was in effect on July 22, 1992) in fiscal year 1993.

DESIGNATING THE WOODROW WILSON PLAZA

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 219, S. 832, a bill to designate the Woodrow Wilson Plaza in Washington, DC; that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table; and that any statements relating to this measure appear in the RECORD at the appropriate place, as though read.

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

So the bill (S. 832) was deemed read three times and passed, as follows:

S. 832

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the plaza to be constructed on the Federal Triangle property in Washington, DC as part of the development of such site pursuant to the Federal Triangle Development Act (Public Law 100–113) shall be known and designated as the "Woodrow Wilson Plaza".

RESOLUTION AUTHORIZING REPRESENTATION OF MEMBERS OF THE SENATE

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished

Republican leader, Mr. DOLE, I send to the desk a resolution to direct the Senate legal counsel to represent Members who have been named in a lawsuit pending in the U.S. District Court for the District of Columbia, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 150) to authorize representation of Members of the Senate in the case of Douglas R. Page v. Robert Dole, et al.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, a lawsuit has been filed in the U.S. District Court for the District of Columbia challenging the constitutionality of rule XXII of the Standing Rules of the Senate. Under rule XXII, debate on a pending matter may be limited by a vote of three-fifths of the Senators duly chosen and sworn or, in the case of an amendment to a Senate rule, a vote of two-thirds of the Senators voting, a quorum being present.

The plaintiff asserts that rule XXII is unconstitutional because, in his view, the Constitution requires that the Senate act by majority vote, except in those limited instances, not applicable here, where the Constitution specifies otherwise. The plaintiff further contends that rule XXII diminishes the influence of his vote for Members of the majority party, who the plaintiff claims are deprived, under rule XXII, of the power to bring legislation to a vote.

The plaintiff has named as defendants all but one of the current Members of the Senate, together with a former Senator. He seeks a declaration that rule XXII is unconstitutional and an injunction requiring that the Senate in the future limit debate by a simple majority of a quorum.

The resolution at the desk would authorize the Senate Legal Counsel to represent all the defendants in this case and to move to dismiss the complaint, which faces several threshold legal barriers.

First, the plaintiff lacks legal standing to request that a court review his challenge to the constitutionality of the Senate's rule. The Senate Legal Counsel's motion will describe why the plaintiff's assertion of the generalized interest of all citizens, or of a speculative injury to the plaintiff's right to vote, is not sufficient to confer standing on the plaintiff.

Second, the lawsuit is barred by the speech or debate clause of the Constitution, which provides that "for any Speech or Debate in either House, [Members] shall not be questioned in any other Place." The clause protects Members from questioning, whether in the form of a civil or criminal case brought by the executive branch or a civil action brought by a private individual, about conduct within "the 'sphere of legitimate legislative activity.'" *Eastland* v. *United States Servicemen's Fund*, 421 U.S. 491, 501 (1975) (citations omitted). Here, the lawsuit challenges a rule about the length of debate, a matter which is within the sphere of protected legislative activity, and seeks an order from the court directing Senators to close debate by a rule to be prescribed by the court, namely, a vote of a simple majority of a quorum.

Finally, the lawsuit raises general separation of powers concerns, in addition to the specific proscription of the speech or debate clause, that have in the past led courts to decline to review congressional rules of procedure. The Constitution assigns to the Senate the power to "determine the Rules of its Proceedings," and it is difficult to imagine a more intrusive judicial action than an injunction, like the one sought by the plaintiff, that would dictate how the Senate should regulate the length of its debates.

Indeed, the rules for determining the length of debates are complex and the subject of development and reconsideration over the course of time. At the time a cloture rule was adopted in 1917, the Senate, as President Wilson observed, had "no rules by which debate can be limited or brought to an end, no rules by which dilatory tactics of any kind can be prevented. A single Member can stand in the way of action if he has but the physical endurance." The rule adopted in 1917 provided for a two-thirds vote of Members present to limit debate. In 1975, the Senate adopted the current requirement of a three-fifths vote of the membership of the Senate to limit debate. Senator BYRD, in his illuminating addresses on the history of the Senate, stated that "the current cloture rule is the product of decades of trial and experience aimed at curbing the extremes in the use of filibusters to block Senate action."

In addition to rule XXII, the Senate employs a variety of other methods to control debate. For the conduct of much of its business, the Senate is governed by unanimous consent agreements of its Members. In addition, several statutes control the timing of debate on legislation relating to particular subjects, including two of the most significant pieces of legislation that have been or will be addressed this Congress. Debate on the Omnibus Budget Reconciliation Act of 1993 (Pub. L. No. 103-66) was governed by the limitations on debate set forth in a provision of the Congressional Budget Act of 1974, as amended, 2 U.S.C. 641(e), which restricts debate in the Senate on budget reconciliation measures to not more than 20 hours. Debate on the North American Free-Trade Agreement will be subject to the fast-track procedures of the Trade Act of 1974, which limit debate in the Senate on bills implementing trade agreements to no more than 20 hours. 19 U.S.C. 2191(g).

Nor is rule XXII the only instance in which the Senate has required more than a simple majority to alter a legislative procedure. For example, the inclusion of extraneous matter in budget reconciliation bills is prohibited, 2 U.S.C. 644, but three-fifths of the Members duly chosen and sworn may waive this prohibition. 2 U.S.C. 621 note. Other requirements under the Congressional Budget Act similarly may be waived by three-fifths of the Senate membership. 2 U.S.C. 621 note.

The Senate has in the past vigorously debated, and will, I am sure, debate with equal vigor in the future, the merits of rule XXII, including the question presented by the plaintiff's complaint of whether a majority of the Senate should be permitted to end debate. Serious issues, rooted in fundamental questions about democratic governance, have been and will continue to be raised about the Senate's cloture rule. The burden of a Senate brief in this case will be only to demonstrate that the Senate is the proper place for the resolution of that debate. As the Supreme Court observed in *United States* v. *Ballin*, 144 U.S. 1, 5 (1892), a case involving a challenge to a congressional quorum rule, "[n]either do the advantages or disadvantages, the wisdom or folly, of such a rule present any matters for judicial consideration."

The PRESIDING OFFICER. Without objection, the resolution and the preamble are agreed to.

The resolution (S. Res. 150) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 150

Whereas, in the case of Douglas R. Page v. Robert Dole, et al., No. 93-1546, pending in the United Stated District Court for the District of Columbia, the plaintiff has named ninety-nine Members of the Senate, and a former Member, as defendants;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(1), the Senate may direct its counsel to defend present and former Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the present and former Members of the Senate who are defendants in the case of Douglas R. Page v. Robert Dole, et al.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESOLUTION TO AUTHORIZE THE PRODUCTION OF RECORDS

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Senator DOLE, I send to the desk a resolution on authorization of the production of Senate records and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 151) to authorize the production of records by the Committee on Foreign Relations.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, in connection with a pending investigation, the Department of Justice has requested copies of records of the investigation of the Subcommittee on Near Eastern and South Asian Affairs of the Foreign Relations Committee into allegations relating to delays in the release of American hostages held throughout 1980 in Iran.

The Department of Justice is reviewing a referral to it of testimony taken by the panel conducting a similar investigation in the other body, the House Task Force To Investigate Certain Allegations Concerning the Holding of American Hostages in Iran in 1980. In its final report, the House Task Force made public a joint recommendation of the majority and minority members of the task force that the Department of Justice be asked to review sworn testimony taken by task force staff to determine if some witnesses had committed perjury. The Department of Justice believes that records of the Senate investigation may aid in determining whether any witnesses perjured themselves in congressional testimony.

In keeping with the Senate's customary practice with regard to similar requests, this resolution would authorize the chairman and ranking minority member of the Committee on Foreign Relations, acting jointly, to provide to the Department of Justice records of its subcommittee's investigation of allegations relating to the release of the hostages.

The PRESIDING OFFICER. Without objection, the resolution and the preamble are agreed to.

The resolution (S. Res. 151) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 151

Whereas, in 1992 the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations conducted an investigation into allegations relating to the release of American hostages held in Iran;

Whereas, in the course of reviewing testimony taken by the staff of the House Task Force To Investigate Certain Allegations Concerning the Holding of American Hostages in Iran in 1980 to determine whether certain witnesses committed perjury, the Department of Justice has requested access to records of the related Senate investigation;

Whereas, by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Committee on Foreign Relations, acting jointly, are authorized to provide to the Department of Justice records of the investigation of the Subcommittee on Near Eastern and South Asian Affairs of allegations relating to the release of American hostages held in Iran.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Thomas, one of his Secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate a message 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 PRESIDENT

RELATING TO THE NAVAL PETROLEUM RESERVES—MESSAGE FROM THE PRESIDENT—PM 51

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services:

To the Congress of the United States:

In accordance with section 201(3) of the Naval Petroleum Reserves Production Act of 1976 (10 U.S.C. 7422(c)(2)), I am informing you of my decision to extend the period of maximum efficient rate production of the naval petroleum reserves for 3 years from April 5, 1994, the expiration date of the currently authorized production period.

The report investigating the necessity of continued production of the reserves as required by section 201(3)(c)(2)(B) of the Naval Petroleum Reserves Production Act of 1976 is attached. Based on the report's findings, I hereby certify that continued production from the naval petroleum reserves is in the national interest.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 7, 1993.*

MESSAGES FROM THE HOUSE

At 1:58 p.m. a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2750) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1994, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. CARR, Mr. DURBIN, Mr. SABO, Mr. PRICE of North Carolina, Mr. COLEMAN, Mr. FOGLIETTA, Mr. NATCHER, Mr. WOLF, Mr. DELAY, Mr. REGULA, and Mr. MCDADE as managers of the conference on the part of the House.

The message further announced that the House has passed the following bill; without amendment:

S. 1508. An act to amend the definition of a rural community for eligibility for economic recovery funds, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions:

H. Con. Res. 160. A concurrent resolution to correct the enrollment of H.R. 3123.

H. Con. Res. 161. A concurrent resolution for an adjournment of the House from Thursday, October 7, 1993, or Friday, October 8, 1993, to Tuesday, October 12, 1993 and an adjournment or recess of the Senate from Thursday, October 7, 1993, to Wednesday, October 13, 1993.

At 5:13 p.m. a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks announced that the House agree to the amendments of the Senate to the bill (H.R. 2517) an act to establish certain programs and demonstrations to assist States and communities in efforts to relieve homelessness, assist local community development organization, and provide affordable rental housing for low-income families, and for other purposes.

The message also announced that the House agrees to the committee of conference on the disagreeing votes of the two houses on the amendments of the Senate to the bill (H.R. 2518) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies,

for the fiscal year ending September 30, 1994, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 25, 28, 29, 45, 48, 51, 53, 56, 59, 60, 70 and 120; and that the House recedes from its disagreement to the amendments of the Senate numbered 6, 11, 15, 23, 24, 34, 41, 49, 54, 57, 58, 65, 68, 69, 74, 92, 104, 108, 111, 117, 123, 124, 129, and 133, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

At 5:30 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:

S. 1508. An act to amend the definition of a rural community for eligibility for economic recovery funds, and for other purposes.

H.R. 2685. An act to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 7, 1993, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 102. Joint resolution to designate the months of October 1993 and October 1994 as "Country Music Month."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1595. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, report on the impact of the Caribbean Basin Economic Recovery Act on U.S. industries and consumers; to the Committee on Finance.

EC–1596. A communication from the United States Trade Representative, transmitting, pursuant to law, a notice relative to the Trade Act of 1974; to the Committee on Finance.

EC–1597. A communication from the Assistant Legal Adviser (Treaty Affairs), Department of State, transmitting, pursuant to law, a report of the texts of international agreements and background statements; to the Committee on Foreign Relations.

EC–1598. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–108 adopted by the Council on September 21, 1993; to the Committee on Governmental Affairs.

EC–1599. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–109 adopted by the Council on September 21, 1993; to the Committee on Governmental Affairs.

EC–1600. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–110 adopted by the Council on September 21, 1993; to the Committee on Governmental Affairs.

EC–1601. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–111 adopted by the Council on September 21, 1993; to the Committee on Governmental Affairs.

EC–1602. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–112 adopted by the Council on September 21, 1993; to the Committee on Governmental Affairs.

EC–1603. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–113 adopted by the Council on September 21, 1993; to the Committee on Governmental Affairs.

EC–1604. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–114 adopted by the Council on September 21, 1993; to the Committee on Governmental Affairs.

EC–1605. A communication from the Comptroller General of the United States, transmitting, pursuant to law, reports and testimony for August 1993; to the Committee on Governmental Affairs.

EC–1606. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report of a review of the retained earnings of the District of Columbia Water and Sewer Enterprise Fund; to the Committee on Governmental Affairs.

EC–1607. A communication from the Director of the Office of Personnel Management, transmitting, a draft of proposed legislation entitled "Federal Workforce Restructuring Act of 1993"; to the Committee on Governmental Affairs.

EC–1608. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "The Changing Face of the Federal Workforce: A Symposium on Diversity"; to the Committee on Governmental Affairs.

EC–1609. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "Transit Benefit Program Act of 1993"; to the Committee on Governmental Affairs.

EC–1610. A communication from the Executive Director of the District of Columbia Retirement Board, transmitting, pursuant to law, a report of financial disclosure statements for Board Members for calendar year 1992; to the Committee on Governmental Affairs.

EC–1611. A communication from the Acting Chief Judge, United States Claims Court, transmitting, pursuant to law, a report of a review panel relative to the claim of Spalding and Son, Inc.; to the Committee on the Judiciary.

EC–1612. A communication from the Assistant Attorney General, transmitting, a notice relative to the Freedom of Information Act; to the Committee on the Judiciary.

EC–1613. A communication from the Secretary of Education, transmitting, pursuant to law, a report of final regulations—School, College, and University Partnerships Program; to the Committee on Labor and Human Resources.

EC–1614. A communication from the Secretary of Education, transmitting, pursuant to law, a report of final regulations—National Institute on Disability and Rehabilitation Research; to the Committee on Labor and Human Resources.

EC–1615. A communication from the Secretary of Education, transmitting, pursuant to law, a report of final funding priorities—Program for Children with Severe Disabilities; to the Committee on Labor and Human Resources.

EC–1616. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final priority for Special Projects and Demonstrations for Providing Supported Employment Services to Individuals with the Most Severe Disabilities and Technical Assistance Projects; to the Committee on Labor and Human Resources.

EC–1617. A communication from the Secretary of Education, transmitting, pursuant to law, a report of final funding priorities—Secondary Education and Transitional Services for Youth with Disabilities Program; to the Committee on Labor and Human Resources.

EC–1618. A communication from the Secretary of Education, transmitting, pursuant to law, a report of final regulations—Training Program for Federal TRIO Programs, Upward Bound Program, and the Student Support Services Program; to the Committee on Labor and Human Resources.

EC–1619. A communication from the Secretary of Education, transmitting, pursuant to law, a report of final funding priorities—Services for Children with Deaf-Blindness Program; to the Committee on Labor and Human Resources.

EC–1620. A communication from the Secretary of Education, transmitting, pursuant to law, a report of final funding priorities—Early Education Program for Children with Disabilities; to the Committee on Labor and Human Resources.

EC–1621. A communication from the Comptroller General of the United States, transmitting, a report of the financial audit of the financial statements of the Pension Benefit Guaranty Corporation for 1991 and 1992; to the Committee on Labor and Human Resources.

EC–1622. A communication from the Acting Director of Communications (Legislative Affairs), Equal Employment Opportunity Commission, transmitting, pursuant to law, the annual report of the Office of General Counsel for fiscal year 1992; to the Committee on Labor and Human Resources.

EC–1623. A communication from the Assistant Comptroller General, General Accounting Office, transmitting, pursuant to law, notice of a delay relative to a report on the regulation of dietary supplements; to the Committee on Labor and Human Resources.

EC–1624. A communication from the Commissioner of the Office of Educational Research and Improvement, Department of Education, a report entitled "Dropout Rates in the United States: 1992"; to the Committee on Labor and Human Resources.

EC–1625. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Health, United States, 1992 and Healthy People 2000 Review"; to the Committee on Labor and Human Resources.

EC–1626. A communication from the President of the Capitol Historical Society, transmitting, pursuant to law, the annual report for the fiscal year ending January 31, 1993; to the Committee on Rules and Administration.

EC–1627. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the annual report for fiscal year 1992; to the Committee on Small Business.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-293. A concurrent resolution adopted by the House of Representatives of the State of Texas relative to the use of processed food stamps; to the Committee on Agriculture, Nutrition, and Forestry.

"HOUSE CONCURRENT RESOLUTION 127

"Whereas, Numismatics, the study or collection of currency, is a hobby with a long and distinguished history that is practiced by millions of individuals all over the world; and

"Whereas, By collecting and cataloging rare coins, tokens, paper money, and other related objects, these individuals are helping to preserve the symbols of economic exchange throughout the world, thus allowing future generations a glimpse into history; and

"Whereas, Like other collectors, numismatists are particularly interested in colorful, unique specimens that may be valued for their artistic merit as well as their historical significance; and

"Whereas, Food coupons, commonly referred to as "food stamps," distributed by the United States Department of Agriculture meet these criteria and, as a medium of exchange used to pay for goods or services rendered, fall into the general category of objects collected by numismatists; and

"Whereas, Under the terms of The Food Stamp Act of 1964, as amended, redeemed food stamps are remitted to the federal reserve, which destroys the cancelled coupons to prevent their further use; this Act specifies that food stamps may be issued only to households that have been certified as eligible and prohibits the disposal of cancelled coupons outside authorized channels, thus preventing numismatists from adding these specimens to their collections; and

"Whereas, At a time when millions of Americans are committing themselves to reducing waste and pollution by recycling and eliminating unnecessary paper and plastic products, this continuous cycle of creating and destroying paper food stamps seems to be unconscionably inefficient; by allowing collectors to purchase cancelled food coupons for a fraction of the face value, the government could reduce waste and, at the same time, create a source of revenue for the United States Department of Agriculture; and

"Whereas, This type of exchange would not be unprecedented, since current federal laws and federal regulations allow numismatists and other hobbyists to purchase U.S. Military Payment Certificates (MPC's) and ration coupons from the 1940's; like food stamps, MPC's were to be used only by authorized persons, in this case within the confines of U.S. military establishments, and were not intended for circulation among the general public, but the historical value of these certificates was soon recognized and they have become collectors' items; and

"Whereas, By clearly endorsing the used food coupons with the word "void," "used," or "cancelled," or by devising some other way to cancel coupons without destroying their artistic value, the United States Department of Agriculture could prevent fraudulent uses of these coupons while allowing legitimate hobbyists to enjoy them as part of their collections; and

"Whereas, At this time, several states are experimenting with a plastic debit card, similar to a credit card, that could eventually render the current paper food stamp system obsolete; and

"Whereas, By acting now to remove the restrictions against the collection of cancelled food stamps, Congress could create a huge market that would absorb the surplus coupons and simultaneously provide a new source of revenue; in doing so, elected officials would demonstrate dedication to streamlining government waste and would allow numismatists around the world an opportunity to add this unique form of American currency to their collections; now, therefore, be it

"Resolved, That the 73rd Legislature of the State of Texas, Regular Session, 1993, hereby memorialize the Congress of the United States to enact legislation to authorize the United States Department of Agriculture to sell processed, previously-redeemed, discontinued, and no-longer negotiable food stamps to the public for numismatic purposes; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, the president of the senate and speaker of the house of representatives of the United States Congress, and all members of the Texas delegation to the Congress, with the request that this resolution be entered in the CONGRESSIONAL RECORD as a memorial to the Congress of the United States."

POM-294. A concurrent resolution passed by the Legislature of the State of Texas relative to the use of processed food stamps; to the Committee on Agriculture, Nutrition, and Forestry:

"HOUSE CONCURRENT RESOLUTION 127

"Whereas, Numismatics, the study of collection of currency, is a hobby with a long and distinguished history that is practiced by millions of individuals all over the world; and

"Whereas, By collecting and cataloguing rare coins, tokens, paper money, and other related objects, these individuals are helping to preserve the symbols of economic exchange throughout the world, thus allowing future generations a glimpse into history; and

"Whereas, Like other collectors, numismatists are particularly interested in colorful, unique specimens that may be valued for their artistic merit as well as their historical significance; and

"Whereas, Food coupons, commonly referred to as "food stamps," distributed by the United States Department of Agriculture meet these criteria and, as a medium of exchange used to pay for goods or services rendered, fall into the general category of objects collected by numismatists; and

"Whereas, Under the terms of The Food Stamp Act of 1964, as amended, redeemed food stamps are remitted to the federal reserve, which destroys the cancelled coupons to prevent their further use; this Act specifies that food stamps may be issued only to households that have been certified as eligible and prohibits the disposal of cancelled coupons outside authorized channels, thus preventing numismatists from adding these specimens to their collections; and

"Whereas, At a time when millions of Americans are committing themselves to reducing waste and pollution by recycling and eliminating unnecessary paper and plastic products, this continuous cycle of creating and destroying paper food stamps seems to be unconscionably inefficient; by allowing collectors to purchase cancelled food coupons for a fraction of the face value, the government could reduce waste and, at the same time, create a source of revenue for the United States Department of Agriculture; and

"Whereas, This type of exchange would not be unprecedented, since current federal laws and federal regulations allow numismatists and other hobbyists to purchase U.S. Military Payment Certifications (MPC's) and ration coupons from the 1940's; like food stamps, MPC's were to be used only by authorized persons, in this case within the confines of U.S. military establishments, and were not intended for circulation among the general public, but the historical value of these certificates was soon recognized and they have become collectors' items; and

"Whereas, By clearly endorsing the used food coupons with the word "void, "used," or "cancelled," or by devising some other way to cancel coupons without destroying their artistic value, the United States Department of Agriculture could prevent fraudulent uses of these coupons while allowing legitimate hobbyists to enjoy them as part of their collections; and

"Whereas, At this time, several states are experimenting with a plastic debit card, similar to a credit card, that could eventually render the current paper food stamp system obsolete; and

"Whereas, By acting now to remove the restrictions against the collection of cancelled food stamps, Congress could create a huge market that would absorb the surplus coupons and simultaneously provide a new source of revenue; in doing so, elected officials would demonstrate dedication to streamlining government waste and would allow numismatists around the world an opportunity to add this unique form of American currency to their collections; now, therefore, be it

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Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, the president of the senate and speaker of the house of representatives of the United States Congress, and all members of the Texas delegation to the Congress, with the request that this resolution be entered in the CONGRESSIONAL RECORD as a memorial to the Congress of the United States."

POM-295. A resolution adopted by the Common Council of the City of Buffalo relative to the funding of the DARE program; to the Committee on Appropriations.

POM-296. A memorial adopted by the Senate and House of Representatives of the State of Washington relative to I Corps; to the Committee on Armed Services.

"HOUSE JOINT MEMORIAL 4021

"Whereas, It is the policy of the Washington State Legislature to recognize excellence in all fields of endeavor; and

"Whereas, Our military has exhibited the highest level of excellence in sacrificially protecting our state and nation from enemies of liberty for over two hundred years; and

"Whereas, All the citizens of Washington state deeply admire and appreciate the brave men and women in uniform who valiantly and proudly serve their country so well; and

"Whereas, I Corps has played a key role in defending liberty against oppression around

the world over the past seventy-five years with distinguished service; and

"Whereas, From the trenches of Europe to the jungles of Asia, the soldiers of I Corps have fought and died to secure the freedoms guaranteed us by the Constitution of the United States; and

"Whereas, January 15, 1993, marked the seventy-fifth anniversary of the Corps since it was created in Neufchateau, France during World War I; and

"Whereas, In each of the three wars of I Corps, the Corps entered when things were going badly and performed its mission with skill and determination and emerged victorious; and

"Whereas, In 1981, the Corps was brought back to full strength at Fort Lewis, Washington Where it presently plays an active and significant role in the Pacific Rim area; and

"Whereas, I Corps has participated in more campaigns than any other corps, is the most decorated corps in the Active Army, and is the only corps every to receive the United States Presidential Unit Citation; and

"Whereas, In a dramatically altered world order, I Corps has assumed a significant and strategic role in America's armed forces poised to strike world-wide to meet any contingency; and

"Whereas, the success of I Corps is a direct result of the professionalism, dedication, and motivation of its soldiers and the support of their families, friends, and communities; Now, therefore,

"Your Memorialists respectfully pray that all the men and women of I Corps both past and present be honored and saluted, and we reaffirm our appreciation for and commitment to those who serve in military uniform on our behalf. Be it

"Resolved, That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States and Commander-in-Chief; General Colin Powell, Chairman of the Joint Chiefs of Staff; LTG Carmen J. Cavezza, I Corps Commander; the President of the United States Senate; the Speaker of the House of Representatives; and each member of Congress from the State of Washington."

POM-297. A concurrent resolution adopted by the Senate and House of Representatives of the State of Michigan relative to salvage vehicle documentation; to the Committee on Commerce, Science and Transportation.

"HOUSE CONCURRENT RESOLUTION NO. 233

"Whereas, A salvage vehicle is an automobile that has been severely damaged in an accident and, according to the insurance company, is more expensive to repair than the car is worth. unfortunately, there are unscrupulous dealers throughout our nation who purchase salvage, or "totaled," vehicles at very low prices from insurance agencies, rebuild them, and resell them as undamaged used cars. Even though many states require words such as "salvaged" or "rebuilt" to appear on title documents, other states do not, and it is estimated that the practice of selling overpriced and possibly unsafe rebuilt salvage vehicles costs American consumers as much as $4 billion a year; and

"Whereas, The state of Michigan has an excellent program of salvage vehicle documentation. This program has recently received considerable attention and was featured on the nationally renowned television newscast, *60 Minutes.* Public Act 255 of 1988, amending Michigan's Salvage Title Law, sets forth provisions that would thwart those who transport salvage vehicles to states with no salvage title law to be retitled and resold; and

"Whereas, In our Great Lake State, dealers are required by law to give buyers written notice that a vehicle was once titled as salvage. In addition, the Michigan Department of State operates a special program to review Michigan title documents and notify unsuspecting used car purchasers all over the country when this review shows that the vehicles they purchased were once salvage. Moreover, Michigan law requires the licensing of all vehicle dealers. This program, if instituted nationwide, would circumvent auto theft, contribute to the safety of American motorists, restore the competitive position of true salvage vehicle recyclers and rebuilders, and have a positive effect on automobile insurance rates; now, therefore, be it

"Resolved by the House of Representatives (the Senate concurring), That we hereby urge the United States Congress to adopt a nationwide program of salvage vehicle documentation; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation."

POM-298. A concurrent resolution passed by the Legislature of the State of Texas relative to medical savings accounts; to the Committee on Finance.

"HOUSE CONCURRENT RESOLUTION NO. 145

"Whereas, Rapidly rising health care costs, which now consume 14 percent of the gross national product, threaten to destroy our nation's employment base and economic security; and

"Whereas, American workers have shown a genuine willingness to cooperate with business owners in efforts to confront the problems that are at the root of rising medical costs and health care spending; and

"Whereas, In recognition of the cooperative spirit that characterizes America's approach to the problem of health care, members of the 102d Congress have sponsored legislation that would create medical savings accounts; and

"Whereas, Built up by contributions from employees and employers, these medical savings accounts would allow complete freedom in choices of routine health care while offering protection against the costs of catastrophic illnesses; and

"Whereas, By giving American workers true control over their medical finances, administrative costs would be substantially reduced, and normal market incentives would apply to decisions in health care spending; now, therefore, be it

"Resolved, That the 73rd Legislature of the State of Texas hereby request the Congress of the United States to enact the appropriate changes in the Internal Revenue Code to allow employers to set up tax-free medical savings accounts that would enable consumers to control medical care spending; and, be it further

"Resolved, That medical savings accounts be included as a part of the national health care initiative being developed by the Congress; and, be it further

"Resolved, That the Texas secretary of state forward official copies of this resolution to the President of the United States, to the Speaker of the House of Representatives of the United States Congress, to the President of the Senate of the United States Congress, and to all members of the Texas delegation to the Congress, with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States.

POM-299. A resolution adopted by the Town of Pembroke, North Carolina, relative to the tobacco industry; to the Committee on Finance.

POM-300. A resolution adopted by the Ahoskie Chamber of Commerce relative to taxes on cigarettes; to the Committee on Finance.

POM-301. A resolution adopted by the House of Representatives of the State of Florida relative to Cuba and Haiti; to the Committee on Foreign Relations.

"HOUSE RESOLUTION NO. 2443

"Whereas, despite the persistent and continuing diplomatic efforts of the United States and other concerned member states of the United Nations to help bring about democracy in Cuba and Haiti, the repressive governments in those countries continue to deny their citizens the fundamental freedoms and basic human rights guaranteed under law in the United States and many other countries around the world and expressed in the Charter of the United Nations and in the Universal Declaration of Human Rights, and

"Whereas, the Congress has most recently expressed the concern of the citizens of this country for the sufferings of our neighbors living under the appalling conditions in Cuba and Haiti, which conditions are a direct result of such repression, by passing the Cuban Democracy Act of 1992 and by supporting the current embargo against Haiti imposed by the Organization of American States, and

"Whereas, the support of President Clinton was instrumental in the passage of the Cuban Democracy Act, and the President has also shown a willingness to meet with Haitian President Jean-Bertrand Aristide to explore opportunities to negotiate a settlement for the restoration of democracy in Haiti, and

"Whereas, the United Nations in recent years has determined that massive and systematic violations of human rights have constituted "threats to peace" under Article 39 of Chapter VII of its charter and has, accordingly, imposed international sanctions against such countries as the former Rhodesia, South Africa, Iraq, and the former Yugoslavia, and

"Whereas, the long-suffering citizens of Cuba and Haiti are no less deserving of international efforts on their behalf than those for whom the United States and other member states of the United Nations have already exerted themselves, now, therefore,

"Be it Resolved by the House of Representatives of the State of Florida: That the members of the Florida House of Representatives, on behalf of the citizens of Florida, consider the current, repressive government in Cuba and Haiti threats to international peace as a result of their extreme political intolerance, pervasive abuse of human rights, and appalling indifference to the continuing decline in living conditions within their respective countries. Be it further

Resolved, That the members of the Florida House of Representatives, on behalf of the citizens of Florida, urge the President of the United States and the Congress to do all in their power to alleviate the sufferings of the citizens of Cuba and Haiti, beginning with support for a mandatory international embargo against the repressive governments in those countries, under the auspices of Article 39 of Chapter VII of the Charter of the United Nations. Be it further

Resolved, That a copy of this resolution be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress."

POM–302. A memorial adopted by the Senate and House of Representatives of the State of Washington relative to Bosnia; to the Committee on Foreign Relations.

"HOUSE JOINT MEMORIAL 4005

"Whereas, The rape of women in Bosnia appears to be deliberate, massive, and systematic; and

"Whereas, A fact-finding team of the European Community estimated that thirty thousand to fifty thousand Muslim women had been raped and tortured since the fighting began last April; and

"Whereas, The team concluded that the mass rapes there were a strategy of war for purposes of "ethnic cleansing," and not just crimes of opportunity for individual soldiers; and

"Whereas, All Americans should speak out against the most sadistic violence, systematic torture, and murder haunting Europe since the Nazi campaigns; and

"Whereas, United States groups seeking action on Bosnia include the American Jewish Committee, the American Muslim Council, the Anti-Defamation League of B'nai B'rith, the American Task Force for Bosnia, the National Association of Arab Americans, and the Albanian American Civic League; Now, therefore,

Your Memorialists respectfully pray that the White House condemn the rape of women in Bosnia and the ethnic cleansing and create an international war crimes tribunal. Be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the Members of the United Nations, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM–303. A petition from the Susquehanna River Basin Commission relative to internal control requirements; to the Committee on Governmental Affairs.

POM–304. A resolution adopted by the Michigan House of Representatives relative to the desecration of the flag; to the Committee on the Judiciary.

"HOUSE RESOLUTION NO. 340

"Whereas. The 1989 decision by the United States Supreme Court to overturn a Texas case in which a protester had been convicted of burning the American flag has outraged the American people. In effect, this decision has made legal the burning or defiling of our country's most precious symbol. People from all parts of the country and virtually all backgrounds and party affiliations have condemned this decision; and

"Whereas. For more than 200 years, Old Glory has been a revered part of American life. It has been a source of inspiration in battles from Fort McHenry to Omaha Beach to Iwo Jima. In poem, song, and art, the Stars and Stripes has become as much a part of our culture and folklore as our history. Most recently, events in the Middle East have served once again to remind us of how precious the American flag is and to fill our hearts with pride as it was flown bravely by yet another generation of America's youth in a face-off with a tyrant. Indeed, it is impossible for patriotic American citizens to look upon the flag without remembering the valiant men and women whose courage, blood, and lives have been spent to keep our flag flying freely; and

"Whereas. Veterans' groups, expressing the sentiment of our people, have called for action to ban the desecration of the American flag. Indeed, to ignore the effect of this decision would be an affront to everyone who has been committed to the ideals of our nation in times of war and in times of peace; now, therefore, be it

Resolved by the House of Representatives. That the members of this legislative body hereby memorialize the United States Congress to pass an amendment to the United States Constitution to prohibit the desecration of the American flag; and be it further

"*Resolved*. That a copy of this resolution be transmitted to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Michigan congressional delegation."

POM–305. A resolution passed by the American Association of Law Libraries relative to the Information Access Enhancement Act; to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Environment and Public Works:

Jean C. Nelson, of Tennessee, to be an Assistant Administrator of the Environmental Protection Agency, vice E. Donald Elliott, resigned.

Lynn R. Goldman, of California, to be Assistant Administrator for Toxic Substances of the Environmental Protection Agency, vice Linda J. Fisher, resigned.

Elliott Pearson Laws, of Virginia, to be Assistant Administrator, Office of Solid Waste, of the Environmental Protection Agency, vice Don R. Clay, resigned.

Robert W. Perciasepe, of Maryland, to be an Assistant Administrator of the Environmental Protection Agency, vice LaJuana Sue Wilcher, resigned.

(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.)

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Doris Meissner, of Maryland, to be Commissioner of Immigration and Naturalization, vice Gene McNary, resigned.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

Gen. George A. Joulwan, U.S. Army, for reappointment to the grade of general while assigned to a position of importance and responsibility.

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 Mrs. HUTCHISON (for herself, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COVERDELL, Mr. DOLE, Mr. FAIRCLOTH, Mr. GRAMM, Mr. HATCH, Mr. HELMS, Mrs. KASSEBAUM, Mr. KOHL, Mr. LIEBERMAN, Mr. LOTT, Mr. MCCAIN, Mr. NICKLES, Mr. PRESSLER, Mr. SHELBY, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, and Mr. SMITH):

S. 1524. A bill to repeal the retroactive application of the income, estate, and gift tax rates made by the Budget Reconciliation Act and reduce administrative expenses for agencies by $3,000,000,000 for each of the fiscal years 1994, 1995, and 1996; to the Committee on Finance.

By Mr. GLENN:

S. 1525. A bill to improve the quantity and quality of foreign language instruction offered in our Nation's elementary and secondary schools; to the Committee on Labor and Human Resources.

By Mr. INOUYE:

S. 1526. A bill to improve the management of Indian fish and wildlife and gathering resources, and for other purposes; to the Committee on Indian Affairs.

By Mr. RIEGLE (for himself, Mr. D'AMATO, Mr. BRYAN, Mr. KERRY, Mr. DOMENICI, Mr. SASSER, Mr. SHELBY, Mr. CAMPBELL, Mrs. BOXER, Mrs. BOXER, Mrs. MURRAY, and Mr. SARBANES):

S. 1527. A bill to provide for fair trade in financial services; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SIMON:

S. 1528. A bill to amend the National Labor Relations Act to set a time limit for labor rulings on discharge complaints, and for other purposes; to the Committee on Labor and Human Resources.

S. 1529. A bill to amend the National Labor Relations Act to permit the selection of an employee labor organization through the signing of a labor organization membership card by a majority of employees and a subsequent election, and for other purposes; to the Committee on Labor and Human Resources.

S. 1530. A bill to amend the National Labor Relations Act to require Federal contracts debarment for persons who violate labor relations provisions, and for other purposes; to the Committee on Labor and Human Resources.

S. 1531. A bill to amend the National Labor Relations Act to impose a penalty for encouraging others to violate the provisions of the National Labor Relations Act, and for other purposes; to the Committee on Labor and Human Resources.

S. 1532. A bill to amend the National Labor Relations Act to provide equal time to labor organizations to present information relating to labor organizations, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LOTT:

S. 1533. A bill to improve access to health insurance and contain health care costs, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself and Mr. MURKOWSKI):

S. 1534. A bill to amend title 38, United States Code, to repeal a requirement that

the Under Secretary for Health in the Department of Veterans Affairs be a doctor of medicine; considered and passed.

By Mr. GLENN (for himself, Mr. STEVENS, and Mr. PRYOR):

S. 1535. A bill to amend title 5, United States Code, to eliminate narrow restrictions on employee training, to provide a temporary voluntary separation incentive, and for other purposes; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 1536. A bill to amend the Federal Property and Administrative Services Act to provide an opportunity for former owners to repurchase real property to be disposed by the United States; to the Committee on Governmental Affairs.

By Mr. ROCKEFELLER (for himself and Mr. DECONCINI):

S. 1537. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980; to the Committee on Commerce, Science, and Transportation.

By Mr. DASCHLE:

S. 1538. A bill to make a technical correction with respect to the temporary duty suspension for clomiphene citrate; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 150. A resolution to authorize representation of Members of the Senate in the case of Douglas R. Page v. Robert Dole, et al; considered and agreed to.

S. Res. 151. A resolution to authorize the production of records by the Committee on Foreign Relations; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON (for herself, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COVERDELL, Mr. DOLE, Mr. FAIRCLOTH, Mr. GRAMM, Mr. HATCH, Mr. HELMS, Mrs. KASSEBAUM, Mr. KOHL, Mr. LIEBERMAN, Mr. LOTT, Mr. MCCAIN, Mr. NICKLES, Mr. PRESSLER, Mr. SHELBY, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, and Mr. SMITH):

S. 1524. A bill to repeal the retroactive application of the income, estate, and gift tax rates made by the budget reconciliation act and reduce administrative expenses for agencies by $3,000,000,000 for each of the fiscal years 1994, 1995, and 1996; to the Committee on Finance.

REPEAL OF RETROACTIVE TAXES

Mrs. HUTCHISON. Mr. President, the pro football season began a few weeks ago. Before the season, NFL owners sat down and decided the rules by which this season's games will be played. As a result, everyone in the NFL understands the field will be 100 yards long, that there will be four quarters of 15 minutes each in a game, how penalties will be called, and so on.

Several weeks ago, the NFL kicked off its new season, and perhaps the most exciting game of the inaugural weekend was the Washington Redskins' thrilling—and I might add, very lucky—victory over the defending Super Bowl champion Dallas Cowboys. I know Redskins fans would like to change a lot of things about this season, but imagine how Redskins players, coaches, and fans would react if the rules were changed today, and their win over the Cowboys was nullified by a retroactive rules change.

Of course, NFL coaches will never let this happen, because the players would not know if they had to run 100 yards or 125 yards for a touchdown.

The Congress of the United States—2 months ago—changed the playing field for individuals and small businesses, and in a much more important context. I'm referring, of course, to the retroactive provisions of the tax bill, which go back to January in order to reach into voters' wallets.

Mr. President, today I rise to introduce legislation to right one of the most egregiously unfair acts ever committed against American taxpayers. I seek repeal of the retroactive provisions of the recently enacted tax bill.

In my view, we ought to repeal all of the $250 billion in new taxes approved last month:

Higher taxes on Social Security, that strike at senior citizens' financial security—218,000 seniors in my State will pay an additional $196 million;

Higher energy taxes, that will increase the costs of practically everything we buy;

New taxes on small businesses, that will slow the sector of our economy that creates more than one-half of all new jobs and is the engine of economic growth;

New taxes on corporate and individual income, that penalize productivity.

But this tax bill also had a new twist. Instead of just reaching forward with new taxes, this law reached back to impose taxes retroactively—even on dead people; that is, people who died between January 1 and August 10.

The legislation Senator SHELBY and I offer this morning will make a modest start in the other direction—the right direction. Our bill couples the repeal of an egregiously unfair new tax with a modest cut in Federal overhead spending.

The spending cuts we propose will not harm national security, nor will they subtract one penny from Social Security, nor from veterans benefits or any payments to people in need. They will not cut needed Federal investment in highways, research, nor in any programs that support job creation now and in the future.

The spending cuts in our legislation will not reduce Federal support for agriculture, nor for small business creation, nor for the export of American goods. These cuts will not reduce Medicare or Medicaid payments. They will not slow delivery of the U.S. mail.

In short, Mr. President, the spending cuts we propose will not harm the American people. They will, however, slash Federal agencies' overhead and administrative spending by about $10 billion over the next 3 years—not by cutting muscle and fiber, but by trimming away some of the fat.

Furthermore, our legislation gives to individual agency heads the power to review their own operations and to decide whether to cut travel budgets, or equipments leases, or printing, or consultants, or other administrative items in order to meet their targets.

Is this magic? No, this is simply learning from the private sector. When a business or a corporation—or a household—encounters financial adversity, the first thing it does is cut overhead. Priorities are set. That's all our legislation would do—cut Federal Government overhead, in order to repeal unfair new taxes.

Mr. President, I submit to you and to my colleagues that retroactive taxes on the American people is justice turned on its head.

When I was home during August and September, I visited with thousands of my constituents at dozens of stops across Texas. I heard from working people and their families, from Social Security retirees, from small businesses, that they are working just as hard as they can to support themselves.

My constituents told me they just cannot afford to send another penny to Washington—especially to subsidize a bloated Federal Government.

Over and over again, my constituents told me the same thing. Many struggle every day to put food on their tables, to put a roof over their heads, to clothe and care for their children, to pay for the gasoline they must have to get to work. Every day, they try to save for college and their retirements. And as a result of the action we took on the floor of this body on August 10, they are, to quote Tennessee Ernie Ford, "another day older and deeper in debt."

Every day, men and women who own small businesses work to meet a payroll, to compete in the marketplace, to build a future for their enterprises, and—hopefully—earn a profit and create new jobs for the people who are struggling to make ends meet.

But with one stroke of the congressional pen, all of their investing and planning and belt-tightening this year is for nothing. Their budgets are exploded. They now face balloon tax payments for the rest of this year that will break the bubble of our feeble economic recovery.

Nothing in our legislation would cut the higher tax bills, Mr. President,

that are on the horizon for next year. I regret that we cannot cut those, too, because we cannot tax our country into prosperity. But early action on our legislation will protect about $10 billion from the retroactive confiscation by the Federal Government and enable small businesses to stabilize for this year and plan for the new taxes that will be due for 1994.

Every day our newspapers are filled with reports of businesses and corporations that are reducing their expenses, streamlining operations, eliminating waste, and prioritizing their budgets. Government can and must do the same.

Congress has been guilty of taxing too much, spending too much. By passing this legislation, we can in one stroke cut wasteful Government spending, give a boost to the economy, and most important, Mr. President, keep faith with the American people that we will not change the rules in the middle of the game.

Mr. President, I introduce a bill to repeal the retroactive tax increases of the Budget Reconciliation Act and to cut Government administrative expenses and ask that it be appropriately referred.

Mr. President, I would like to name the following Senators as original cosponsors of the bill: Senators BROWN, BURNS, COATS, COVERDELL, DOLE, FAIRCLOTH, GRAMM, HATCH, HELMS, KASSEBAUM, KOHL, LIEBERMAN, LOTT, MCCAIN, NICKLES, PRESSLER, SHELBY, SPECTER, STEVENS, THURMOND, and WALLOP.

Mr. President, I ask unanimous consent that a letter from the National Taxpayers Union in support of repealing the retroactive tax rate be entered into the RECORD.

I also would like to thank Senator BIDEN of Delaware for yielding the floor to me, and Senator HELMS from North Carolina as well. I yield the floor. Mr. President, thank you.

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

NATIONAL TAXPAYERS UNION,
Washington, DC, October 5, 1993.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HUTCHISON: The National Taxpayers Union (NTU), America's largest taxpayer organization, is pleased to endorse your proposed legislation to repeal the retroactive income, estate, and gift tax increases which were enacted as part of the 1993 Budget Reconciliation Act.

We commend you and Senator Richard Shelby, your lead cosponsor, for taking the initiative to repeal the unfair and, in some cases, unconstitutional tax rate increases that have been applied retroactively. To enact an effective date retroactive to January 1, 1993, before President Clinton and the 103rd Congress took office, is obviously wrong. Taxpayers are outraged and your proposed repeal will certainly be well received across America.

We also appreciate your thorough effort to offset the estimated revenue loss which would result from repeal by reducing federal administrative expenses by $10.5 billion. As you know, increased taxes have never provided deficit reduction. That will only be achieved by additional restraint in the growth of federal spending.

Again, the National Taxpayers Union is pleased to endorse your proposed legislation and to urge your Senate colleagues to join with you in working for its passage.

Sincerely,

AL CORS, Jr.,
Director, Government Relations.

Mr. SHELBY. Mr. President, I am proud to join my colleague from Texas today in seeking the repeal of the retroactive increase on the individual income, estate, and gift taxes.

There was a lot of discussion in the conference report over the constitutionality of these provisions. Mr. President, this bill that the Senator from Texas [Mrs. HUTCHISON] has just introduced is not about what is or is not constitutional. This bill is about what is right.

The American people were outraged, and I think rightly so, to discover that the administration and the Congress had squeaked out a few extra billion dollars by rolling back the effective dates on their new tax increases. This was done all in the name of deficit reduction. I am all for deficit reduction, Mr. President, but there are more responsible, I believe, and right ways to achieve it.

This bill that the Senator from Texas introduced is budget neutral. It still achieves the deficit reduction targets called for in the budget. However, Mr. President, it relies on cuts in Government overhead costs instead of backdoor taxes to achieve them.

Mr. President, this bill is aimed simply at repealing the retroactive increases on the individual income, estate and gift taxes. By doing this, we allow taxpayers time to order their finances and plan their budgets to accommodate their new tax obligations under this legislation.

Mr. President, removing the retroactive tax increases will help small businesses and self-employed taxpayers who are hit hard by the Budget Reconciliation Act of 1993. Pushing the effective date forward to August 10, 1993 allows these taxpayers to use these revenues as they had previously planned—on investment, employee salaries, and new equipment.

Finally, it is simply absurd—medieval—to levy taxes on deceased Americans. The confusion and complexity of recalculating the tax liability of these individual's estates will be particularly onerous—not to mention pairful for many families, especially small business.

Mr. President, this legislation is less about taxes than it is about principles. And it is critical that we define what those principles are for the American people. Fairness—our country rests on fairness, Mr. President, and retroactivity is unfair. That is why these tax increases are wrong.

Mr. President, while all Members of this body did not agree on the President's budget as a whole, I think we all did agree on one thing—retroactive taxes are a fiscal and political mistake. I ask my colleagues to join with the Senator from Texas in pushing this legislation.

Mr. COVERDELL. Mr. President, I rise today to join Senators HUTCHISON and SHELBY in introducing a bill which seeks to repeal the retroactive tax increases contained in the recently passed Omnibus Budget Reconciliation Act of 1993, and which cuts Government administrative spending by a corresponding amount. It is no secret that I opposed the 1993 retroactive tax increases. Earlier this summer, I introduced a constitutional amendment that would prohibit the imposition of retroactive tax increases in the future. I also think the 1993 retroactive tax increases must be repealed, and that is why I strongly support this bill and urge my colleagues to do the same. In further support of this bill, I submit for the RECORD an op-ed piece regarding retroactive taxes which appeared in the Washington Times on September 7, 1993, and I ask unanimous consent that this column be placed in the RECORD immediately following my statement.

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

[From the Washington Times, Sept. 7, 1993]

TO DRIVE A STAKE THROUGH RETROACTIVITY

(By Paul Coverdell)

Vice President Al Gore sealed the passage of the Clinton tax plan with a bang of the gavel in the Senate chambers last month. But if President Clinton and Mr. Gore expected the debate over the fairness of the Clinton plan to end with their narrow victory, they were sorely mistaken.

In fact, voter anger and frustration seem to be growing. A Washington Post-ABC News poll released Aug. 10, some four days after the plan's passage in the Senate, showed a majority of Americans, who once supported the plan, now oppose the Clinton tax package.

Why is the frustration growing? Why are talk shows and news reports continuing to focus so much attention on a plan that narrowly passed both Houses of Congress more than two week ago? The answer can be found in one phrase—retroactive taxes. Americans are continuing to register their disapproval of a plan that not only raises taxes in the future, but also reaches back some nine months to extract extra taxes on wages and income already earned.

The retroactive tax is wrong. It is bad policy, and it is a reprehensive action on the part of the government.

Therefore, as a result of this action, I have proposed a constitutional amendment banning the U.S. government from imposing tax increases retroactively. The amendment has garnered the support of my freshman Republican colleagues, and a total of 19 senators.

There are two similar measures pending in the House of Representatives, with more than 200 cosponsors.

I do not take lightly amending the U.S. Constitution, but the notion of retroactive

taxation cuts to the rotten core of a government that can't live within the means and must change the rules of millions of Americans in the middle of the road.

Mr. Clinton doesn't just tax retroactively in his own term. He goes back to before he was even sworn in as president or before any member of Congress—the very Congress that approved the tax plan—was seated and sworn to uphold the Constitution.

The Clinton administration realizes it has created a controversy. The White House spin doctors have gone out of their way to produce lists they say bolster the cause for a retroactive tax increase.

But, in their rush to show retroactive taxation has been done before, they continue to miss the point. Retroactive taxes are wrong, no matter how many times they have been enacted under a Democratic or a Republican administration. The American people shouted in the '92 elections that they wanted Washington to change the way it does business. If we use congressional past actions as justification for the future, we betray the mandate of the '92 elections.

One of my favorite lists was put out by the U.S. Treasury Department. Its argument was that retroactive taxes had been imposed 13 times in the past. Not surprisingly, 12 of the 13 items listed occurred under Democratic administrations, and none imposed the tax in a former administration as Mr. Clinton's retroactive plan does.

Some have pointed out that, in addition to the retroactive tax increases listed in the Treasury document, four tax bills enacted under President Reagan took effect retroactively. These tax proponents fail to point out that these bills included no retroactive rate increases, only tax law changes that were often ameliorated by generous transition rules.

A second front for those in favor of the retroactive tax is to cite a handful of court cases that appear—however ambiguously—to have upheld the practice in the past. Again, no court case, however, has focused on a tax increase that became effective during a previous administration.

I believe this Congress should make it clear, once and for all, that the American people will not put up with this kind of government tyranny.

This country was founded on the fundamental principle that its citizens should not be subject to taxation without representation. In a recent article in the Heritage Foundation's Policy Review, John G. West Jr. points out that Thomas Jefferson believed that low taxes and frugal government are the most basic tenets of civil liberty. The article quotes a letter written by Jefferson to Samuel Kercheval in 1816, in which Jefferson recognized that the debate involved a choice "between economy and liberty, or profusion and servitude. If we run into such debts, that we must be taxed in our mead and in our drink, in our necessaries and our comforts, in our labors and our amusements, for our callings and our creeds, as the people of England are, our people, like them, must come to labor 16 hours in the 24, give the earnings of 15 of these to the government for their debts and daily expenses; and the 16th being insufficient to afford us bread."

It was clear to Jefferson that the only way to preserve freedom was to protect its citizens from oppressive taxation. And I believe he would agree that the retroactive imposition of massive taxes is the ultimate slap in the face to the pursuit of liberty, despite the Democrats' defense that the retroactivity "only affects the rich." More than 1.25 million small businesses nationwide that file as individuals will take a direct hit by these retroactive taxes. In the long run, the tax increase will affect everyone, because of its effect on job creation.

Jefferson also recognized that once the protection, for any group, from oppressive taxation is lost, the battle for freedom is over. Toward that end, Mr. West again notes that Jefferson wrote:

"A departure from principle in one instance becomes a precedent for a second; that second for a third; and so on, till the bulk of the society is reduced to be mere automatons of misery, and to have no sensibilities left but for sinning and suffering."

While the U.S. Supreme Court has been less than clear in its holdings on the constitutionality of retroactive taxation, one can only hope that the Clinton tax bill will be ruled unconstitutional under current law by a sensible judge. But I intend to continue to seek support for the constitutional amendment I have introduced to ensure this very basic freedom for the American people.

The voters are right to be upset. A retroactive tax is wrong.

Mr. NICKLES. As best we can tell, most Americans oppose retroactive laws of every sort, but retroactive tax increases are especially detested. All retroactive laws offend the American sense of fair play; they change the rules after the game has begun—but retroactive tax increases add insult to injury by levying a financial penalty on those who played the game honestly and fairly under the former rules.

That is why, today, I join my colleague from Texas, [Mrs. HUTCHISON] in introducing legislation to repeal the retroactive effective date of the increase in income, estate, and gift tax rates imposed by the Omnibus Reconciliation Act of 1993. It is also my intention to introduce a rules change which will prevent the Senate from considering retroactive taxes; unless waived by three-fifths of the body. This will prevent future abuses of the use of retroactive taxation.

Senators SHELBY and HUTCHISON will join me in introducing this legislation. This proposal has been supported by the National Taxpayers Union, the Tax Limitation Committee, the Association of Concerned Taxpayers, and Citizens for a Sound Economy.

When the tax bill was signed by the President on August 10, 1993, it actually rewrote tax rates for the past 8 months. This law changes the rules of the road more than halfway through the trip. I think this is wrong.

Retroactive taxes are unfair and set a dangerous precedent. They take money out of the pockets of businesses and individuals that are expanding and creating jobs. These are taxes based on earnings made even before President Clinton was sworn into office.

Retroactive taxes further erode the little trust people have in Federal Government. If the Government can impose retroactive taxes on the rich today, it can place retroactive taxes on other taxpayers tomorrow.

President Clinton's tax package increases taxes $2 for every $1 in spending cuts. Many of the tax increases are retroactive to January 1, 1993, while 80 percent of the spending cuts are scheduled to occur in 1997 and 1998—after the next Presidential election.

We must undo the wrong which has been done. And we must also make sure that Congress cannot so easily do it again. I will be introducing legislation which compliments Senator HUTCHISON's proposal. This legislation takes a prospective view of this unfair practice, by changing the Standing Rules of the Senate to prohibit the consideration of any retroactive tax increases unless a three-fifths supermajority waive the prohibition by rollcall vote.

To retroactively tax is to betray the trust of the people. Thomas Jefferson, in his first inaugural address said, "* * * a wise and frugal government which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government. * * *" Mr. President, I submit that the Government's action to tax income retroactively is tantamount to taking "from the mouth of labor the bread it has earned." This is not right and should not be allowed to occur.

I encourage my colleagues in the Senate to support these two pieces of legislation, in order to return some sense of fairness and trust to the U.S. taxpayer.

Mr. STEVENS. Mr. President, I am pleased to cosponsor the legislation introduced by Senator HUTCHISON. This legislation would repeal the retroactive increase in income, estate, and gift tax rates included in the Omnibus Budget Reconciliation Act of 1993 [OBRA], also known as the tax bill.

This legislation is necessary to protect the American taxpayer from unfair tax increases. The administration's increases in the income, estate, and gift taxes retroactively increase taxes to before President Clinton took office.

American taxpayers have the right to know how much their Government will tax their earnings. This is not a temporary wartime surtax or restriction on a tax credit or deduction. The administration's actions increased tax rates on individuals for income they earned or gifts they received over the past 8 months.

Taxing individuals and corporations on financial transactions made under laws previously enacted—retroactive taxes—is inequitable. Changing the law retroactively makes sound investment decisions turn sour. Even the draft constitution of Russia prohibits retroactive taxes.

Under the administration's recently passed tax bill, Bob Persons, a restaurant owner from Girdwood, AK, and Tennys Owens, an art gallery owner

from Anchorage, AK, will find that they owe Uncle Sam additional taxes at the end of this year—taxes they had no way to know they would be expected to pay. These business owners used the money they would have set aside for taxes to build sales, to hire new people. Now, they have to go in debt to pay retroactive taxes. This is a serious problem for Bob and Tennys, for thousands of other Alaskans, and for millions of Americans who are going to have to go into debt to pay Uncle Sam.

Especially devious, and in my judgment, unconstitutional, is the tax increase on the estates of individuals who died after January 1, 1993. Their estates will have to pay higher taxes even though the tax rate increase was not part of the law on the date the deceased passed away. This is the first time in the 77-year history of the estate tax that the rates have been increased retroactively.

Approximately 80 percent of businesses in this country pay income taxes as individuals—they are the sole proprietors, partnerships, and small businesses in neighborhoods from Barrow, AK to Key West, FL. By requiring them to pay retroactive taxes, taxes they did not, and could not, plan for, these businesses are going to have to devote resources that have already been invested in hiring new employees, or purchasing new plants and equipment to pay back taxes. This will stifle economic activity. It will not boost it.

Earlier this session, I cosponsored legislation to amend the Constitution, Senate Joint Resolution 127, to prohibit retroactive tax increases. Adoption of that resolution is essential to prevent what happened in the recent tax bill from ever happening to the American taxpayer again. I believe the taxpayers in my State of Alaska understand this. They work hard for their money. They plan and save to increase their income, to send their children to college, and to eventually retire. Retroactive tax increases hurt these people the most. They are unfair, and should not be permitted.

I urge the Senate to support the legislation introduced today to repeal the retroactive increase in income, estate, and gift tax rates.

By Mr. GLENN:

S. 1525. A bill to improve the quantity and quality of foreign language instruction offered in our Nation's elementary and secondary schools: to the Committee on Labor and Human Resources.

FOREIGN LANGUAGE ASSISTANCE

● Mr. GLENN. Mr. President, I rise today to introduce the Foreign Language Assistance Act of 1993, a bill that will encourage and assist elementary and secondary schools to improve and expand instruction in one of our Nation's critical skills: the ability to speak and comprehend foreign languages and to understand foreign cultures. The world has changed dramatically since Congress enacted the Foreign Language Assistance Act of 1988. New nations, alliances, and trading partners have emerged, and our political and economic relationships with foreign countries and companies have become more complex and diverse than ever. Our country's future, to a large extent, hinges on our capacity for cooperation and competition on the world scene. In this environment of increasing interdependence, our schools can no longer afford to produce largely insular students with little or no proficiency in foreign languages and with only scant knowledge of foreign societies, economies and geography. Critical to our ability to compete successfully in the global economy and to function effectively in international affairs is our ability to communicate with and understand people from all over the world.

I would like to focus on the importance of foreign language proficiency and international awareness to our competitiveness in the world marketplace. I am certainly not the first to do so: since at least 1979, when the President's Commission on Foreign Languages and International Studies reported its findings, national commissions, associations and other groups and experts have advocated foreign language competence as an effective tool in conducting international trade. A 1989 National Governors' Association report found that our country was ill-prepared to engage in international trade because of our lack of understanding of the languages, cultures, and geographic characteristics of our competitors. The report asked: "How are we to sell our products in a global economy when we neglect to learn the languages of our customers? How are we to open overseas markets when other cultures are only dimly understood?" President Clinton echoed the NGA's concern in his address to the National Education Association on July 5 of this year:

> The new global economy is based on interacting and doing business with people all over the world, understanding their economies and their languages * * * We need to know more about foreign languages than just how to order in a restaurant. Foreign languages in this era aren't simply a sign of refinement; they are a survival tool for America in the global economy.

The Department of Education, earlier this year, added foreign languages to the core subjects listed in National Education Goal No. 3. The third goal now reads: "By the year 2000 all students will leave grades 4, 8, and 12 having demonstrated competence over challenging subject matter including English, mathematics, science, foreign languages, civics and government, arts, history and geography * * *." The inclusion of foreign languages in this goal reflects not only the value of foreign language proficiency but also the importance of beginning foreign language study at an early age—in elementary school, and continuing those studies long enough, at least through high school—to acquire a meaningful level of competency. Scientific research of the last 10 years supports what many teachers and parents have already observed, that younger children learn foreign languages much more easily than do older students. The research attributes this to a critical restructuring of the brain that takes place in children between the ages of 4 and 10. Most American students who take a foreign language, however, begin studying the language in 9th grade, age 14, and, most commonly, study it for only 2 years. To obtain higher levels of proficiency, of course, requires much longer sequences of study and a consistent, cumulative acquisition of skills.

Currently, very few students in the United States leave high schools, let alone the earlier grades, with any degree of functional competence in a foreign language. In fact, according to 1990–91 surveys conducted by the American Council on the Teaching of Foreign Languages and the Joint National Committee for Languages, less than 5 percent of elementary school students in this country receive any foreign language instruction at all, and only 10–20 percent of students are studying foreign languages in middle school. Approximately 38 percent of students take foreign language courses in high school, and less than 20 percent of those students go beyond the second level of study. There are still areas of the country where foreign language instruction is not even available at the high school level. Only 5 percent of U.S. college graduates are fluent in any language other than English.

Our economic competitors, on the other hand, regularly introduce their students to foreign languages at an early age and usually require a long sequence of foreign language study for graduation from secondary school. In 13 of the 15 developed countries surveyed by the National Foreign Language Center in January 1993, foreign language study is compulsory beginning at ages 8 to 11. In many of these countries, students may choose an additional foreign language at age 13 just before the age most students in the United States begin study of a first foreign language. In Germany, for example, all students, regardless of ability or classification, are required to take a foreign language from grade 5 until they leave school. The European Community will require fluency in two foreign languages for high school graduates by the year 2000. In Japan, nearly all students in grades 7 to 9 are required to study English for 3 years, and English is a required core subject for

students in both academic and vocational programs in grades 10 to 12. In fact, the United States is virtually alone in the world in delaying foreign language study until high school and concentrating its energies in 2-year programs. Furthermore, in the United States, instruction is seldom offered in major languages such as Japanese, Chinese, Russian, and Arabic, which take at least 4 to 6 years of study to gain competence.

I am offering my bill as an amendment to the Elementary and Secondary Education Act. The bill addresses the major problems affecting elementary and secondary foreign language education today and brings the Foreign Language Assistance Act of 1988 up to date and in line with the National Education Goals. Problems addressed in the bill include: First, the need to provide articulated sequences of foreign language study beginning in elementary school, with the goal of producing students proficient in one or more foreign languages; second, the need to recruit and train foreign language teachers at all levels of elementary and secondary education, with the goal of alleviating the severe shortage of foreign language teachers reported by many States; and third, the need to evaluate and study effective methods of teaching and learning foreign languages. The legislation authorizes $75 million in Federal matching grants with the Federal share decreasing from 90 percent to 40 percent over 5 years as well as bonus grants to States with exemplary foreign language programs.

I have long been an enthusiastic supporter of the Eisenhower Mathematics and Science Education Program, and I am pleased that the program has received substantial funding over the years as a critical skill under the Elementary and Secondary Education Act. Certainly the advancement of knowledge in mathematics and science is crucial to our technological and economic future—and the earlier we can instill in our children an awareness of and excitement for learning those subjects, the better. Our future, however, will not be confined to what we learn or sell within our own borders; it will be closely intertwined with developments in the rest of the world. Thus, there can be no doubt that a knowledge of the world and the ability to deal with people from other countries in their own languages are critical skills, too, deserving of Federal support as comprehensive as that provided in the Eisenhower legislation—for instructional programs, teacher recruitment and training, and research and evaluation. Foreign language education is key to opening up possibilities for the future and to maximizing our advancements in mathematics, science and other fields. Global literacy is increasingly becoming a prerequisite for success in a rapidly changing, interdependent world.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD following my remarks.

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

S. 1525

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

SECTION 1. FOREIGN LANGUAGE ASSISTANCE.

Part B of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3001 et seq.) is amended to read as follows:

"SEC. 2101. SHORT TITLE.

"This part may be cited as the 'Foreign Language Assistance Act of 1993'.

"SEC. 2102. FINDINGS.

"The Congress finds that—

"(1) foreign language proficiency is key to our Nation's international economic competitiveness, security interests and diplomatic effectiveness;

"(2) the United States lags behind other developed countries in the opportunities the United States offers elementary and secondary school students to study and become proficient in foreign languages;

"(3) more teachers must be trained for foreign language instruction in our Nation's elementary and secondary schools, and those teachers must have expanded opportunities for continued improvement of their skills;

"(4) students with proficiency in languages other than English should be viewed as valuable second language resources for other students; and

"(5) a strong Federal commitment to the purpose of this part is necessary.

"SEC. 2103. PURPOSE.

"It is the purpose of this part to improve the quantity and quality of foreign language instruction offered in our Nation's elementary and secondary schools.

"SEC. 2104. PROGRAM AUTHORIZED.

"(a) AUTHORITY.—

"(1) GRANTS FROM THE SECRETARY.—In any fiscal year in which the appropriations for this part equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part, to award grants to States from allocations under section 2105 to pay the Federal share of the costs of the activities described in section 2107.

"(2) STATE GRANT PROGRAM.—In any fiscal year in which the appropriations for this part do not equal or exceed $50,000,000, the Secretary is authorized to make grants, in accordance with the provisions of this part, to State educational agencies, local educational agencies, consortia of local educational agencies, or consortia of local educational agencies and institutions of higher education, to pay the Federal share of the cost of activities described in section 2107.

"(b) SUPPLEMENT NOT SUPPLANT.—Funds provided under this part shall be used to supplement and not supplant non-Federal funds made available for the activities described in section 2107.

"(c) DURATION.—Grants or contracts awarded under this part shall be awarded for a period of not longer than 5 years.

"SEC. 2105. ALLOCATION OF FUNDS.

"(a) ALLOCATION.—From the amount appropriated under section 2113 for any fiscal year, the Secretary shall reserve—

"(1) not more than ½ of 1 percent for allocation among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Republic of Palau (until such time as the Compact of Free Association is ratified) according to their respective needs for assistance under this part;

"(2) not more than ½ of 1 percent for programs for Native American students served by schools funded by the Secretary of the Interior if such programs are consistent with the purpose of this part;

"(3) 10 percent for national programs described in section 2108(a);

"(4) 5 percent for evaluation and research described in section 2108(b); and

"(5) in the case of a fiscal year in which appropriations for this part equal or exceed $50,000,000, 10 percent for bonus grants described in section 2108(c).

"(b) FORMULA.—In any fiscal year in which the appropriations for this part equal or exceed $50,000,000, the remainder of the amount so appropriated (after meeting the requirements of subsection (a)) shall be allocated among the States as follows:

"(1) ½ of such remainder shall be allocated among the States by allocating to each State an amount which bears the same ratio to ½ of such remainder as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States; and

"(2) ½ of such remainder shall be allocated among the States according to each State's share of allocations under chapter 1 of title I for the preceding fiscal year,

except that no State shall receive less than ¼ of 1 percent of such remainder.

"(c) SPECIAL RULE.—The provisions of Public Law 95–134 shall not apply to assistance provided pursuant to paragraph (1) of subsection (a).

"SEC. 2106. IN-STATE APPORTIONMENT.

"(a) FUNDING ABOVE $50,000,000.—In any fiscal year in which appropriations for this part equal or exceed $50,000,000, each State receiving a grant under this part shall distribute not less than 95 percent of such grant funds so that—

"(1) 50 percent of such funds are distributed to local educational agencies within the State for instructional programs described in paragraph (1) of section 2107; and

"(2) 50 percent of such funds are distributed to local educational agencies within the State for teacher development and recruitment activities described in paragraph (2) of section 2107.

"(b) FUNDING BELOW $50,000,000.—In any fiscal year in which appropriations for this part do not equal or exceed $50,000,000, the Secretary shall award grants to State educational agencies, local educational agencies, consortia of local educational agencies, or consortia of local educational agencies and institutions of higher education, so that—

"(1) 50 percent of the funds all such entities in a State receive shall be used for instructional programs described in paragraph (1) of section 2107; and

"(2) 50 percent of the funds all such entities in a State receive shall be used for teacher development and recruitment activities described in paragraph (2) of section 2107.

"SEC. 2107. AUTHORIZED ACTIVITIES.

"A State, State educational agency, local educational agency, consortium of local educational agencies, or consortium of a local educational agency and an institution of higher education may use payments received under this part for the following activities:

"(1) INSTRUCTIONAL PROGRAMS.—Activities which establish, improve or expand elementary or secondary school foreign language programs, including—

"(A) elementary school immersion programs with articulation at the secondary school level;

"(B) content-based foreign language instruction; and

"(C) intensive summer foreign language programs for students.

"(2) TEACHER DEVELOPMENT AND RECRUITMENT.—Activities which—

"(A) expand or improve preservice training, inservice training and retraining of teachers of foreign languages, which training or retraining shall emphasize—

"(i) intensive summer foreign language programs for teachers; and

"(ii) teacher training programs for elementary school teachers;

"(B) recruit qualified individuals with a demonstrated proficiency in a foreign language to teach foreign languages in elementary and secondary schools, which individuals may include—

"(i) a retired or returning Federal Government employee who served abroad or a Federal Government employee whose position required proficiency in one or more foreign languages;

"(ii) a retired or returning Peace Corps volunteer;

"(iii) a retired or returning business person or professional who served abroad or whose position required proficiency in one or more foreign languages;

"(iv) a foreign-born national with the equivalent of a bachelor's degree from a domestic or overseas institution of higher education;

"(v) an individual with a bachelor's degree whose major or minor was in a foreign language or international studies; and

"(vi) a graduate of a fellowship or scholarship program assisted under the David L. Boren National Security Education Act of 1991 (20 U.S.C. 1901 et seq.);

"(C) develop programs of alternative teacher preparation and alternative certification to qualify such individuals to teach foreign languages in elementary and secondary schools; and

"(D) establish programs for individual foreign language teachers within a local educational agency in order to improve such teachers' teaching ability or the instructional materials used in such teachers' classrooms.

"SEC. 2108. FEDERAL ACTIVITIES.

"(a) NATIONAL PROGRAMS.—From amounts reserved pursuant to section 2105(a)(3) in each fiscal year, the Secretary is authorized to make grants to State educational agencies, local educational agencies or consortia of local educational agencies to pay the Federal share of the cost of model demonstration programs that represent a variety of alternative and innovative approaches to foreign language instruction for elementary or secondary school students, such as two-way bilingual immersion programs.

"(1) two-way language programs; and

"(2) programs that integrate educational technology into curricula.

"(b) EVALUATION AND RESEARCH.—From amounts reserved pursuant to section 2105(a)(4) in each fiscal year, the Secretary—

"(1) shall evaluate programs assisted under this part; and

"(2) through the Office of Educational Research and Improvement, shall award grants or enter into contracts for research, regarding—

"(A) effective methods of foreign language learning and teaching;

"(B) assessments of elementary school foreign language programs and student skills; and

"(C) the efficacy of secondary school foreign language programs.

"(c) BONUS GRANTS.—

"(1) IN GENERAL.—From amounts reserved pursuant to section 2105(a)(5) in any fiscal year, the Secretary is authorized to award bonus grants to States which—

"(A) require at least 3 years of foreign language study for all students graduating from secondary school in the State;

"(B) require at least 1 year of foreign language study prior to entrance into grade 9 in the State;

"(C) have at least 40 percent of the elementary school students in the State enrolled in foreign language instruction programs; or

"(D) have at least 70 percent of the secondary school students in the State enrolled in foreign language instruction programs.

"(2) AMOUNT.—Each State eligible to receive a grant under paragraph (1) in a fiscal year shall receive a grant in such fiscal year in an amount determined as follows:

"(A) 50 percent of such amount shall be determined on the basis of the number of children aged 5 to 17, inclusive, in such State compared to the number of such children in all such States.

"(B) 50 percent of such amount shall be determined on the basis of such State's share of allocations under chapter 1 of title I compared to all such States' share of such allocations.

"SEC. 2109. APPLICATIONS.

"Each State, State educational agency, local educational agency, consortium of local educational agencies, or consortium of a local educational agency and an institution of higher education, desiring assistance under this part shall submit an application to the Secretary at such time, in such form, and containing or accompanied by such information and assurances as the Secretary may reasonably require.

"SEC. 2110. PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE; WAIVER.

"(a) PAYMENTS.—The Secretary shall pay to each eligible entity having an application approved under section 2109 the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share—

"(A) for the first year for which an eligible entity receives assistance under this part shall be not more than 90 percent;

"(B) for the second such year shall be not more than 80 percent;

"(C) for the third such year shall be not more than 60 percent; and

"(D) for the fourth and any subsequent year shall be not more than 40 percent.

"(c) NON-FEDERAL SHARE.—The non-Federal share of payments under this part may be in cash or in kind, fairly evaluated, including equipment or services.

"(d) WAIVER.—The Secretary may waive, in whole or in part, the requirement to provide the non-Federal share of payments for any State, State educational agency, local educational agency, consortium of local educational agencies, or consortium of a local educational agency and an institution of higher education, which the Secretary determines does not have adequate resources to pay the non-Federal share of the program or activity.

"SEC. 2111. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS.

"(a) PARTICIPATION OF PRIVATE SCHOOL STUDENTS.—To the extent consistent with the number of children in the State or in the school district of each local educational agency receiving assistance under this part who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this part.

"(b) PARTICIPATION OF PRIVATE SCHOOL TEACHERS.—To the extent consistent with the number of children in the State or in the school district of a local educational agency receiving assistance under this part who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such training and retraining as will assure equitable participation of such teachers in the purposes and benefits of this part.

"(c) WAIVER.—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers, subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of this Act.

"SEC. 2112. DEFINITIONS.

"For the purpose of this part—

"(1) the term 'articulation' means the continuity of expectations and instruction from year to year and level to level within foreign language study;

"(2) the term 'content-based foreign language instruction' means instruction in which portions of subject content from the regular school curriculum are taught or reinforced through the medium of a foreign language;

"(3) the term 'foreign language instruction' means instruction in any foreign language, with emphasis on languages not frequently taught in elementary and secondary schools;

"(4) the term 'immersion' means an approach to foreign language instruction in which students spend one-half or more of their school day receiving instruction in the regular school curriculum through the medium of a foreign language;

"(5) the term 'intensive summer foreign language program' means a program in which participants are immersed in the foreign language for the duration of the activity;

"(6) the term 'State' means each of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico; and

"(7) the term 'two-way language program' means a foreign language program in which native speakers of English are brought together with approximately equal numbers of speakers of another language and in which content instruction, reading and language arts are taught in both English and the non-English language, with the goal of producing students who have high levels of proficiency in English and the non-English language, appreciation for other cultures, and academic achievement at grade level expectation or above.

"SEC. 2113. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $75,000,000 for fiscal year 1994, and such sums as may be necessary for each of the 4 succeeding years, to carry out this part.".●

By Mr. INOUYE:

S. 1526. A bill to improve the management of Indian fish and wildlife and gathering resources, and for other purposes; to the Committee on Indian Affairs.

INDIAN FISH AND WILDLIFE RESOURCES MANAGEMENT ACT

● Mr. INOUYE. Mr. President, I rise today to introduce the Indian Fish and Wildlife Resources Management Act of 1993.

This bill is designed to provide statutory authority for the fish and wildlife resources programs operated by the Department of the Interior for which organic legislation presently does not exist. Ongoing program operations are conducted under the general authority of the 1921 Snyder Act (25 U.S.C. 13). Most fish and wildlife programs on Indian reservations are contracted to tribes under Public Law 93-638, enabling tribal governments and intertribal fish and wildlife organizations to carry out programs that would otherwise be administered by the Federal Government.

This legislation will create a comprehensive statutory basis for these programs by providing congressional recognition of the associated resource management roles and responsibilities of tribal governments. It will provide statutory authority for tribal fish hatchery programs, an education in fish and wildlife resource management program, a tribal bison conservation and management program, and provide for Native Hawaiian community-based fisheries demonstration projects.

Mr. President, since time immemorial Indians and native Hawaiians have developed life styles, cultures, religious beliefs and customs around their relationships with fish and wildlife resources. Generations of native peoples have used these resources to provide food, shelter, clothing, tools and artifacts which were bartered for a variety of goods. These resources continue to provide a base of sustenance, cultural enrichment and economic support for many tribes, and help maintain tribal social structure and stability by permitting gainful employment in traditional and desirable occupations.

Indian reservations throughout the United States account for millions of public-use days of hunting, fishing, and related outdoor activities. Tribal fish and wildlife program activities are being conducted on more than 125 reservations in 23 states which contain millions of acres of lakes and impoundments and thousands of miles of streams and rivers. On some reservations, fish and game codes, ordinances, and regulations are in place and adequate management personnel are available. However, the majority of reservations are in need of revised codes and updated fish and game codes. Almost all are in need of assistance to fully implement and enforce codes and ordinances, to monitor hunting and fishing activities and to manage associated resources.

Further, Mr. President, approximately 100 facilities located on more than 30 Indian reservations coast-to-coast are engaged in fish production programs. Salmon and steelhead releases from tribal hatcheries in the Pacific Northwest benefit Indian and non-Indian commercial and sport fisheries in the United States and Canada. Returning spawners help satisfy subsistence and ceremonial needs, and are frequently distributed to the elderly and the poor. Recreational opportunities created by the stocking of trout, walleye and other species attract sport fishermen, and help promote tribal economies.

In August 1992 and again in January and June of 1993, the Committee on Indian Affairs sponsored meetings with tribal representatives to explore the need for development of legislation designed to protect and enhance Indian fish and wildlife resources. Tribal input on the need for such legislation was also received by the House Subcommittee on Native American Affairs in February 1993. Based upon the views expressed at these meetings, and the comments received and testimony taken at the committee's June 1993 hearings, I am pleased to introduce this important legislation.

I ask unanimous consent that the bill be printed in the RECORD immediately following my remarks.

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

S. 1526

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Indian Fish and Wildlife Resources Management Act of 1993."

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.
Sec. 102. Purpose.
Sec. 103. Definitions.

TITLE II—INDIAN FISH AND WILDLIFE PROGRAMS

Sec. 201. Management of Indian Fish and Wildlife and Gathering Resources.
Sec. 202. Education in Indian Fish and Wildlife Resource Management.
Sec. 203. Indian Fish Hatchery Assistance Program.

TITLE III—INDIAN BISON CONSERVATION AND MANAGEMENT

Sec. 301. Indian Bison Conservation Program.
Sec. 302. Indian Bison Ranching Demonstration Projects.

TITLE IV—NATIVE HAWAIIAN COMMUNITY-BASED FISHERIES DEMONSTRATION PROJECTS

Sec. 401. Findings.
Sec. 402. Purpose.
Sec. 403. Definitions.
Sec. 404. Native Hawaiian Community-Based Fisheries Demonstration Projects.

TITLE V—AUTHORIZATION OF APPROPRIATIONS

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Regulations.
Sec. 602. Severability.
Sec. 603. Trust Responsibility.
Sec. 604. Treaty Obligations.

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS.

(a) The Congress finds and declares that—

(1) the United States and Indian tribes have a government-to-government relationship;

(2) the United States has a trust responsibility to protect, conserve, and manage Indian fish and wildlife and gathering resources consistent with the treaty rights of Indian tribes;

(3) the United States' trust responsibility extends to all federal agencies and departments and absent a clear expression of congressional intent to the contrary, the United States has a duty to administer federal fish and wildlife conservation laws in a manner consistent with its fiduciary obligation to honor and protect the treaty rights of Indian tribes;

(4) federal statutes and regulations affecting Indian fish and wildlife resources and tribal resource management activities shall be interpreted in accordance with the trust responsibility set forth in this Act;

(5) fish and wildlife resources located on Indian lands, in adjacent regional resource management areas, and on ceded territory on which treaty rights have been retained continue to provide sustenance, cultural enrichment, and economic support for Indian tribes, and support the maintenance of economic stability by enabling gainful employment in resource management occupations;

(6) Indian tribal governments retain jurisdiction over hunting and fishing activities on Indian lands;

(7) Indian tribal governments serve as comanagers of fish and wildlife resources with other tribal governments, state governments and the federal government, sharing management responsibilities for fish and wildlife resources as a function of treaties, statutes, and judicial decrees;

(8) since time immemorial, Indian cultures, religious beliefs and customs have been centered around their relationships with fish, wildlife and gathering resources, and Indian people have relied on these resources for food, shelter, clothing, tools and trade;

(9) Indian fish and wildlife resources are renewable and manageable natural resources that are among the most valuable tribal assets and which are vital to the well-being of Indian people;

(10) Indian lands contain millions of acres of natural lakes, woodlands, and impoundments, thousands of perennial streams, and tens of millions of acres of wildlife habitat;

(11) Indian fish and wildlife programs contribute significantly to the conservation and enhancement of fish, wildlife and gathering resources, including those resources which are classified as threatened and endangered;

(12) federal, state, and tribal fish hatcheries produce tens of millions of salmon,

steelhead, walleye and other fish species annually, benefitting both Indian and non-Indian sport and commercial fisheries in the United States and Canada, and serving Indian subsistence and ceremonial needs;

(13) comprehensive and improved management of Indian fish and wildlife resources will yield greater economic returns, enhance Indian self-determination, strengthen tribal self-governance, promote employment opportunities, and improve the social, cultural and economic well-being of Indian and neighboring communities;

(14) amongst the wildlife resources upon which Indian people have traditionally relied for a principle source of subsistence is the American bison, a primary wildlife specie of the Great Plains ecosystem which continues to contribute spiritual, cultural, and economic benefits to many Indian tribes through tribal bison ranching activities;

(15) the United States has an obligation to provide assistance to Indian tribes to—

(a) enable integrated management and regulation of hunting, fishing, trapping and gathering activities on Indian lands, including the protection, conservation and enhancement of resource populations and habitats upon which the meaningful exercise of Indian rights depend;

(b) maintain fish hatcheries and other facilities and structures required for the prudent management, enhancement and mitigation of fish and wildlife resources; and

(16) existing federal laws and programs do not assure the adequate protection and management of Indian fish and wildlife resources, nor gathering of natural resources nor do they sufficiently address or meet the operation and maintenance needs of tribal fish production facilities.

SEC. 102. PURPOSES.

The purposes of this Act are—

(a) to reaffirm and protect Indian hunting, fishing, trapping and gathering rights, and to provide for the conservation, prudent management, enhancement, orderly development and wise use of the resources upon which the meaningful exercise of Indian rights depend;

(b) to enhance and maximize tribal capability and flexibility in managing fish and wildlife resources for the continuing benefit of Indian people, and in co-managing shared resources for the benefit of the nation, in a manner consistent with the exercise of Indian hunting, fishing, trapping and gathering rights and the United States' trust responsibility to honor Indian treaty rights and protect Indian resources;

(c) to support the federal policy of Indian self-determination and tribal self-governance by authorizing and encouraging government-to-government relations and cooperative agreements amongst federal, state, local and tribal governments, as well as international agencies and commissions responsible for multi-jurisdictional fish and wildlife resource decision making;

(d) to authorize and establish Indian bison ranching demonstration projects that may be administered by Indian tribal governments pursuant to the Indian Self-Determination and Education Act to meet tribal bison ranching and management needs, and to train Indian people in bison management techniques;

(e) to authorize and establish an Indian Fish Hatchery Assistance Program that may be administered by Indian tribal governments pursuant to the Indian Self-Determination and Education Act to meet Indian hatchery needs and fulfill tribal co-management responsibilities; and

(f) to authorize and establish an Indian Fish and Wildlife Resource Management Education Assistance Program to promote and develop full tribal technical capability and competence in managing fish and wildlife resource programs.

SEC. 103. DEFINITIONS.

For the purposes of this Act—

(1) The term "Bureau" means the Bureau of Indian Affairs within the United States Department of the Interior.

(2) The term "ceded territory" means land ceded to the United States by treaty upon which the treating tribe retain hunting, fishing and gathering rights.

(3) The term "co-management" means a process involving two or more recognized governmental or governmentally-chartered authorities having rights to, jurisdiction over, or responsibilities for the management or use of a fish or wildlife resource during some phase of its life cycle.

(4) The term "cooperative agreement" means a written agreement entered into by two or more parties agreeing to work together to actively protect, conserve, enhance, restore or otherwise manage fish and wildlife resources.

(5) The term "Indian fish hatchery" means any single- or multi-purpose facility which is engaged in the spawning, hatching, rearing, holding, caring for or stocking of fish including related research and diagnostic fish health facilities and which is:

(A) owned or operated by an Indian tribe or the Bureau of Indian Affairs, or by the U.S. Fish and Wildlife Service on Indian lands, or

(B) is owned or operated by a government agency pursuant to federal statute and has as a purpose, the mitigation or recovery of fish resources subject to treaty rights as determined by a federal court.

(6) The term "fish hatchery maintenance" means work that is required at periodic intervals to prolong the life of a fish hatchery and its components and associated equipment, and to prevent the need for premature replacement or repair.

(7) The term "fish hatchery rehabilitation" means noncyclical work that is required to address the physical deterioration and functional obsolescence of a fish hatchery building, structure or other facility component, or to repair damage resulting from aging, natural phenomena and other causes, including work to repair, modify, or improve facility components to enhance their original function, the application of technological advances, and the replacement or acquisition of capital equipment, such as, among others, fish distribution tanks, vehicles, and standby generators.

(8) The term "forest land management activity" has the same meaning given to such term by section 304(4) of the Indian Forest Resources Management Act (25 U.S.C. 3103(4)).

(9) The term "Indian" means a member of an Indian tribe as defined in section 4 of the Indian Self-Determination and Education Act (25 U.S.C. 450b).

(10) The term "Indian fish and wildlife organization" means a tribal or multi-tribal commission, authority, or other body for the purpose of representing or coordinating tribal interests in pursuing resource management or rights protection goals and strategies.

(11) The term "Indian fish and wildlife resource" means any species of animal or plant life for which Indians have a right to fish, hunt, trap or gather for subsistence, ceremonial, recreational or commercial purposes, or for which an Indian tribal government has management or co-management responsibilities.

(12) The term "Indian lands" means all lands within the limits of any Indian reservation, public domain Indian allotments, all other lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation, all dependent Indian communities, and all land owned by an Indian tribe, including land owned by an Alaska Native village or an Alaska Native corporation.

(13) The term "Indian reservation" means reservations established pursuant to treaties, Acts of Congress or Executive orders, public domain Indian allotments, and Indian lands in the State of Oklahoma.

(14) The term "Indian tribe" means any Indian tribe, band, nation, rancheria, pueblo, or other organized dependent Indian group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because to their status as Indians.

(15) The term "integrated resource management plan" means the plan developed pursuant to the process used by tribal governments to assess available resources and to provide identified comprehensive management objectives that include quality of life, production goals and landscape descriptions of all designated resources that may include, but are not limited to, water, fish, wildlife, forestry, agriculture, minerals, and recreation, as well as community and municipal resources, and may include any previously-adopted tribal codes and plans related to such resources.

(16) The term "regional resource management areas" means those areas in which an Indian tribe has a right to fish, hunt, gather or trap for subsistence, ceremonial or commercial purposes, or in which an Indian tribe has management or co-management responsibilities.

(17) The term "resource management activities" means all activities performed in managing Indian fish, wildlife, gathering, and related outdoor recreation and resources; including, but not limited to—

(A) implementation and enforcement of tribal fish and wildlife codes, ordinances, and regulations;

(B) development of integrated resource management plans for Indian lands or regional resource management areas, surveys, or inventories;

(C) population and life history investigations;

(D) harvest management and use studies;

(E) fish production and hatchery management;

(F) judicial services;

(G) co-management activities with federal, state, local or tribal governments or international agencies;

(H) public use management;

(I) information management;

(J) public relations and general administration;

(K) mitigation for habitat loss; and

(L) rehabilitation, restoration and enhancement of fish and wildlife habitat.

The term "resource management activities" does not include forest land or agricultural management activities.

(18) The term "Secretary" means the Secretary of the Interior.

(19) The term "tribal bison ranching demonstration projects" means any activity undertaken by an Indian tribe which relates to the production, rearing, holding, management, or preservation of bison, including

training in bison ranching management techniques.

(20) The term "tribal co-management" means the sharing of decision-making and management responsibilities with one or more tribal governments in local, regional, national and international fish and wildlife resource management processes.

(21) The term "tribal organization" has the meaning given to such term by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), including Indian fish and wildlife organizations.

TITLE II—INDIAN FISH AND WILDLIFE PROGRAMS

SEC. 201. MANAGEMENT OF INDIAN FISH, WILDLIFE AND GATHERING RESOURCES.

(a) MANAGEMENT OBJECTIVES.—Consistent with the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), the Secretary shall support tribal administration of Indian fish and wildlife resource management activities to achieve the following objectives:

(1) to carry out the government-to-government relationship between Indian tribal governments and the United States in the management of Indian fish and wildlife resources;

(2) to protect Indian hunting, fishing, and gathering rights guaranteed to Indian tribes by the United States through treaty, statute, Executive Order, or court decree;

(3) to provide for the development and enhancement of the capacities of Indian tribal governments to manage Indian fish and wildlife resources;

(4) to protect, conserve and enhance Indian fish and wildlife resources that are important to the subsistence, cultural enrichment, and economic development of Indian communities;

(5) to promote the development and use of Indian fish and wildlife resources for the maximum benefit of Indian people, by managing Indian resources in accordance with tribally-developed integrated resource management plans which provide coordination for the comprehensive management of all natural resources;

(6) to selectively develop and increase production of certain fish and wildlife resources;

(7) to authorize and support tribal co-management or cooperative activities in local, regional, national or international decision-making processes and forums;

(8) to develop and increase production of fish, wildlife and bison resources so as to better meet Indian subsistence, ceremonial, recreational and commercial needs.

(b) MANAGEMENT PROGRAM.—(1) In order to achieve the objectives set forth in subsection (a), the Secretary, in full consultation with Indian tribes and tribal organizations, shall establish the Indian Fish and Wildlife Resource Management Program which shall be administered consistent with the provisions of the Indian Self-Determination and Education Assistance Act (24 U.S.C 450 et seq.);

(2) The Secretary shall promote tribal management of Indian fish, wildlife, trapping and gathering resources, and implementation of this Act, through contracts, cooperative agreements, or grants under the Indian Self-Determination and Education Assistance Act (25 U.S.C. et seq.), or other federal laws.

(3) The Secretary, upon the request of any Indian tribe or tribal organization, shall enter into a contract, cooperative agreement, or a grant under the Indian Self-Determination and Education Assistance Act, with the tribe or tribal organization to plan, conduct, or administer any program of the Department of the Interior, or portion thereof which affects Indian fish and wildlife resources and which is currently administered by the Secretary without regard to the agency or office of the Department of the Interior or the organizational level within the Department.

(4) The Secretary shall, upon the request of an Indian tribe or tribal organization, enter into a cooperative agreement with the tribe or tribal organization on any management issue affecting Indian fish and wildlife resources

(c) MANAGEMENT ACTIVITIES.—Indian fish and wildlife resource management activities carried out under the program established in subsection (b) may include, but shall not be limited to—

(1) the development, implementation, and enforcement of tribal codes, ordinances, and regulations;

(2) the development and implementation of resource and management plans, surveys, and inventories.

(3) the conduct of fish and wildlife population and life history investigations, habitat investigations, habitat restoration, harvest management, and use studies;

(4) fish production and hatchery management;

(5) the development of tribal conservation programs, including employment and training of tribal conservation enforcement officers; and

(6) participation in joint or cooperative management of fish and wildlife resources on a regional basis with federal, state, tribal, and local or international authorities.

(d) SURVEY AND REPORT.—(1) The Secretary is authorized to enter into contracts or provide grants to Indian tribes or tribal organizations under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) for the purpose of developing a report to the Congress based on a survey of each Indian reservation that shall include, but not be limited to—

(A) a review of existing tribal codes, ordinances, and regulations governing the management of fish and wildlife resources;

(B) an assessment of the need to update and revise tribal codes, ordinances, and regulations governing tribal fish and wildlife resource protection and use;

(C) a determination and documentation of the need for tribal conservation officers, tribal fisheries and wildlife biologists, and other professionals to administer Indian fish and wildlife resource management programs;

(D) an assessment of the need to provide training to and develop curricula for Indian fish and wildlife resource personnel, including tribal conservation officers, which incorporate law enforcement, fish and wildlife conservation, identification and resource management principles and techniques; and

(E) a determination and documentation of the condition of Indian fish and wildlife resources.

(2) Within one year of the date of enactment of this Act, the Secretary shall submit to the Congress a report which includes the results of the survey conducted under the authority of subsection (1) of this section.

(e) INDIAN FISH AND WILDLIFE RESOURCE MANAGEMENT PLANS.—(1) To meet the management objectives set forth in subsection (a), an Indian fish and wildlife resource management plan shall be developed and implemented as follows:

(A) Pursuant to a self-determination contract or self governance compact under the Indian Self-Determination and Education Assistance Act, an Indian tribe may develop or implement an Indian fish and wildlife management plan. Subject to the provisions of subparagraph (C), the tribe shall have broad discretion in designing and carrying out the planning process.

(B) If a tribe elects not to contract the development or implementation of a plan, the Secretary shall develop or implement the plan in close consultation with the affected tribe.

(C) Whether developed directly by the tribe or by the Secretary, the plan shall—

(i) determine the condition of fish and wildlife resources and habitat conditions,

(ii) identify specific tribal fish and wildlife resource goals and objectives,

(iii) establish management objectives for the resources,

(iv) define critical values of the Indian tribe and its members and provide identified comprehensive management objectives,

(v) be developed through public meetings,

(vi) use the public meeting records, existing survey documents, reports, and other research from federal agencies and tribal community colleges, and

(vii) be completed within three years of the initiation of activity to establish the plan.

(2) Indian fish and wildlife management plans developed and approved under this section shall govern the management and administration of Indian fish and wildlife resources by the Bureau and the Indian tribal government.

(f) TRIBAL MANAGEMENT IN REGIONAL RESOURCE MANAGEMENT AREAS.—

(1) REVIEW.—To achieve the objectives set forth in section 201(a), and consistent with the provisions of the Indian Self-Determination and Education Assistance Act, the Secretary shall review existing programs involving the management of multi-jurisdictional fish, wildlife and gathering resources in regional resource management areas, for the purpose of determining the need for Indian representation, program adequacy and staffing needs to appropriately represent the interests of member tribes.

(2) REPORT.—Within one year of the date of enactment of this Act, the Secretary shall submit a report to the Congress based upon the review conducted under subsection (1) of this section assessing fish and wildlife program adequacy and staffing needs, and the condition of fish and wildlife resources in regional resource management areas.

(g) ASSISTANCE.—The Secretary is authorized to provide financial and technical assistance to enable Indian tribes to—

(1) update and revise tribal codes, ordinances, and regulations governing tribal fish and wildlife resource protection and use;

(2) employ tribal conservation officers, tribal fisheries and wildlife biologists, and other professionals to administer Indian fish and wildlife resource management programs; and

(3) provide training for Indian fish and wildlife resource personnel including tribal conservation officers under a curricula that incorporates law enforcement, fish and wildlife conservation, identification and resource management principles and techniques.

SEC. 202. EDUCATION IN FISH AND WILDLIFE RESOURCE MANAGEMENT.

(a) SCHOLARSHIP PROGRAM.—(1) The Secretary is authorized to grant fish and wildlife management scholarships to Indians enrolled in accredited programs for post-secondary and graduate fish and wildlife resource management-related fields of study as full-time students.

(2) A recipient of a fish and wildlife management scholarship shall be required to

enter into an obligated service agreement in which the recipient agrees to accept employment with an Indian tribe, a tribal organization, with the Bureau of Indian Affairs, or with the U.S. Fish and Wildlife Service for one year for each year the recipient received scholarship assistance following completion of the recipient's course of study.

(3) The Secretary shall not deny scholarship assistance under this subsection solely on the basis of an applicant's scholastic achievement if the applicant has been admitted to and remains in good standing in an accredited post-secondary or graduate institution.

(b) FISH AND WILDLIFE EDUCATION OUTREACH.—The Secretary shall conduct, with the full and active participation of Indian tribes, a fish and wildlife and gathering resource education outreach program to explain and stimulate interest in all aspects of Indian fish and wildlife management and to generate interest in careers as fisheries or wildlife biologists or management.

(c) POSTGRADUATE RECRUITMENT.—The Secretary shall establish and maintain a program to attract professional Indian fish or wildlife biologists who have graduated from post-secondary or graduate schools for employment by Indian tribes, tribal organizations, the Bureau of Indian Affairs, or the U.S. Fish and Wildlife Service in exchange for the Secretary's assumption of all or a portion of the employee's outstanding student loans, depending upon the period of employment involved.

(d) FISH AND WILDLIFE BIOLOGIST INTERN PROGRAM.—(1) The Secretary shall, with the full and active participation of Indian tribes, establish a Fish and Wildlife Resources Intern Program for at least 20 Indian fish and wildlife intern positions. Such positions shall be in addition to the forester intern positions authorized in section 314(a) of the National Indian Forest Resources Management Act (25 U.S.C. 3113(a)). Individuals selected as interns shall be enrolled full-time in approved post-secondary or graduate schools in curricula leading to advanced degrees in fish or wildlife resource management-related fields.

(2) The Secretary shall pay all costs for tuition, books, fees and living expenses incurred by Indian fish and wildlife interns while attending approved study programs.

(3) An Indian fish and wildlife resource intern shall be required to enter into an obligated service agreement to serve in a professional fish or wildlife management-related capacity with an Indian tribe or tribal organization, or with the Bureau of Indian Affairs, or with a U.S. Fish and Wildlife Service program serving or benefitting Indian fish and wildlife resources, for one year for each year of education for which the Secretary pays the intern's educational costs under this subsection (2).

(4) An Indian fish and wildlife resource intern shall be required to report for service to his or her employing entity during any break in attendance at school of more than 3 weeks duration. Time spent in such service shall be counted toward satisfaction of the intern's obligated service agreement.

(e) COOPERATIVE EDUCATION PROGRAM.—(1) The Secretary shall maintain a cooperative education program for the purpose of recruiting promising Indian students who are enrolled in secondary schools, tribally controlled community colleges, and other post-secondary or graduate schools for employment as professional fisheries or wildlife biologists or other related professional positions with an Indian tribe, tribal organization, the Bureau of Indian Affairs, or with the U.S. Fish and Wildlife Service serving or benefitting Indian lands.

(2) Under the program authorized in subsection (1), the Secretary shall pay all cost for tuition, books and fees of an Indian student who is enrolled in a course of study at an educational institution with which the Secretary has entered into a cooperative agreement, and who is interested in a career with an Indian tribe, tribal organization, the Bureau of Indian Affairs, or with the U.S. Fish and Wildlife Service serving or benefitting Indian lands.

(3) Financial need shall not be a requirement to receive assistance under the program authorized in subsection (1).

(4) A recipient of assistance under the program authorized in subsection (1) shall be required to enter into an obligated service agreement to serve as a professional fish or wildlife biologist or other related professional with an Indian tribe, tribal organization, the Bureau of Indian Affairs, or the U.S. Fish and Wildlife Service, for one year for each year that the Secretary pays the recipient's education costs pursuant to paragraph (2).

(f) ADEQUACY OF PROGRAMS.—The Secretary shall provide administrative oversight of the programs described in this section until a sufficient number of personnel are available to administer Indian fish and wildlife resource management programs on Indian lands and resource management areas.

(g) OBLIGATED SERVICE; BREACH OF CONTRACT.—

(1) OBLIGATED SERVICE.—Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this section, the Secretary shall adopt such regulations as are necessary to provide for an offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

(2) BREACH OF CONTRACT.—Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided, pro rated for the amount of time of obligated service that was performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Secretary of the Treasury.

SEC. 203. INDIAN FISH HATCHERY ASSISTANCE PROGRAM.

(A) PROGRAM.—The Secretary, with full and active participation of Indian tribes, shall establish and administer an Indian Fish Hatchery Assistance Program to produce and distribute fish of the species, strain, number, size and quality to assist Indian tribes to develop tribal hatcheries and enhance fisheries resources on Indian lands to meet resource needs, including but not limited to, Indian subsistence, ceremonial and commercial fisheries needs.

(b) REPORT.—Within one year of the date of enactment of this Act, the Secretary, with the full and active participation of Indian tribes, shall submit a report to the Congress identifying the facilities which comprise the Indian Fish Hatchery Program, the maintenance, rehabilitation, and construction needs of such facilities, and providing a plan for their administration and cost-effective operations.

(c) FISH HATCHERY MAINTENANCE AND REHABILITATION.—Within one year of the date of the enactment of this Act, the Secretary, with the full and active participation of Indian tribes, shall submit a report to the Congress identifying maintenance and rehabilitation needs of the facilities that comprise the Indian Fish Hatchery Assistance Program, identifying criteria and procedures to be used in evaluating and ranking fish hatchery maintenance and rehabilitation project proposals submitted by Indian tribes.

(d) CONTRACTING.—Upon the request of any Indian tribe, the Secretary shall enter into a contract or annual funding agreement with the tribe pursuant to an Indian Self-Determination Education and Assistance Act contract, cooperative agreement, or grant, to plan, conduct and administer the Indian Fish Hatchery Assistance Program, or portions thereof.

(e) FISH HATCHERY OPERATING AGREEMENTS.—For hatcheries defined under section 103(5)(B), within one year of the date of the enactment of this Act, the entities owning or operating such hatcheries shall enter into agreements with the Secretary and the affected Indian tribes specifying the manner in which each hatchery facility shall be operated so as to mitigate or recover Indian fish resources subject to treaty fishing rights.

TITLE III—INDIAN BISON CONSERVATION AND MANAGEMENT

SEC. 301. INDIAN BISON CONSERVATION PROGRAM.

(A) The Secretary is authorized to enter into contracts with or make grants to Indian tribes and tribal organizations to develop and maintain an Indian Bison Conservation Program to meet tribal subsistence, ceremonial, commercial, and resource needs.

(b) A program established under the authority of this section shall provide for the preservation, restoration, production, care and management of bison.

(c) Funds provided under this section may be used to—

(1) develop and implement bison management plans, surveys, and inventories;

(2) conduct research on bison populations and habitat;

(3) undertake habitat restoration; and

(4) develop range ecology and conservation programs.

SEC. 302. INDIAN BISON RANCHING DEMONSTRATION PROJECTS.

(a) The Secretary, with the full and active participation of Indian tribes, shall establish Indian Bison Ranching Demonstration Projects to support Indian tribes in their initiation, management, and maintenance of bison ranching operations to meet tribal subsistence, ceremonial, commercial, and resource needs.

(b) Within 24 months of the date of enactment of this Act, the Secretary, with the full and active participation of Indian tribes, shall submit a report to the Congress assessing the effectiveness of the Indian Bison Ranching Demonstration Projects.

(c) Within 18 months of the date of enactment of this Act, the Secretary shall, with the full and active participation of Indian tribes, submit a report to the Congress identifying criteria and procedures to be used in evaluating and ranking bison ranching operation maintenance and rehabilitation project proposals submitted by Indian tribes.

TITLE IV—NATIVE HAWAIIAN COMMUNITY-BASED FISHERIES DEMONSTRATIONS PROJECTS

SEC. 401. FINDINGS.

The Congress finds that—

(1) Native Hawaiians comprise a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago whose society was organized as a nation prior to 1893;

(2) At the time of the arrival of the first non-indigenous people in 1778, the Native Hawaiian people lived in a highly-organized, self-sufficient, subsistence society based on a communal land tenure system with a sophisticated language, culture, and religion.

(3) As inhabitants of an archipelago, the Native Hawaiian people have, since time immemorial, relied on their surrounding fishery resources for basic subsistence, economic, social, cultural, and spiritual sustenance;

(4) The protection and preservation of Native Hawaiian traditional fisheries practices including the management and conservation of fisheries resources, and enforcement of conservation measures, and the adaption of such traditional practices consistent with modern management and conservation principles, are vital to the well-being of the Native Hawaiian people;

(5) Native Hawaiians have distinct rights recognized by federal law as beneficiaries of the Hawaiian Homes Commission Act of 1920 (42 Stat. 108) and of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4)

(6) The United States trust responsibility for the lands set aside for the benefit of Native Hawaiians has never been extinguished; and

(7) The federal policy of self-determination and self-governance is recognized to extend to all Native Americans, including Native Hawaiians.

SEC. 402. PURPOSES.

The purposes of this Title are—

(1) to support and reaffirm Native Hawaiian self-determination for the management, conservation, enforcement, and economic enhancement of traditional Native Hawaiian fisheries;

(2) to reaffirm and protect Native Hawaiian fishing rights, and to provide for the planning, management, conservation, enhancement, orderly development and wise use of the resources upon which the meaningful exercise of such rights depends;

(3) to encourage communications and cooperative agreements between state, federal and Native Hawaiian entities responsible for multi-jurisdictional fish resource decision-making; and

(4) to authorize and establish Native Hawaiian community-based fisheries demonstration projects.

SEC. 403. DEFINITIONS.

For Purposes of this Title—

(1) The term "fishery" means the harvest and use of one or more stocks of marine fish found in the waters surrounding the area that now comprises the State of Hawaii.

(2) The term "Native Hawaiian" means any individual who is a descendant of the aboriginal Polynesian people who, prior to 1778, occupied and exercised sovereignty and self-determination in the area that now comprises the State of Hawaii.

(3) The term "Native Hawaiian community-based entity" means any entity or organization which is composed primarily of Native Hawaiian members from a specific community, which assists in the social, cultural and economic development of the Native Hawaiians in that community, and whose stated purpose includes the protection and preservation of Native Hawaiian traditional fisheries practices.

(4) The term "Western Pacific Fishery Management Council" means the regional Council established by Section 302 of the Magnuson Fishery Conservation and Management Act with authority over the fisheries in the federal waters of the Exclusive Economic Zone surrounding American Samoa, Guam, the State of Hawaii and the Commonwealth of the Northern Mariana Islands.

(5) Unless otherwise indicated, all other definitions contained in section 103 shall apply to this title.

SEC. 404. NATIVE HAWAIIAN COMMUNITY-BASED FISHERIES DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECTS AUTHORITY.—The Secretary shall make a direct grant to the Western Pacific Fishery Management Council ("Council") in order that the Council may provide funding to Native Hawaiian community-based entities for the purpose of establishing at least three, but not more than five, demonstration projects to foster and promote the self-determination of Native Hawaiian communities over the management, conservation, enforcement and economic enhancement of Native Hawaiian fisheries.

(b) DUTIES AND RESPONSIBILITIES OF WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL.—The Western Pacific Fishery Management Council shall—

(1) award, administer, and exercise oversight responsibility over the grants authorized under this Title to qualified Native Hawaiian community-based entities; and

(2) submit an annual report to the Congress assessing the status and progress of the demonstration projects, including any obstacles experienced by the demonstration projects which have impeded the purposes of this Title.

(c) USE OF FUNDS.—Demonstration projects funded under this section shall foster and promote the self-determination of Native Hawaiian communities over the management, conservation, enforcement and economic enhancement of Native Hawaiian fisheries, and may include, but not be limited to—

(1) the identification and application of traditional Native Hawaiian fishery management practices on a community-wide basis;

(2) the planning, development and application of community-based enforcement plans in order to protect and conserve off-shore and ocean resources, and to enforce existing applicable state and federal laws, in cooperation with state and federal entities;

(3) the development of community-based economic enhancement fishery projects; and

(4) research, community education, and materials, including equipment, necessary to accomplish the purposes of the demonstration projects under this Title.

(d) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this Title for any fiscal year may be used for administrative purposes by the Western Pacific Fishery Management Council.

(e) TECHNICAL ASSISTANCE.—In order to carry out the purposes of this Title, state and federal agencies, including the Western Pacific Fishery Management Council, are authorized to assist the Native Hawaiian community-based demonstration projects in meeting their technical assistance and management needs, as determined by the affected Native Hawaiian communities.

TITLE V—AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. REGULATIONS.

Except as otherwise provided by this Act, the Secretary shall promulgate final regulations for the implementation of this Act within 18 months following the date of the enactment of this Act. All regulations promulgated pursuant to this Act shall be developed by the Secretary with the full and active participation of the Indian tribes.

SEC. 602. SEVERABILITY.

If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision or circumstance and the remainder of this Act shall not be affected thereby.

SEC. 603. TRUST RESPONSIBILITY.

(a) In any departmental action which affects Indian fish and wildlife resources, the Secretary shall fully consult with and seek the participation of Indian tribes in a manner consistent with the federal trust responsibility and the government-to-government relationship between Indian tribes and the federal government.

(b) Nothing in this Act shall be construed to diminish or expand the trust responsibility of the United States for Indian natural resources, or any legal obligation or remedy resulting therefrom.

SEC. 604. TREATY OBLIGATIONS.

Nothing in this Act shall be construed to diminish or adversely affect the rights of Indian tribes established in existing treaties or other federal laws or court decrees.●

By Mr. RIEGLE (for himself, Mr. D'AMATO, Mr. BRYAN, Mr. KERRY, Mr. DOMENICI, Mr. SASSER, Mr. SHELBY, Mr. CAMPBELL, Mrs. BOXER, Mrs. MURRAY, and Mr. SARBANES):

S. 1527. A bill to provide for fair trade in financial services; to the Committee on Banking, Housing, and Urban Affairs.

FAIR TRADE IN FINANCIAL SERVICES ACT OF 1993

● Mr. RIEGLE. Mr. President, together with my distinguished colleague, Senator D'AMATO, the ranking minority member of the Banking Committee, and along with Senators BRYAN, KERRY, DOMENICI, SASSER, CAMPBELL, BOXER, SHELBY, MURRAY, and SARBANES, all members of the Banking Committee, I am introducing the Fair Trade in Financial Services Act of 1993. Identical legislation is also being introduced today on the same bipartisan basis in the House by Congressmen SCHUMER, LEACH, and STARK. We are coordinating our actions to make clear the importance we attach to getting this legislation enacted this Congress.

This act is a version of legislation that has passed the Senate on several occasions, but that for various reasons has failed to become law. We are introducing the bill again because the critical trade problems it seeks to address have become a higher priority issue for our country. President Clinton trumpeted this change in his first major speech on trade policy at American University on February 27 this year at which he stated, "It is time to make trade a priority element of

American security." In announcing the principles upon which his Administration's trade policy would be based he stated:

It will say to our trade partners that we value their business, but none of us should expect something for nothing. We will continue to welcome foreign production and services into our markets, but insist that our products and services be able to enter theirs on equal terms.

That is precisely the guiding principle on which the Fair Trade in Financial Services Act is based. It says to foreign countries, your financial firms are welcome in our market, but we expect our firms will not be discriminated against in entering and operating in your markets.

NATIONAL TREATMENT

The United States has for over half a century offered foreign financial institutions the same competitive opportunities that domestic financial institutions enjoy in our market despite the fact that foreign countries from which some of those firms come do not give U.S. firms similar access to their markets.

In 1978, Congress passed the International Banking Act [IBA] formally giving equality of competitive opportunity to foreign financial firms. The 1978 committee report on the IBA cited concerns about discrimination against United States firms by some other countries and by Japan in particular. It stated:

European Common market countries have been most receptive to the benefits brought by American banks to their economies. Japan is a contrast. By the restrictive practices of its officials, American banks are competitively disadvantaged * * *.

While Congress was concerned in 1978 about the inconsistency between our national treatment policy and the differing policies of some of our competitors, it hoped these matters could be resolved by U.S. negotiators without further congressional action. It did require the Treasury Department to conduct a study on the extent to which American banks were denied national treatment in their banking operations abroad. This original Treasury report was completed in 1979, and, at the request of Congress, was updated three times. In 1988, during passage of the Omnibus Trade and Competitiveness Act, Congress added a new section to the International Banking Act that instituted these national treatment reports as items the Treasury must submit to Congress every 4 years.

The first report under that provision was released in December, 1990, and detailed substantial market barriers harmful to United States interests in Japan, Korea, Taiwan, Brazil, Venezuela, and other major trading partners. The Treasury Department has been negotiating with these countries for several years in an attempt to end such discrimination, without notable success.

THE FAIR TRADE ACT

The Fair Trade in Financial Services Act builds on the national treatment report requirement contained in the 1988 trade bill. It defines national treatment to clarify that the term means receiving "the same competitive opportunities (including effective market access) as are available to domestic financial firms." In many foreign markets, U.S. firms receive de jure national treatment—equality according to the letter of the law—but have not gained de facto national treatment—real equality of competitive opportunity in practice. If foreign countries do not provide true equality of competitive opportunity, the bill requests that the Treasury Department negotiate to obtain it. If negotiations to obtain national treatment from countries denying it fail to succeed, the act allows but does not require the Secretary of the Treasury, the U.S. negotiator on trade in financial services, to publish in the Federal Register a determination that a given country discriminates against U.S. financial institutions.

Such publication would authorize U.S. banking and securities regulators, after consultation with and only with the concurrence of the Treasury, to deny applications for U.S. regulatory approval filed by banking or securities firms from the discriminating country. Such denials would only affect opportunities for future expansion in the U.S. market and would not force foreign financial firms to shrink their existing operations.

The bill, which gives totally discretionary powers to the Treasury, is designed to give our negotiators new leverage to open foreign financial markets, not close our own. At a time of increasing uncertainty in international trade, such flexibility can offer an effective yet prudent tool for increasing market access.

COMPETITIVENESS AND OUR NATIONAL SECURITY

No issue is more important to this Senator than the competitiveness of U.S. firms in today's increasingly global economy. We must take the importance of our competitiveness to heart, and tailor a national strategy to boost the international performance of U.S. industries. We must ensure as well that our firms get the same fair treatment—and I stress fair treatment—abroad that we grant foreign firms here. These are not just arcane issues of economic or trade policy. They are of the utmost importance to the long-run security of our Nation.

The cold war era clearly has ended, and the standards for judging our own security and position in the world must change. We no longer have the luxury of viewing our world role in terms of superpower conflict. The United States is now a partner and competitor in an increasingly integrated world economy. Americans are increasingly concerned about our country's ability to be as successful in this new global economic competition as it was in winning the cold war. If we do not compete effectively in the new global marketplace, both the standard of living of our citizens and our national security are threatened.

FOREIGN BANKS FROM COUNTRIES THAT DENY ACCESS TO OUR INSTITUTIONS HAVE GROWN RAPIDLY IN THE UNITED STATES

Foreign banking institutions currently control close to 25 percent of all banking assets booked in the United States, four times the amount they held in 1980. Japanese banks alone have 14 percent of these assets. In some markets, such as California, Japanese banks hold nearly 25 percent of total assets. Furthermore, foreign loans in the United States are growing three times as fast as domestic loans. Foreign banks now hold more than 40 percent of all U.S. commercial and industrial loans, and over 50 percent of such loans in New York and California.

In sharp contrast, the share of banking assets held by American and other foreign banks in Japan, while never large, is actually declining. In recent years the United States share of the Japanese banking market has fallen from 3 percent to 0.3 percent. United States banks control only about $21 billion in Japanese banking assets. All foreign banks together now have less than 3 percent of the Japanese market, and that too is in decline. United States banks hold similarly small shares of banking assets in other rapidly-growing economies, particularly Korea and Taiwan.

BANKS CAN HELP U.S. EXPORTERS

The inability of our banks to enter foreign markets has important consequences for our export industries. Home-country banks are essential partners in industrial firms' attempts to expand overseas trade. We have been told that non-U.S. banks are apt to favor exporters from their own countries because of proximity, longstanding relationships, closer legal access, common customs and language, and perhaps social or political pressures. Robert Heller, a former Federal Reserve Governor and Bank of America official, stated 5 years ago:

If American banks disengage from the international arena, American businessmen will have to conquer new export markets without an important ally in the form of their own banks. The loss of that extra competitive edge may be costly in terms of foreign sales.

The export performance of U.S. firms has, if anything, become much more important to our economic well-being since that statement was made. Export growth will hinge in part on our will to address domestic economic weaknesses such as our lack of savings, our budget deficit, and the short-term planning horizons of our corporations. We must be equally concerned, however, with whether our financial institutions are

getting a fair chance to compete in foreign markets where they can aid other U.S. exporters. It is important to remember, too, that the financial services arena is much broader than just the banking sector. American securities firms, investment advisers, and insurers are truly world leaders. They are aggressive in pursuing new markets, far out front in creating new products, and major generators of profits that come home to the United States. In many foreign markets, these institutions face barriers equal to or greater than those faced by banks.

The ability of U.S. firms to get this fair chance varies widely around the world, and the thicket of market barriers that remain should be a cause of significant concern. Some of our trading partners have made real progress toward financial market liberalization, while others continue to resist what little pressure we have been able to bring to bear.

MARKET BARRIERS IN JAPAN

As I stated earlier, in 1990 the Treasury produced its first quadrennial National Treatment Study, as required under the Omnibus Trade and Competitiveness Act of 1988. In that report the Treasury stated that, "Despite * * * the fact that Japan has continued generally to provide de jure national treatment for foreign banks, * * * a number of factors has made access and operating conditions difficult." The report further states that:

Despite modest improvements, a variety of factors have kept the Japanese banking market difficult to penetrate and the slow pace of liberalization and deregulation has provided domestic banks with an unfair competitive advantage over foreign banks both in Japan and globally. Foreign banks continue to find the Japanese market difficult to penetrate, particularly in traditional banking functions.

In other words, the Treasury report suggests that while Japan gives foreign banks de jure national treatment, it does not give them a real opportunity to compete in the Japanese market.

The situation is a little better in Japan's securities markets. The Treasury report concludes:

Full and easy access to the Japanese investor base and entire range of securities activities is still difficult despite continued efforts to open and liberalize Japanese securities markets. * * * In general, Tokyo is viewed as a key financial center, but one in which change has not kept pace with that in other major centers. By any standard of openness, Tokyo lags substantially behind New York and London. * * * Thus, despite significant steps forward, the process of creating a truly level playing field is far from complete.

United States firms and Government agency investigations have cited many means by which the Japanese deny foreign financial institutions a fair opportunity to compete. Among these are:

Impediments to developing money market instruments that deny foreign banks an opportunity to fund themselves in domestic yen.

Laws, regulations, and practices that substantially impede the introduction of innovative new securities products, and which prevent Japanese investors from gaining access to foreign markets and financial advice.

Laws, regulations, and practices that severely limit the opportunities of foreign firms to manage pension funds and mutual funds.

Administrative restrictions that deny foreign firms effective access to the potentially huge Japanese corporate underwriting market.

A crucial lack of transparency in the entire regulatory system that keeps foreign firms in the dark regarding the real rules of the game in the Japanese market. Foreign firms are not given fair opportunities to engage in the process through which official policies, regulations, and administrative guidance are developed by the Ministry of Finance. Some claim that it is hard for them even to obtain clear written statements of the rules or policies once they are decided. Furthermore, the bureaucracy is empowered to interpret the law as it deems fit, creating fears of arbitrary treatment of foreign firms if they even question any regulatory decisions of Government officials.

This list of practices is only meant to be illustrative and is certainly not an exhaustive description of the Japanese practices that need to be remedied. The results of these and other barriers are disturbing. As Treasury Under Secretary Lawrence Summers recently stated,

U.S. firms, which are world class competitors in other markets, cannot break into the Japanese market * * * there has only been one yen issue by a Japanese corporation that was lead managed by a foreign firm. Our investment advisory firms manage less than one percent of Japanese pension fund assets.

In another recent speech, Under Secretary Summers continued:

* * * (T)here needs to be more of a two-way street. Our firms are sometimes denied access or face unnecessary barriers in competing abroad. Banks of some countries—we call them free riders—enjoy the benefits of access to the U.S. market while they are insulated from strong foreign competition at home.

Treasury Secretary Bentsen also voiced concern during his confirmation hearings that U.S. financial firms are still denied a fair opportunity to compete in a number of overseas markets. Indeed, the Secretary stated:

[T]he touchstone of our trade policy, including international negotiations on financial services, is that we must demand reciprocity.

U.S. officials have been negotiating for over 10 years to achieve such a two-way street. Progress toward liberalization has been painfully slow, and some question the Japanese Government's commitment to real change. The importance of opening this sector to U.S. participation was highlighted in July when it was made a prominent objective in the new bilateral trade negotiating framework agreed to by President Clinton and Prime Minister Miyazawa. With the bill we introduce today, we seek to give our negotiators the leverage necessary to achieve our objectives in those trade talks.

OTHER TRADING PARTNERS

Japan is by no means the only country in which United States firms face major obstacles in financial services. Many nations maintain significant barriers to United States and other foreign financial firms despite more than a decade of intensive bilateral and multilateral efforts to liberalize these markets. Brazil, Venezuela, South Korea, and Taiwan serve as illustrations of the problems United States firms face around the globe.

Brazil currently prohibits the entry of new foreign banks. The Government also restricts the ability of foreign banks already present in that market to expand their Brazilian operations. This is accomplished through prohibitions on increasing capital, a ban on adding sub-branches, and numerous other restrictions. In Venezuela, foreign banks are barred from establishing subsidiaries or branches, and may not purchase more than a 20-percent stake in a Venezuelan bank. Banks existing before 1975 that have more than 20 percent foreign ownership are subject to a wide variety of operational and expansion restrictions.

In Korea, the financial sector is tightly controlled, to the detriment of foreign participation. Branching and many bank operations remain restricted, despite recent Government proposals to liberalize financial services. Foreign firms have only limited access to local currencies and are unable to raise capital locally. According to the Treasury Department study, "significant denials of national treatment continue."

In Taiwan, foreign banks, insurers, and securities firms all face discrimination. Banks are restricted in branching local deposit-taking, and commercial paper activities. In securities, the Government restricts the number of foreign firms and the amount of capital they can bring to the market, bars ownership on the Taiwan Stock Exchange, and effectively limits foreign firms' activities to stock brokerage.

The persistence of these barriers—despite years of United States attempts to eliminate them—clearly illustrates the need for more effective negotiating tools for our negotiators in trade talks on financial services. The United States must be able to bring a stronger posture to the table in the future.

FINANCIAL SERVICES IN THE GATT

In our negotiations on financial services in the GATT round we find foreign countries with closed financial markets unwilling to grant us access because they already enjoy complete freedom of access to our markets. We have no leverage to obtain our objectives. As a result, none of the major

goals the United States originally sought in financial services in the Uruguay round are achieved in the current draft agreement. Senators D'AMATO, SASSER, and I wrote to President Clinton in July urging him not to sign a GATT agreement that locks our market open while losing the authority to pursue bilateral negotiations with countries that discriminate against our firms. Enactment of this law would help convince other GATT nations to be more forthcoming in the current talks.

PAST ACTION

The Senate has several times passed legislation similar to the bill we are introducing today. In fact, similar legislation passed both the Senate and the House as part of the Defense Production Act [DPA] in 1990, but did not become law because Senate consideration of that conference report was blocked by a few Senators who objected to the nonfinancial services provisions of the DPA. The Senate passed the bill again in 1991, and it garnered strong support from Majority Leader RICHARD GEPHARDT, Congressman SCHUMER, and others. It was also supported by the Treasury Department. The measure died, however, in part because State Department and other officials of the previous administration fought against it.

TRADE IS NOW A PRIORITY

America is opening a new chapter in its economic history. We cannot afford and should no longer be willing to overlook unfair treatment in trade and financial matters. We must demand and aggressively pursue an end to the substantial barriers facing our firms abroad.

The Fair Trade in Financial Services Act will give our negotiators new leverage to help our financial institutions have the opportunity to compete in other markets. As I noted earlier, this is important not only for financial firms but for U.S. exporters generally. The Banking Committee knew this in 1978 and stated in its report on the International Banking Act of 1978:

American banks abroad can and should play a significant role in supporting American exports. The Committee is concerned with the uneven treatment accorded to American banks abroad, particularly in contrast with the open reception foreign banks have been given in our domestic market and its consequent effect on our balance of trade.

My only regret is that the Congress and executive branch did not focus more quickly on the need to give our negotiators the tools needed to ensure U.S. firms receive fair treatment in international financial services. The time has come to end the delay. The Fair Trade in Financial Services Act of 1993 is an important market-opening measure which we will attempt to move expeditiously through the Banking Committee and through the Senate.

Senator D'AMATO joined me in introducing the original Fair Trade in Financial Services Act in 1990 and I am pleased he is the principal cosponsor of today's bill. I am also delighted that Congressmen SCHUMER and LEACH are introducing an identical bill on the House side. By working with the Clinton administration it is our hope to get this much needed legislation enacted into law. To that end we have scheduled a legislative hearing on the bill on October 26 at which Congressmen SCHUMER and LEACH will testify. At that same hearing, we hope to have a unified administration position in favor of the bill presented to the Banking Committee. After that hearing we look forward to working with administration officials in preparation for a committee markup of this legislation in November.

I ask unanimous consent that a copy of the bill I am introducing be printed in the RECORD.

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

S. 1527

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Fair Trade in Financial Services Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Effectuating the principle of national treatment for banking organizations.
Sec. 3. Effectuating the principle of national treatment for securities organizations.
Sec. 4. Financial interdependence study.
Sec. 5. Conforming amendments.

SEC. 2. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKING ORGANIZATIONS.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:

"SEC. 18. NATIONAL TREATMENT.

"(a) PURPOSE.—The purpose of this section is to encourage foreign countries to accord national treatment to United States banking organizations that operate or seek to operate in those countries.

"(b) IDENTIFYING COUNTRIES THAT DENY NATIONAL TREATMENT TO UNITED STATES BANKS OR BANK HOLDING COMPANIES.—The Secretary shall identify the extent to which foreign countries deny national treatment to United States banking organizations—

"(1) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (or update thereof); or

"(2) based on more recent information that the Secretary deems appropriate.

"(c) DETERMINING WHETHER DENIAL OF NATIONAL TREATMENT HAS SIGNIFICANT ADVERSE EFFECT.—

"(1) IN GENERAL.—The Secretary shall determine whether the denial of national treatment to United States banking organizations by a foreign country identified under subsection (b) has a significant adverse effect on such organizations.

"(2) FACTORS TO BE CONSIDERED.—In determining whether and to what extent a foreign country denies national treatment to United States banking organizations, and in determining the effect of any such denial on such banking organizations, the Secretary shall consider appropriate factors, including—

"(A) the size of the foreign country's markets for the financial services involved, and the extent to which United States banking organizations operate or seek to operate in those markets;

"(B) the extent to which United States banking organizations may participate in developing regulations, guidelines, or other policies regarding new products, services, and markets in the foreign country;

"(C) the extent to which the foreign country issues written regulations, guidelines, or other policies applicable to United States banking organizations operating or seeking to operate in the foreign country that are—

"(i) prescribed after adequate notice and opportunity for comment;

"(ii) readily available to the public; and

"(iii) prescribed in accordance with objective standards that effectively prevent arbitrary and capricious determinations;

"(D) the extent to which United States banking organizations may offer foreign exchange services in the foreign country; and

"(E) the effects of the regulatory policies of the foreign country on—

"(i) the lending policies of the central bank of that country;

"(ii) capital requirements applicable in that country;

"(iii) the regulation of deposit interest rates by that country;

"(iv) restrictions on the operation and establishment of branches in that country; and

"(v) restrictions on access to automated teller machine networks in that country.

"(d) DETERMINATION.—

"(1) PUBLICATION.—If the Secretary determines that the denial of national treatment to United States banking organizations by a foreign country has a significant adverse effect on such organizations, the Secretary—

"(A) may, after initiating negotiations in accordance with subsection (g), and after consultation with the United States Trade Representative, the Secretary of State, and any other department or agency that the Secretary deems appropriate, publish that determination in the Federal Register;

"(B) shall, not less frequently than annually, in consultation with any department or agency that the Secretary deems appropriate, review each such determination to determine whether it should be rescinded; and

"(C) shall inform State bank supervisors of the publication of that determination.

"(2) EXCEPTION FOR COUNTRIES THAT ARE PARTIES TO CERTAIN AGREEMENTS GOVERNING FINANCIAL SERVICES.—Paragraph (1) shall not apply to a foreign country to the extent that a determination under that paragraph with respect to the foreign country would permit action to be taken under this section that would be inconsistent with a bilateral or multilateral agreement that governs financial services that the President entered into with that country and the Senate and the House of Representatives approved, before the date of enactment of this section.

"(e) SANCTIONS.—

"(1) ACTION BY FEDERAL BANKING AGENCY.—If a determination under subsection (d)(1) is in effect with respect to a foreign country and a publication of that determination has been made in accordance with subsection

(d)(1)(A), in evaluating an application or notice filed by a person of that foreign country, the appropriate Federal banking agency—

"(A) shall consider the determination and the conclusions of—

"(i) the reports required under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (and updates thereto); and

"(ii) the reports submitted in accordance with subsection (h);

"(B) shall consult with the Secretary concerning such determination and conclusions; and

"(C) may, only with the concurrence of the Secretary, deny the application or disapprove the notice, based on the determination under subsection (d)(1).

"(2) PREVENTING EXISTING ENTITIES FROM BEING USED TO EVADE THIS SECTION.—

"(A) IN GENERAL.—If a determination has been published in accordance with subsection (d)(1)(A) with respect to a foreign country, a bank, foreign bank described in section 8(a), branch, agency, commercial lending company, or other affiliated entity that is a person of that country shall not, without prior approval of the appropriate Federal banking agency, after consultation with the State bank supervisor, directly or indirectly, in the United States—

"(i) commence any line of business in which the person was not engaged as of the date the determination was published in the Federal Register; or

"(ii) conduct business from any location at which the person did not conduct business as of that date.

"(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to companies described in section 2(h)(2) of the Bank Holding Company Act of 1956.

"(f) EXEMPTIONS FROM SANCTIONS.—

"(1) IN GENERAL.—Subsection (e) does not apply to the subsidiaries in the United States of a person of a foreign country if the Secretary determines that the banking laws and regulations of the foreign country, as actually applied, meet or exceed—

"(A) the standards for treatment of subsidiaries of United States banking organizations contained in the Second Banking Directive, and in any amendment to the Second Banking Directive, if the Secretary determines that such amendment—

"(i) does not restrict any operation, activity, or authority to expand any operation or activity, permitted under those standards, of any subsidiary in the foreign country of any such bank or bank holding company; or

"(ii) is in accordance with national treatment of subsidiaries of such banking organizations; or

"(B) any set of standards that, taken as a whole, is no less favorable to United States banking organizations than the standards referred to in subparagraph (A).

"(2) STANDARDS FOR EXERCISE OF DISCRETION.—In exercising any discretion under this subsection, the Federal banking agencies, after consultation with the Secretary, shall consider, with respect to a bank, foreign bank, branch, agency, commercial lending company, or other affiliated entity that is a person of a foreign country and is operating in the United States—

"(A) the extent to which the foreign country is progressing toward according national treatment to United States banking organizations; and

"(B) whether the foreign country permits United States banking organizations to expand their activities in that country, even if that country determined that the United States did not accord national treatment to the banking organizations of that country.

"(g) NEGOTIATIONS.—

"(1) IN GENERAL.—The Secretary—

"(A) shall initiate negotiations with any foreign country with respect to which a determination made under subsection (d)(1) is in effect; and

"(B) may initiate negotiations with any foreign country which denies national treatment to United States banking organizations to ensure that the foreign country accords national treatment to such organizations.

"(2) EXCEPTIONS.—Paragraph (1) does not require the Secretary to initiate negotiations with a foreign country if the Secretary—

"(A) determines that the negotiations—

"(i) would be so unlikely to result in progress toward according national treatment to United States banking organizations as to be a waste of effort; or

"(ii) would impair the economic interests of the United States; and

"(B) gives written notice of that determination to the chairperson and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(h) REPORT.—

"(1) CONTENTS OF REPORT.—Not later than December 1, 1994, and biennially thereafter, the Secretary shall submit to the Congress a report that—

"(A) specifies the foreign countries identified under subsection (b);

"(B) if a determination under subsection (d)(1) is in effect with respect to the foreign country, provides the reasons therefor;

"(C) if the Secretary has not made or has rescinded such a determination with respect to the foreign country, provides the reasons therefor;

"(D) describes the results of any negotiations conducted under subsection (g)(1) with the foreign country; and

"(E) discusses the effectiveness of this section in achieving the purpose of this section.

"(2) SUBMISSION OF REPORT.—The report required by paragraph (1) may be submitted as part of a report or update submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988.

"(i) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency'—

"(A) in the case of a noninsured State bank or branch, means the Board of Governors of the Federal Reserve System; and

"(B) in any other case, has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(2) BANKING ORGANIZATION.—The term 'banking organization' means a bank, including a branch or subsidiary thereof, or a bank holding company.

"(3) NATIONAL TREATMENT.—A foreign country accords 'national treatment' to United States banking organizations if it offers them the same competitive opportunities (including effective market access) as are available to its domestic banking organizations.

"(4) PERSON OF A FOREIGN COUNTRY.—The term 'person of a foreign country' means—

"(A) a person organized under the laws of the foreign country;

"(B) a person that has its principal place of business in the foreign country;

"(C) an individual who is—

"(i) a citizen of the foreign country, or

"(ii) domiciled in the foreign country; and

"(D) a person that is directly or indirectly controlled by a person described in subparagraph (A) or (B), or by an individual described in subparagraph (C).

"(5) SECOND BANKING DIRECTIVE.—The term 'Second Banking Directive' means the Second Council Directive of December 15, 1989, on the Coordination of Laws, Regulations, and Administrative Provisions Relating to the Taking Up and Pursuit of the Business of Credit Institutions and Amending Directive 77/780/EEC (89/646/EEC).

"(6) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.".

SEC. 3. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES ORGANIZATIONS.

(a) PURPOSE.—The purpose of this section is to encourage foreign countries to accord national treatment to United States securities organizations that operate or seek to operate in those countries.

(b) IDENTIFYING COUNTRIES THAT DENY NATIONAL TREATMENT TO UNITED STATES SECURITIES ORGANIZATIONS.—The Secretary shall identify whether and to what extent foreign countries deny national treatment to United States securities organizations—

(1) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (or update thereof); or

(2) based upon more recent information that the Secretary deems appropriate.

(c) DETERMINING WHETHER DENIAL OF NATIONAL TREATMENT HAS SIGNIFICANT ADVERSE EFFECT.—The Secretary shall determine whether the denial of national treatment to United States securities organizations by a foreign country identified under subsection (b) has a significant adverse effect on such organizations.

(d) DETERMINATION.—

(1) PUBLICATION.—If the Secretary determines that the denial of national treatment to United States securities organizations by a foreign country has a significant adverse effect on such organizations, the Secretary—

(A) may, after initiating negotiations in accordance with subsection (g), and after consultation with the United States Trade Representative, the Secretary of State, and any other department or agency that the Secretary deems appropriate, publish that determination in the Federal Register; and

(B) shall, not less frequently than annually, in consultation with any department or agency that the Secretary deems appropriate, review each such determination to determine whether it should be rescinded.

(2) EXCEPTION FOR COUNTRIES THAT ARE PARTIES TO CERTAIN AGREEMENTS GOVERNING FINANCIAL SERVICES.—Paragraph (1) shall not apply to a foreign country to the extent that a determination under that paragraph with respect to the foreign country would permit action to be taken under this section that would be inconsistent with a bilateral or multilateral agreement that governs financial services that the President entered into with that country and the Senate and the House of Representatives approved, before the date of enactment of this section.

(e) SANCTIONS.—

(1) RECOMMENDATION BY THE SECRETARY.—If a determination under subsection (d)(1) is in effect with respect to a foreign country, the Secretary may, after consultation with the United States Trade Representative, the Secretary of State, and any other department or agency that the Secretary deems appropriate, and subject to the specific direction of the President (if any), recommend to the Commission that the Commission deny any

application or notice filed by a person of that foreign country.

(2) ACTION BY COMMISSION.—If a determination under subsection (d)(1) is in effect with respect to a foreign country and a publication of that determination has been made in accordance with subsection (d)(1)(A), in evaluating any application or notice filed by a person of that foreign country concerning which the Commission has received a recommendation from the Secretary under paragraph (1), the Commission—

(A) shall consider—

(i) the recommendation of the Secretary; and

(ii) the determination and the conclusions of the reports and updates under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and the reports submitted in accordance with subsection (g);

(B) shall consult with the Secretary concerning the determinations and conclusions referred to in subparagraph (A)(ii); and

(C) may deny the application or disapprove the notice, unless the Commission determines that the denial or disapproval would be inconsistent with the public interest and the protection of investors.

(3) NOTICE REQUIRED TO ACQUIRE REGISTERED SECURITIES ORGANIZATION.—

(A) IN GENERAL.—If a determination under subsection (d)(1) is in effect with respect to a foreign country, no person of that foreign country, acting directly or indirectly, may acquire control of any registered securities organization, unless—

(i) the Commission has been given notice not less than 90 days in advance of the acquisition, in such form as the Commission shall prescribe by rule and containing such information as the Commission may require by rule or order; and

(ii) the Commission has not disapproved the notice under paragraph (2)(C).

(B) NOTIFYING SECRETARY.—The Commission shall promptly notify the Secretary of any notice received under subparagraph (A).

(C) EXTENDING 90-DAY PERIOD.—The Commission may, by order, extend for an additional 180 days the period during which the Commission may disapprove a notice received under subparagraph (A).

(4) STANDARDS FOR EXERCISE OF DISCRETION.—In exercising any discretion under this subsection, the Secretary and the Commission shall consider, with respect to a securities organization that is a person of a foreign country and is operating in the United States—

(A) the extent to which the foreign country is progressing toward according national treatment to United States securities organizations; and

(B) whether the foreign country permits United States securities organizations to expand their activities in that country, even if that country determined that the United States did not accord national treatment to securities organizations of that country.

(f) NEGOTIATIONS.—

(1) IN GENERAL.—The Secretary—

(A) shall initiate negotiations with any foreign country with respect to which a determination under subsection (d)(1) is in effect; and

(B) may initiate negotiations with any foreign country which denies national treatment to United States securities organizations to ensure that the foreign country accords national treatment to such organizations.

(2) EXCEPTIONS.—Paragraph (1) does not require the Secretary to initiate negotiations with a foreign country if the Secretary—

(A) determines that the negotiations—

(i) would be so unlikely to result in progress toward according national treatment to United States securities organizations as to be a waste of effort; or

(ii) would impair the economic interests of the United States; and

(B) gives written notice of that determination to the chairperson and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

(g) REPORT.—

(1) CONTENTS OF REPORT.—Not later than December 1, 1994, and biennially thereafter, the Secretary shall submit to the Congress a report that—

(A) specifies the foreign countries identified under subsection (b);

(B) if a determination under subsection (d)(1) is in effect with respect to the foreign country, provides the reasons therefor;

(C) if the Secretary has not made, or has rescinded, a determination under subsection (d)(1) with respect to the foreign country, provides the reasons therefor;

(D) describes the results of any negotiations conducted under subsection (f)(1) with the foreign country; and

(E) discusses the effectiveness of this section in achieving the purpose of this section.

(2) SUBMISSION OF REPORT.—The report required by paragraph (1) may be submitted as part of a report or update submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988.

(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) BROKER.—The term "broker" has the same meaning as in section 3(a)(4) of the Securities Exchange Act of 1934.

(2) DEALER.—The term "dealer" has the same meaning as in section 3(a)(5) of the Securities Exchange Act of 1934.

(3) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.

(4) INVESTMENT ADVISER.—The term "investment adviser" has the same meaning as in section 202(a)(11) of the Investment Advisers Act of 1940.

(5) NATIONAL TREATMENT.—A foreign country accords "national treatment" to United States securities organizations if it offers them the same competitive opportunities (including effective market access) as are available to its domestic securities organizations.

(6) PERSON OF A FOREIGN COUNTRY.—The term "person of a foreign country" means—

(A) a person organized under the laws of the foreign country;

(B) a person that has its principal place of business in the foreign country;

(C) an individual who is—

(i) a citizen of the foreign country; or

(ii) domiciled in the foreign country; and

(D) a person that is directly or indirectly controlled by a person described in subparagraph (A) or (B), or by an individual described in subparagraph (C).

(7) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(8) SECURITIES ORGANIZATION.—The term "securities organization" means a broker, a dealer, or an investment adviser.

(i) OTHER AUTHORITY NOT AFFECTED.—This section does not limit the authority of the Commission, the Secretary, or any other department or agency under any other provision of Federal law.

SEC. 4. FINANCIAL INTERDEPENDENCE STUDY.

Subtitle G of title III of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5351 et seq.) is amended by adding at the end the following new section:

"SEC. 3605. FINANCIAL INTERDEPENDENCE STUDY.

"(a) INVESTIGATION REQUIRED.—The Secretary, in consultation and coordination with the Securities and Exchange Commission, the Federal banking agencies, and any other appropriate Federal department or agency designated by the Secretary, shall conduct an investigation to determine—

"(1) the extent of the interdependence of the financial services sectors of the United States and foreign countries—

"(A) whose financial services institutions provide financial services in the United States; or

"(B) whose persons have substantial ownership interests in United States financial services institutions; and

"(2) the economic, strategic, and other consequences of that interdependence for the United States.

"(b) REPORT.—

"(1) REPORT REQUIRED.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit a report on the results of the investigation under subsection (a) to the President, the Congress, the Securities and Exchange Commission, the Federal banking agencies, and any other appropriate Federal agency or department, as designated by the Secretary.

"(2) CONTENTS OF REPORT.—The report required under paragraph (1) shall—

"(A) describe the activities and estimate the scope of financial services activities conducted by United States financial services institutions in foreign markets (differentiated according to major foreign markets);

"(B) describe the activities and estimate the scope of financial services activities conducted by foreign financial services institutions in the United States (differentiated according to the most significant home countries or groups of home countries);

"(C) estimate the number of jobs created in the United States by financial services activities conducted by foreign financial services institutions and the number of jobs created in foreign countries by financial service activities conducted by United States financial services institutions;

"(D) estimate the additional jobs and revenues (both foreign and domestic) that would be created by the activities of United States financial services institutions in foreign countries if those countries offered such institutions the same competitive opportunities (including effective market access) as are available to the domestic financial services institutions of those countries;

"(E) describe the extent to which foreign financial services institutions discriminate against United States persons in procurement, employment, the provision of credit or other financial services, or otherwise;

"(F) describe the extent to which foreign financial services institutions and other persons from foreign countries purchase or otherwise facilitate the marketing from the United States of government and private debt instruments and private equity instruments;

"(G) describe how the interdependence of the financial services sectors of the United States and foreign countries affects the autonomy and effectiveness of United States monetary policy;

"(H) describe the extent to which United States companies rely on financing by or through foreign financial services institutions and the consequences of such reliance

(including disclosure of proprietary information) for the industrial competitiveness and national security of the United States;

"(I) describe the extent to which foreign financial services institutions, in purchasing high technology products such as computers and telecommunications equipment, favor manufacturers from their home countries over United States manufacturers; and

"(J) contain other appropriate information relating to the results of the investigation required by subsection (a).

"(c) DEFINITIONS.—For purposes of this section the following definitions shall apply:

"(1) DEPOSITORY INSTITUTION AND DEPOSITORY INSTITUTION HOLDING COMPANY.—The terms 'depository institution' and 'depository institution holding company' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

"(2) FEDERAL BANKING AGENCY.—The term 'Federal banking agencies' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(3) FINANCIAL SERVICES INSTITUTION.—The term 'financial services institution' means—

"(A) a broker, dealer, underwriter, clearing agency, transfer agent, or information processor with respect to securities, including government and municipal securities;

"(B) an investment company, investment manager, investment adviser, indenture trustee, or any depository institution, insurance company, or other organization operating as a fiduciary, trustee, underwriter, or other financial services provider;

"(C) any depository institution or depository institution holding company; and

"(D) any other entity providing financial services.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.".

SEC. 5. CONFORMING AMENDMENTS.

(a) REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS.—Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5352) is amended—

(1) in the first sentence, by inserting "with updates on significant developments every 2 years following the study conducted in 1994," before "the Secretary of the Treasury"; and

(2) by adding at the end the following: "For purposes of this section, a foreign country denies national treatment to United States entities unless the foreign country offers such entities the same competitive opportunities (including effective market access) as are available to the domestic entities of the foreign country.".

(b) NEGOTIATIONS TO PROMOTE FAIR TRADE IN FINANCIAL SERVICES.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5353(a)(1)) is amended by inserting "effective" before "access".

(c) PRIMARY DEALERS IN GOVERNMENT DEBT INSTRUMENTS.—Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5342(b)(1)) is amended—

(1) by striking "does not accord to" and inserting "does not offer"; and

(2) by striking "as such country accords to" and inserting "(including effective market access) as are available to".●

● Mr. D'AMATO. Mr. President, I am pleased to join Senator RIEGLE in introducing the Fair Trade in Financial Services Act of 1993.

The bill has been the subject of considerable attention by the Committee on Banking, Housing, and Urban Affairs and successful action by the Senate in recent years. By introducing the bill today, I want to make clear that national treatment remains a mainstay of U.S. trade policy. Since Congress may soon consider important trade agreements as a result of NAFTA and the ongoing GATT negotiations, this is an appropriate time to underscore the benchmark trade principle of national treatment.

Mr. President, the Fair Trade in Financial Services Act would provide the Secretary of the Treasury, our primary trade negotiator on trade involving financial services, the authority and discretion to restrict the operations of foreign banks and securities firms in the United States if U.S. banks, securities firms, and investment advisors are not granted national treatment—equality of competitive opportunity—in the home country of such foreign banks and securities firms. Under the bill, if foreign governments are found to discriminate against U.S. financial organizations by not providing equivalent competitive opportunities, the Secretary of the Treasury would be permitted to deny national treatment to some or all financial firms from that country. Under the bill, denials would only affect opportunities for future expansion in the U.S. market and would not force financial firms to shrink their existing operations. The bill would also establish procedures for the exercise of the authority by the Secretary and require consultation with the banking and securities regulators.

Mr. President, I believe this bill will facilitate the efforts of our trade negotiators to open foreign markets to U.S. financial institutions. Treasury Undersecretary for International Affairs, Lawrence Summers, reiterated the Treasury Department's commitment to defending the interests of the U.S. financial community in opening restricted foreign markets during an appearance before the committee.

Mr. President, our trade policy should be aimed at opening foreign financial markets for U.S. business. This bill will enhance the authority of our negotiators to accomplish this goal primarily through negotiations while providing assurance that we will retain the statutory authority to make certain that the principles of fairness and reciprocity are honored by our trading partners and enforceable by our Government.

Mr. President, I am hopeful the administration will support this bill and cooperate in its prompt passage. Only by collaborating across all agencies of our Government involved with trade can we succeed in eliminating the discrimination many countries practice against U.S. firms, especially in the financial services area. I believe the approach in this bill is entirely consistent with the principles that President Clinton announced to guide our trade policy in a speech last February. In that speech, he stated that his administration's trade policy would:

* * * say to our trading partners that we value their business, but none of us should expect something for nothing. We will continue to welcome foreign products and services into our markets, but insist that our products and services be able to enter their on equal terms.

That statement of fair play in international trade is exactly what the Fair Trade in Financial Services Act seeks to apply to trade in financial services.

I will work closely with Senator RIEGLE and my colleagues in the House, Congressmen SCHUMER and LEACH, who are introducing an identical bill on a bipartisan basis in the House.●

By Mr. SIMON:

S. 1528. A bill to amend the National Labor Relations Act to set a time limit for labor rulings on discharge complaints, and for other purposes; to the Committee on Labor and Human Resources.

S. 1529. A bill to amend the National Labor Relations Act to permit the selection of an employee labor organization through the signing of a labor organization membership card by a majority of employees and a subsequent election, and for other purposes; to the Committee on Labor and Human Resources.

S. 1530. A bill to amend the National Labor Relations Act to require Federal contracts debarment for persons who violate labor relations provisions, and for other purposes; to the Committee on Labor and Human resources.

S. 1531. A bill to amend the National Labor Relations Act to impose a penalty for encouraging others to violate the provisions of the National Labor Relations Act, and for other purposes; to the Committee on Labor and Human Resources.

S. 1532. A bill to amend the National Labor Relations Act to provide equal time to labor organizations to present information relating to labor organizations, and for other purposes; to the Committee on Labor and Human Resources.

LEGISLATION TO IMPROVE LABOR-MANAGEMENT RELATIONS

● Mr. SIMON. Mr. President, today I am introducing a series of bills to encourage better relations between labor and management in our country.

If the United States is to remain a competitive and prosperous nation in a global economy, we must encourage labor-management cooperation and the participation of workers in decisions that affect the workplace.

U.S. labor laws were designed to establish an equitable framework for labor and management to represent their interests and settle their differences. The way in which these laws have been amended and interpreted has had a direct impact on union membership.

As Prof. Paul Weiler has written:

Congress adopted as our national legal policy the promotion of worker organization

into independent unions of their own choosing. (Weiler, Paul "Governing The Workplace: Employee Representation In The Eyes Of The Law".

As current law stands, however, independent unions have been stifled not promoted. Public policy needs to once again promote worker rights. We need to level the playing field.

Unlike Japan, Western Europe, and Canada, there has been a steady decline in labor union membership in the United States during the past 20 years. Almost 27 percent of people in the United States were unionized in 1972. Today approximately 16 percent of our work force is unionized—excluding governmental employees, it's about 12 percent—compared to 42 percent in Germany and Canada, 58 percent in Great Britain, 28 percent in France, 50 percent in Brazil, 35 percent in Mexico, and 90 percent in Sweden. This decline hampers growth and opportunity in our Nation. It is no coincidence that as the percentage of union membership has gone down, so have the average wages of our workers. In 1972, when 26 percent of the work force belonged to unions, the average worker, according to the Bureau of Labor Statistics, earned $315 a week. In 1991, the percentage of union workers had dropped to 16 percent, and average earnings were down to $255. We cannot allow this trend to continue. It is not healthy for our workers or our economy. It's a sad commentary on the state of our affairs when you consider that among all industrialized workers, only Korea has a lower percentage of unionized workers.

Not only is this bad for workers; it is also bad for business. It's bad for business because studies show that satisfied workers are more productive workers. Studies also show that union workers tend to be more satisfied workers. In fact, union membership adds to productivity in this country.

Morton Bahr, President of Communications Workers of America stated, "[s]trong labor movements are the rule not the exception, in the nations that are our toughest international competitors." Although economists do not agree on much, they do agree that the United States will compete with the rest of the world either through high skills or low wages. Unless we do something to change our course, this Nation will continue to follow the low wage route. Increasing employee participation is the best route to an economy based on high skills and higher productivity.

For example, The Washington Post reported on September 6, 1992:

> The median income for a union member was $33,345, compared with the median earnings of $27,613 for all adults. The survey shows that 39% of union members earn more than $35,000 a year, compared with 28% of the overall population.

As I indicated earlier, the statistics demonstrate that as the percentage of union members has declined, so has our average manufacturing wage. There is no question in my mind that if 35 or 40 percent of workers were organized in the United States, we would have a more productive, healthier, and more competitive workplace.

Of course, the causes of union decline are complex. Factors such as the trade deficit, budget deficit, employers who engage in union busting activities and negative public relations, and the failure by unions themselves to involve women and minorities have all contributed to member decline. Public policy, however, which has permitted, even encouraged, certain employers to resist union organizing activities, is the principal cause of the decline in union membership in the United States.

In addition to promoting global competitiveness, the bills I introduce today will seek to protect workers' rights in the work place. Workers should be free from coercion, threats, and undue influence when deciding if they wish to join a labor union, employer's group, or associate with any group. In other words, people should be free to associate with whomever they so choose at work. Further, employers and labor unions should be allowed the same access when it comes to distributing information to workers.

Unions were first recognized in Britain in 1824. As a system of collective bargaining developed, regulations governing health and safety and workmen's compensation were adopted. Labor unions have been leaders in social progress and reforms; social security, having minimum wage, and child labor laws just to name a few. Today, concern over worker safety, privacy in the work place, equal treatment for women, and health care are areas where labor unions can have a positive impact on our public policy.

We can achieve these noble goals. Each of my bills addresses a different problem in current labor law.

The first bill I will introduce is called the National Labor Relations Board Ruling Time Limit Act. It requires the National Labor Relations Board to rule within 30 days after receiving a charge of unfair labor practices, resulting in a discharge.

Second, the Labor Relations Representative Amendment Act would provide for expedited elections, when a supermajority of workers sign cards indicating their desire to join a union. 60 percent of workers would constitute a supermajority. This is similar to a practice that has worked well in Canada.

The next two bills impose significant penalties on those who violate the NLRA. The Federal Contracts Debarment Act makes anyone who continually and blatantly violates the NLRA ineligible for Federal contracts for up to 3 years. The National Labor Relations Penalty Act makes it illegal for any law firm or consulting firm to encourage or aid in violation of the NLRA. If a firm violates this act, it can be fined up to $10,000.

The final bill is called the Labor Organizations Equal Presentation Time Act. As the name indicates, it requires employers who participate in anti-labor organization activities on the job to give equal time to the labor organizations. Workers must have equal access to information on both sides.

We need to improve labor-management relations in this country and these bills will help bring some needed changes. I know others are studying this important issue—most notably the Commission on the Future of Worker-Management Relations, chaired by Assistant Secretary John Dunlop. I look forward to the recommendations of this important Commission.•

By Mr. LOTT.

S. 1533. A bill to improve access to health insurance and contain health costs, and for other purposes; to the Committee on Finance.

AFFORDABLE HEALTH CARE NOW ACT

• Mr. LOTT. Mr. President, I rise today to offer legislation which will improve access to health insurance, help contain health care costs, and address the areas of health care which really warrant reform.

My office has received over 3,000 calls from Mississippians and others across the country about the plan proposed by President Clinton. I want to tell my colleagues today there is a great deal of apprehension, or perhaps I should say fear, about what this plan could possibly do to the quality of health care delivery and the existing availability of medical treatment.

Health care reform is a subject which has now captured the national spotlight, and tapped the conscience of all Americans. It is one of the most difficult problems facing our country today. We all need and deserve health care that is affordable and accessible. Rapidly increasing costs, however, have made these goals hard to reach. I have looked closely at the details of a number of proposals presented in Congress, and have decided to offer the American public an alternative.

This plan I am introducing is a practical approach. It will expand access to affordable group health coverage for employers, employees, and their families. Also, it will help eliminate job-lock and the exclusion of such individuals from coverage due to preexisting condition restrictions.

In addressing health care reform, we must make sure that we do not sacrifice quality as we reform the present system. In addition, I believe that any plan ultimately approved by Congress must ensure that we retain the positive things about our country's health care system, like the individual freedom to choose your own doctor and hospital.

The health care problems we face are very complex, and a solution is not

going to happen overnight. Obviously, we need to do something, but any reform must be carefully weighed. We need to have a full and thorough debate on all the options facing us. The issue of health care is too important simply to rush to judgment.

I urge my colleagues to examine the merits of this legislation, this practical approach to health care reform.●

By Mr. GLENN (for himself, Mr. STEVENS, and Mr. PRYOR):

S. 1535. A bill to amend title V, United States Code, to eliminate narrow restrictions on employee training, to provide a temporary voluntary separation incentive, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL WORK FORCE RESTRUCTURING ACT OF 1993

Mr. GLENN. Mr. President, on behalf of myself, Senator STEVENS, and Senator PRYOR, I rise to introduce the Federal Work Force Restructuring Act of 1993. This legislation is an initiative of the Vice President's National Performance Review [NPR]. This bill reflects the strong commitment of the Clinton administration to trim the Federal work force and to make Government more responsive and effective.

The legislation's purpose is to provide agency heads with a range of tools and incentives to assist them in restructuring their work force. The bill would allow agencies to employ voluntary separation incentive payments to encourage Federal employees to resign or retire from Federal service. In addition, it would reform current law on employee training. Employee retraining will be increasingly necessary as we seek to create a multiskilled Federal work force, adaptable to changing circumstances and technology.

One central goal of the Vice President's National Performance Review is Governmentwide downsizing. In developing its initiatives, the NPR examined employment and management trends in State and local governments, other countries, and the private sector. Separation incentives have long been recognized by private industry as an important tool in restructuring their work force.

The purpose of the bill is to provide agencies with the tools they need to downsize, by allowing them to offer targeted separation incentives—early retirement or financial payments or both—to selected groups of employees. These financial payments would be the lesser of $25,000 or the amount an employee would be paid in severance pay if their jobs were being abolished. An agency head could designate components of his or her agency, particular locations or offices, and/or particular job grades or occupations where separation incentives would be offered.

This latter point is very important because there are going to be some dis-appointed Federal employees who find themselves ineligible for any separation payment. Let me point out that this is not some sort of new benefit for Government workers. Instead, it is proposed as a carefully crafted, sensible, and humane alternative to reductions in force [RIF's]. It is proposed as a cost-effective tool to meet the Vice President's goal of reducing the Federal work force by 252,000 people.

Hand-in-hand with the goal of downsizing is the retraining of the existing work force. As we cut the fat, we must build the muscle. The Federal Work Force Restructuring Act would provide needed flexibility in retraining Federal employees for new assignments. Under the terms of the legislation, the purpose of training would be expanded to include improving individual and organizational performance. Training would be related to the achievement of agency mission and performance goals.

As chairman of the committee on Governmental Affairs, I am scheduling a hearing on this legislation for October 19, 1993. At that hearing, we hope to examine a number of concerns related to this bill, including its costs and impact.

I am pleased to already have bipartisan support for this measure, with both the chairman and ranking member of the Federal Services, Post Office and Civil Service Subcommittee of the Governmental Affairs Committee as original cosponsors of the bill. I look forward to working with Senator STEVENS, Senator PRYOR, and other committee members on this measure.

I ask unanimous consent that statements by Senators STEVENS and PRYOR be included as if read, and further ask that the text of the bill be printed in full following these remarks.

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

S. 1535

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 "Federal Workforce Restructuring Act of 1993".

SEC. 2. EMPLOYEE TRAINING.

(a) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended—

(1) in section 4101(4) by striking out "fields" and all that follows through the semicolon and inserting in lieu thereof "fields which will improve individual and organizational performance and assist in achieving the agency's mission and performance goals;";

(2) in section 4103—

(A) in subsection (a) by striking out "In" and all that follows through "proficiency" and inserting in lieu thereof "In order to assist in achieving an agency's mission and performance goals by improving employee and organizational performance"; and

(B) in subsection (b)—

(i) in paragraph (1) by striking out "determines" and all that follows through the period and inserting in lieu thereof "determines that such training would be in the interests of the Government.";

(ii) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(iii) in subparagraph (C) of paragraph (2) (as redesignated under clause (ii) of this subparagraph) by striking out "retaining" and all that follows through the period and inserting in lieu thereof "such training.";

(3) in section 4105—

(A) in subsection (a) by striking out "(a)"; and

(B) by striking out subsections (b) and (c);

(4) by repealing section 4106;

(5) in section 4107—

(A) by amending the section heading to read as follows:

"**§4107. Restriction on degree training**";

(B) by striking out subsections (a) and (b) and redesignating subsections (c) and (d) as subsections (a) and (b), respectively;

(C) by amending subsection (a) (as redesignated under subparagraph (B) of this paragraph)—

(i) by striking out "subsection (d)" and inserting in lieu thereof "subsection (b)"; and

(ii) by striking out "by, in, or through a non-Government facility"; and

(D) by amending paragraph (1) of subsection (b) (as redesignated under subparagraph (B) of this paragraph) by striking out "subsection (c)" and inserting in lieu thereof "subsection (a)";

(6) in section 4108(a) by striking out "by, in, or through a non-Government facility under this chapter" and inserting in lieu thereof "for more than a minimum period prescribed by the head of the agency";

(7) in section 4113(b) by striking out all that follows the first sentence;

(8) by repealing section 4114; and

(9) in section 4118—

(A) in subsection (a)(7) by striking out "by, in, and through non-Government facilities";

(B) by striking out subsection (b); and

(C) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 41 of title 5, United States Code, is amended—

(1) by striking out the items relating to sections 4106 and 4114; and

(2) by amending the item relating to section 4107 to read as follows:

"4107. Restriction on degree training.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 3. VOLUNTARY SEPARATION INCENTIVES.

(a) DEFINITIONS.—For purposes of this section, the term—

(1) "agency" means an Executive agency, as defined under section 105 of title 5, United States Code, but does not include the Department of Defense, the Central Intelligence Agency, or the General Accounting Office; and

(2) "employee" means an employee, as defined under section 2105 of title 5, United States Code, of an agency, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months, including an individual employed by a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Government; or

(B) an employee having a disability on the basis of which such employee is or would be

eligible for disability retirement under the applicable retirement system referred to in subparagraph (A).

(b) AUTHORITY TO MAKE PAYMENT.—(1) In order to assist in the restructuring of the Federal workforce while minimizing involuntary separations, the head of an agency may pay, or authorize the payment of, a voluntary separation incentive payment to employees—

(A) in any component of the agency;

(B) in any occupation;

(C) in any geographic location; or

(D) on the basis of any combination of the factors described under subparagraphs (A) through (C).

(2) In order to receive an incentive payment under paragraph (1), an employee shall separate from service with the agency (whether by retirement or resignation) during the 90-day period described under paragraph (3).

(3) The head of an agency shall designate a continuous 90-day period for purposes of separation under this subsection for such agency or any component thereof. Such 90-day period shall begin no earlier than the date of the enactment of this Act and shall end no later than September 30, 1994.

(4) Notwithstanding the provisions of paragraphs (2) and (3), an employee may receive an incentive payment under this section and delay a separation from service if—

(A) the agency head determines that it is necessary to delay such employee's separation from service in order to ensure the performance of the agency's mission; and

(B) no later than 2 years after the date of the last day of the 90-day period designated under paragraph (3), such employee separates from service in the agency.

(c) VOLUNTARY SEPARATION INCENTIVE PAYMENT.—A voluntary separation incentive payment—

(1) shall be paid in a lump sum after the employee's separation;

(2) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section; or

(B) $25,000;

(3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

(4) shall not be taken into account in determining the amount of any severance pay to which an employee may be entitled under section 5595 of title 5, United States Code, based on any other separation; and

(5) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

(d) SUBSEQUENT EMPLOYMENT AND REPAYMENT OF INCENTIVE PAYMENT.—(1) An employee who has received a voluntary separation incentive payment under this section and accepts employment with the Government of the United States within 5 years of the date of the separation on which payment of the incentive is based shall be required to repay the entire amount of the incentive payment to the agency that paid the incentive payment.

(2) If the employment is with an Executive agency (as defined under section 105 of title 5, United States Code), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the employment is in a position for which there is exceptional difficulty in recruiting a qualified employee.

(3) If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the employment is in a position for which there is exceptional difficulty in recruiting a qualified employee.

(4) If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the employment is in a position for which there is exceptional difficulty in recruiting a qualified employee.

(e) REGULATIONS.—The Director of the Office of Personnel Management may prescribe any regulations necessary for the administration of this section.

(f) JUDICIAL BRANCH PROGRAM.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program consistent with the program established by subsections (a) through (d) of this section for employees of the judicial branch.

(g) REDUCTION GOALS.—It is the sense of Congress that—

(1) employment in the executive branch should be reduced by not less than one full-time equivalent position for each 2 employees who are paid voluntary separation incentives under this Act; and

(2) each agency should adjust its employment levels to achieve such result.

SEC. 4. SUBSEQUENT EMPLOYMENT AND REPAYMENT OF SEPARATION PAYMENT.

(a) DEFENSE AGENCY SEPARATION PAY.—Section 5597 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of enactment of the Federal Workforce Restructuring Act of 1993 and accepts employment with the Government of the United States within 2 years of the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the defense agency that paid the separation pay.

"(2) If the employment is with an Executive agency (as defined under section 105 of title 5, United States Code), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the employment is in a position for which there is exceptional difficulty in recruiting a qualified employee.

"(3) If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the employment is in a position for which there is exceptional difficulty in recruiting a qualified employee.

"(4) If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the employment is in a position for which there is exceptional difficulty in recruiting a qualified employee.".

(b) CENTRAL INTELLIGENCE AGENCY SEPARATION PAYMENT.—Section 2(b) of the Central Intelligence Agency Voluntary Separation Pay Act (Public Law 103-36; 107 Stat. 104) is amended by adding at the end thereof the following: "An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1993 and accepts employment with the Government of the United States within 2 years of the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the Central Intelligence Agency. If the employment is with an Executive agency (as defined under section 105 of title 5, United States Code), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the employment is in a position for which there is exceptional difficulty in recruiting a qualified employee. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the employment is in a position for which there is exceptional difficulty in recruiting a qualified employee. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the employment is in a position for which there is exceptional difficulty in recruiting a qualified employee.".

SEC. 5. FUNDING OF EARLY RETIREMENTS IN CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Section 8334 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) In addition to any other payments required by this subchapter, an agency shall remit to the Office for deposit in the Treasury of the United States to the credit of the Fund an amount equal to 9 percent of the final rate of basic pay of each employee of the agency who retires under section 8336(d).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to retirements occurring on or after the date of the enactment of this Act.

• Mr. STEVENS. Mr. President, I am pleased to join my friend, chairman of the Governmental Affairs Committee, JOHN GLENN, in sponsoring this measure to assist Government agencies as they attempt to streamline their operations.

This proposal is the natural progression of legislation which was enacted last year to minimize civilian layoffs at the Department of Defense. From all accounts, the flexibility we provided has proved to be invaluable to both management and employees.

It should be made clear, however, that we are not creating an entitlement program. Agency heads must retain the authority and discretion to offer the incentives in specific locations, or job classifications, or whatever combination best suits the particular agency.

And, it should also be understood that this is a one-time opportunity—agencies will offer these incentives for a finite period of time during fiscal year 1994. Once that window is closed, it will not be reopened. Both agency heads and employees need to carefully consider all options and eventualities before any decisions are made.

Mr. President, while I have reservations about particular provisions of this bill, I support its basic concept of giving agencies the tools needed to reach a goal we can all agree is necessary—a voluntary Federal work force reduction to meet budgetary necessities. I look forward to working with the Governmental Affairs Committee and other Members of the Senate to fine tune this legislation so that the Senate can act expeditiously and allow

Federal agencies to get on with the job of rightsizing the Federal Government.●

● Mr. PRYOR. Mr. President, I am pleased to join Senator GLENN as an original cosponsor of this bill which will help us reduce the Federal work force by 252,000 jobs over the next several years by allowing agencies to offer employees retirement and resignation incentives. We know this strategy will work because it is working at the Department of Defense [DOD]. DOD first offered separation incentives on January 19, 1993, and since then, 28,000 employees have left the Department.

When I visited with civilian employees at Eaker Air Force Base in Blytheville, AR, in February 1992, who were facing the closing of their base, it became clear that preventive measures were needed to help DOD employees avoid layoffs. I am pleased to have worked with DOD in designing the separation incentives. The incentives have improved employees' morale and have minimized the need for DOD to use reductions in force which disproportionately affects women and minorities.

The success rates of the incentives, coupled with early retirement, is undeniable. Simply offering early retirement as an option historically attracted 16 percent of eligible retirees. That number dropped to below 5 percent in 1991 and 1992. However, early retirement, plus some type of incentive, has encouraged 25 percent of eligible DOD employees; 26 percent of eligible postal employees; and 38 percent of eligible Office of Thrift Supervision employees to elect retirement.

The National Performance Review report recommends that the buy-out program be implemented to help soften the impact of the restructuring of the Federal work force. Incentives have been used by the private sector to achieve work force reductions. I applaud the President and Vice President for this initiative, and I look forward to working with Senator GLENN, the chairman of the Senate Governmental Affairs Committee, on this legislation.●

By Mr. INOUYE:

S. 1536. A bill to amend the Federal Property and Administrative Services Act to provide an opportunity for former owners to repurchase real property to be disposed by the United States; to the Committee on Governmental Affairs.

REAL PROPERTY LEGISLATION

● Mr. INOUYE. Mr. President, I rise today to introduce a bill to amend the Federal Property and Administrative Services Act of 1949 to provide a right of first refusal to those property owners from whom land was acquired by the United States through the exercise of the power of eminent domain.

This right of first refusal to repurchase the land would come only after the property is no longer being used for the purpose for which it was originally acquired, and only in the circumstance in which the Government is ready to dispose of the property.

The amendment which I propose today would require the United States to provide written notice of the intention of the Government to dispose of real property to the title holder of the property from whom the Government acquired the property by eminent domain.

The title holder would then have an opportunity to enter into a contract with the United States to purchase the property. If this right of first refusal is not acted upon within 1 year from the time that notice is provided, the Government could proceed with the disposal of the property.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

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

S. 1536

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

SEC. . OPPORTUNITY FOR FORMER OWNERS TO REPURCHASE REAL PROPERTY TO BE DISPOSED BY THE UNITED STATES.

Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) is amended by adding at the end thereof the following new subsection:

"(p)(1) Notwithstanding any other provision of this section, no property described under paragraph (2) may be disposed under this section, unless—

"(A) the person who last held title to the real property before the United States acquired title by eminent domain—

"(i) is provided written notice of the intention of the United States to dispose of such real property; and

"(ii) is made a written offer to purchase such real property at the fair market value of such property on the date of such offer; and

"(B) within one year after the date on which such person received an offer as provided under subparagraph (A)(ii), such person—

"(i) signs a refusal to purchase such property; or

"(ii) has not entered into a contract with the United States to purchase such property.

"(2) The property referred to under paragraph (1) is any real property—

"(A) which is acquired by the United States by eminent domain; and

"(B) of which title was last held by any person other than a Federal, State, or local governmental entity, or foreign governmental entity before such property was so acquired.

"(3) The provisions of this subsection shall apply to any real property described under paragraph (2) or any part of such property.

"(4) The provisions of this subsection shall not apply to any real property if—

"(A) title was last held by any natural person before being acquired by the United States by eminent domain; and

"(B) all such natural persons are deceased before the date on which a contract to repurchase such real property from the United States is entered into.".●

By Mr. ROCKEFELLER (for himself and Mr. DECONCINI):

S. 1537. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980; to the Committee on Commerce, Science, and Transportation.

TECHNOLOGY COMMERCIALIZATION ACT OF 1993

● Mr. ROCKEFELLER. Mr. President, I am pleased to be joined today by my colleague and friend Senator DECONCINI in sponsoring the Technology Commercialization Act of 1993. Senator DECONCINI had made such tremendous contributions to this body, to his state, and to the nation that he will be greatly missed when the 104th Congress convenes in 1995. It is an honor for me that he has joined me in sponsoring this bill.

From my perspective as chairman of the Science, Technology and Space Subcommittee, and from Senator DECONCINI's perspective as chairman of the Judiciary Subcommittee on Patents, Copyrights, and Trademarks, we are acutely aware of the role that new technology can play in the economic competitiveness of our country. Because of my assignment, I also hear from many American business executives about their efforts to work with Federal laboratories in joint research projects to develop the new technologies that will make our industries more competitive. From these exchanges, I have identified some of the problems in Federal technology policy that have made these efforts less productive than could be.

The changes we are proposing in Federal technology policy are not earthshaking, but they will result in better use of Federal laboratories and will advance American international competitiveness. They are part of an ongoing move toward increased emphasis on Federal support for the commercialization of technology, not just the development of technology this change was also evidenced last year in the package of proposals that a number of us in the Democratic Economic Leadership Strategy Group introduced. I hope this bill will receive the same serious consideration and early approval that most of that package received.

In the process of drafting this bill, we have consulted extensively with the U.S. companies which make the biggest investments in new product research and development and with the Federal agencies and laboratories which conduct a large proportion of the Government's research and development. From these consultations, I believe that both of these groups, as well as the American people, will benefit from this proposal. To obtain additional views, I plan to hold a hearing on this bill later this month in the Subcommittee on Science, Technology, and Space.

Mr. President, technology is often called the engine of economic growth. It is said that technology determines our national income, our social well-being, and our international competitiveness. While those statements are true, they do not tell the whole story. In fact, the development of new technology cannot, by itself, bring any of these gains.

The critical factor in producing these benefits is the commercialization of technology. Economic benefits accrue only when a technology is brought to the marketplace. Only when technology is commercialized, can it create jobs, production, and profits. In turn, it is today's earnings from commercialized technology which will enable our manufacturers to undertake the research and the investments that lead to the next generation of technology and commercialization and to more jobs for Americans tomorrow.

The Federal Government has long had a role in technology development, predominately supporting basic science research and conducting mission-oriented research and development, primarily of defense technologies. These Federal research and development programs are conducted by private industry, by universities and other not-for-profit study centers, and by Federal laboratories. This legislation deals with the research jointly conducted by private entities and Federal laboratories under a cooperative research and development agreement.

While the Government's research programs were not initiated to promote technology commercialization, Federal policy has moved steadily in that direction. For example, technologies that private companies developed for our defense programs and our space programs sometimes also produced spin-off technologies that were commercialized for other applications. Because these programs generally assign ownership of the technology to the private companies which conducted the research and made the discovery, the companies had an ownership incentive to commercialize the technology and develop it further.

Federal research and development policy took an important step toward greater emphasis on technology commercialization in 1980 with enactment of the Stevenson-Wydler Technology Innovation Act (15 U.S.C. Chapter 63) and the Bayh-Dole Act of 1980 (35 U.S.C. Chapter 18). The former established a policy and mechanisms for utilizing Government funded technology developments by the private sector. The latter law promotes commercialization of inventions that come from federally funded research and development by granting ownership of these inventions' intellectual property rights to the individuals, small businesses, universities, and other nonprofits which conducted the research. That Bayh-Dole policy has been quite successful in moving technology from the laboratory to the market place.

In 1986 and 1989, Federal policy took more steps toward increased emphasis on technology commercialization through amendments to the Stevenson-Wydler Act. The first, the Federal Technology Transfer Act of 1986, established a process for joint research by Government-operated Federal laboratories and collaborating parties. These cooperative research and development agreements, or CRADA's, are usually partnerships between Federal labs and U.S. manufacturing companies. The second, the National Competitiveness Technology Transfer Act of 1989, extended this cooperative research and development program to Federal laboratories operated by Government contractors.

In contrast to the provisions of the Bayh-Dole Act, which put the intellectual property rights that came out of federally financed research into the private sector where they could be commercialized, the Stevenson-Wydler Act allowed the Federal laboratories to retain these rights. Partially as a result of these differences in policies, the rate of commercialization of technology developed by the universities under the Bayh-Dole provisions has been much greater than the rate of commercialization of technology from Federal laboratories.

Recent General Accounting Office reports which provide data on Federal laboratories' and universities' research and development expenditures, inventions, and intellectual property income give us a good picture of just how much less successful the Federal laboratories have been. These reports indicate that during fiscal years 1989 and 1990, the most recent period studied, Government-operated Federal laboratories spent $31.8 billion on research and development. These expenditures resulted in the grant of 1,511 patents, of which 89 were licensed for commercialization. During the 2-year period, the Federal laboratories received $12.6 million in income from their technology licenses. Those data mean that the Federal laboratories had an average R&D expenditure of $357 million per each commercialized technology. They also show that only 1 out of every 17 patents from Government-operated Federal laboratories was commercialized.

In contrast, the record of university research, much of which is also federally financed and undertaken for the same purposes as research in the Government-operated Federal laboratories, is much better. The GAO indicates that during the same 2-year period, the 25 universities which receive the bulk of Federal research funding spent $11.2 billion on research and development, about one-third of what the Government-operated Federal laboratories spent. In the same period, they obtained 886 patented inventions, about 60 percent of the Federal laboratories' achievement. Of greater importance, however, the 25 universities granted 673 licenses for the commercialization of the inventions, more than 7½ times as many as the Federal laboratories with only one-third of the R&D expenditure, and they received $110.9 million in license income, almost 9 times more than the Federal laboratories.

These results document what we should have known. The Federal Government does not do a very good job of commercializing technology. Moreover, these 2 years studied in depth by GAO do not appear to be unusual. In other data, GAO indicates that from 1981 to 1991, all of the Government-operated Federal laboratories granted 455 exclusive licenses for the commercialization of technology developed at the laboratories. A single American university, the Massachusetts Institute of Technology, granted more than that—and MIT was not even among the top three American universities in granting commercialization licenses during the 2 years studied in detail.

It is obvious from these data, Mr. President, that commercialization of technology and industrial innovation in the United States is more likely to occur when the private sector, rather than the Government, has title to the intellectual property. This should not be surprising. Commercialization depends upon actions by business and the exclusive ownership of the intellectual property rights increases the likelihood of commercial success. With ownership, businesses are more prepared to undertake the expenses of commercialization, including the expense of participating in the cooperative R&D agreement itself.

The Stevenson-Wydler Technology Innovation Act currently gives Federal laboratories an option to claim ownership to technology developed jointly by a laboratory and a private research partner under the terms of a cooperative research and development agreement, despite the fact that the private sector partners in most cases provide the majority of the financing of the research. I believe that this ability by the Federal Government to claim a right of ownership to intellectual property developed jointly with American companies has inhibited the establishment of cooperative R&D agreements and has retarded the commercialization of federally supported technology developments. This view is shared by the many research-intensive U.S. companies we contacted.

The bill we are introducing today eliminates this option by directing Federal laboratories to ensure that the private sector is assigned title to any intellectual property arising from a CRADA. The private sector partners generally pay most of the research

costs for each project. They are the only partner who will commercialize a discovery. They should have property rights that justify the expenses of commercialization.

This should not be viewed as a Government give-away program. It is not. The research conducted in a CRADA is of interest to both partners, and the Federal Government will retain a paid-up, irrevocable license for its own use of the intellectual property. And the bill requires that this assignment of title to the private partner be made "in exchange for reasonable compensation to the laboratory." We have not chosen to delimit this compensation any further because it will depend on the type of research being conducted and should therefore be left to the negotiators of the agreement to decide. It could range from an agreement to reimburse the laboratory for its research costs if the product is a commercial success, to an agreement to share in the income from the invention.

This provision, in addition to putting technology in the commercial sector where it can be commercialized, will greatly speed the negotiations of CRADA's. Under current law, the most time-consuming, and often deal-breaking, part of the negotiation between Federal laboratories and the potential research partners is over ownership, assignment, licensing, restriction, and so forth, of the intellectual property rights. Our bill eliminates this obstacle.

Another provision of the bill will also help simplify and speed up the negotiations. It is the so-called march-in rights that the Federal Government will retain in the intellectual property assigned to the private partner. Under this provision, the Federal laboratory can assign a license to another company if the title holder does not commercialize the technology or is not manufacturing in the United States. These assignment rights will greatly reduce, if not eliminate, the time now spent on negotiating about the implication of the law's existing manufacturing-in-the-United States preference. The private company will be told that if it does not manufacture in the United States, the license to manufacture can be assigned to a company, possible a competitor, which will.

In addition, we have added a section to beef up previous congressional action to further boost technology commercialization from Federal laboratories. To reorient Federal scientists' traditional attachment to basic research and publication of research results in the direction of working with the private sector on patenting and licensing suitable inventions, the Congress created an incentive program for laboratory scientists in its 1986 amendments to the Stevenson-Wydler Technology Innovation Act. A recent GAO report indicates that we did not quite get the right combination, and that the current royalty sharing system has had little impact on scientists' interest in patenting and commercializing.

GAO's recommendations to improve this situation are incorporated into this bill by providing that the laboratory scientists responsible for an invention or other protectable intellectual property will receive the first $10,000 in income if the property is commercialized, and, after the laboratory has recovered its R&D costs, will receive 15 percent of additional income. The bulk of the remaining income must be used by the laboratory to support its research efforts. In this way, the Government scientists not only will see their creativeness contributing to the competitiveness of the nation but also will see the rewards to themselves and to their laboratories of supporting U.S. industry efforts to develop technologies that lead to commercial products.

Mr. President, the bill we are introducing applies both to Government-operated Federal laboratories and to contractor-operated Federal laboratories. The stipulation that the patents obtained for these inventions will be assigned to the private sector partner applies equally to Government-owned contractor-operated laboratories (the so-called GOCO labs), where the laboratory scientists are not Government employees, and to Government-owned Government-operated laboratories (the so-called GOGO labs), where the laboratory scientists are Government employees.

However, in recognition of the century-old Federal policy that copyright protection is not available for any work of the U.S. Government, the protection available through copyrights and computer mask work registrations is different for the two types of Federal laboratories. The bill acknowledges this difference and proposes no change in existing copyright law or policy. The bill defines assignable intellectual property rights as "patents, copyrights, and computer chip mask work registrations" in the case of GOCO laboratories but defines the same term as only "patents" in the case of GOGO laboratories where the scientists are Government employees and their work is considered work of the U.S. Government.

This distinction does not imply that the private parties in CRADA's will be unable to obtain copyrights and computer chip mask work registrations for technology they develop in the course of the collaborative research with GOGO laboratories. It is my belief that in many, if not most cases, the private parties will be able to obtain such protection.

To test this belief and, thereby, to be able to provide U.S. companies with information about the copyrights they will own if they work with Federal scientists from Government-owned Government-operated laboratories, I asked the U.S. Copyright Office to provide guidelines on the conditions under which private sector partners can own copyrights and computer chip mask work registrations for technology which arises from a CRADA. I have received a response to my inquiry, and it confirms my belief. There are many conditions under which private companies will be able to obtain a copyright in the technology, such as computer software, that comes out of joint research with a Government-operated Federal laboratory.

Mr. President, I ask unanimous consent that the text of the Technology Commercialization Act of 1993 and the guidance provided by the U.S. Copyright Office be printed at this point in the RECORD.

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

S. 1537

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 "Technology Commercialization Act of 1993".

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) The commercialization of technology and industrial innovation are central to the economic, environmental, and social well-being of citizens of the United States.

(2) The Government can help United States business to speed the development of new products and processes by entering into Cooperative Research and Development Agreements which make available the assistance of the Federal laboratories to the private sector, but the commercialization of technology and industrial innovation in the United States depends largely upon actions by business.

(3) Government action to claim a right of ownership to any invention or other intellectual property developed under a Cooperative Research and Development Agreement can inhibit the establishment of such agreements with business and can prevent the commercialization of technology and industrial innovation by business.

(4) The commercialization of technology and industrial innovation in the United States will be enhanced if the ownership of any invention or other intellectual property developed under a Cooperative Research and Development Agreement belongs to a company or companies incorporated in the United States.

SEC. 3. TITLE TO INTELLECTUAL PROPERTY ARISING FROM COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended as follows:

(1) In the text of subsection (b) immediately preceding paragraph (1), strike "Government-operated Federal laboratory, and to the extent provided in an agency-approved joint work statement, a Government-owned contractor-operated laboratory, may" and insert "Federal laboratory shall ensure that title to any intellectual property arising

from the agreement, except intellectual property developed in whole by a laboratory employee, is assigned to the collaborating party or parties to the agreement in exchange for reasonable compensation to the laboratory, and may".

(2) In subsection (b)(2), strike "or in part".

(3) Amend subsection (b)(3) to read as follows:

"(3) retain a nonexclusive, nontransferable, irrevocable, paid-up license from the collaborating party or parties for any intellectual property arising from the agreement, and have such license practiced throughout the world by or on behalf of the Government, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license;".

(4) Amend subsection (b)(4) to read as follows:

"(4) retain the right, in accordance with procedures provided in regulations promulgated under this section, to require a collaborating party to grant to a responsible applicant or applicants a nonexclusive, partially exclusive, or exclusive license to use the subject intellectual property in any field of use, on terms that are reasonable under the circumstances, or if the collaborating party fails to grant such a license, to grant the license itself if the laboratory finds that—

"(A) the collaborating party has not taken, and is not expected to take within a reasonable time, effective steps to achieve practical application of the subject intellectual property in the field of use;

"(B) such action is necessary to meet health or safety needs that are not reasonably satisfied by the collaborating party;

"(C) such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the collaborating party; or

"(D) the collaborating party has not entered into or is in breach of an agreement made pursuant to subsection (c)(4)(B).".

(5) In subsection (d)(2), strike "and" at the end;

(6) In subsection (d)(3), strike the period at the end and insert "; and".

(7) At the end of subsection (d), insert the following new paragraph:

"(4) the term 'intellectual property rights' means—

"(A) in the case of government-owned, government-operated Federal laboratories, patents; and

"(B) in the case of government-owned, contractor-operated Federal laboratories, patents, copyrights, and computer chip mask work registrations.".

SEC. 4. DISTRIBUTION OF INCOME FROM INTELLECTUAL PROPERTY RECEIVED BY FEDERAL LABORATORIES.

Section 14 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c) is amended to read as follows:

"SEC. 14. DISTRIBUTION OF INCOME FROM INTELLECTUAL PROPERTY RECEIVED BY FEDERAL AGENCIES OR LABORATORIES.

"(a) IN GENERAL.—

"(1) Except as provided in paragraphs (2) and (4), any income received by a Federal agency or laboratory from the licensing or assignment of intellectual property under agreements entered into by Federal laboratories under section 12, and intellectual property of Federal agencies or laboratories licensed under section 207 of title 35, United States Code, or under any other provision of law, shall be retained by the agency or laboratory and shall be disposed of as follows:

"(A)(i) The head of the agency or laboratory or his designee shall pay to the laboratory employee or employees who have assigned their rights in the intellectual property to the United States, to the laboratory operator, or to a collaborating party or parties to a research agreement an amount equal to the sum of—

"(I) the first $10,000 received by the agency or laboratory from the intellectual property; and

"(II) 15 percent of any income received by the agency or laboratory from the intellectual property in excess of the sum of the amount paid pursuant to item (I) and the value of unreimbursed research and development resources provided by the laboratory under the terms of the agreement.

"(ii) An agency or laboratory may provide appropriate incentives from royalties to laboratory employees who contribute substantially to the technical development of licensed or assigned intellectual property between the time that the intellectual property rights are legally asserted and the time of the licensing or assigning of the intellectual property rights.

"(iii) The agency or laboratory shall retain the income received from intellectual property until the agency or laboratory makes payments to laboratory employees under clause (i) or (ii).

"(B) The balance of the income shall be transferred to the agency's laboratories, with the majority share of the royalties or other income going to the laboratory where the intellectual property originated, and the income so transferred to any such laboratory may be used or obligated by that laboratory during the fiscal year in which it is received or during the succeeding fiscal year—

"(i) for payment of not more than 15 percent of such income for expenses incidental to the administration and licensing of intellectual property by the agency or laboratory with respect to intellectual property which originated at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for intellectual property management and licensing services;

"(ii) to reward scientific, engineering, and technical employees of the laboratory, including developers of sensitive or classified technology, regardless of whether the technology has commercial applications;

"(iii) to further scientific exchange among the laboratories of the agency; or

"(iv) for education and training of employees consistent with the research and development mission and objectives of the agency or laboratory, and for other activities that increase the potential for transfer of the technology of the laboratories of the agency.

All income retained by the agency or laboratory after payments have been made pursuant to subparagraphs (A) and (B) that is unobligated and unexpended at the end of the fiscal year succeeding the fiscal year in which the income was received shall be paid into the United States Treasury.

"(2) If, after payments to employees under paragraph (1), the intellectual property income received by an agency and its laboratories in any fiscal year exceeds 5 percent of the budget of the laboratories of the agency for that year, 75 percent of such excess shall be paid to the United States Treasury and the remaining 25 percent may be used or obligated for the purposes described in clauses (i) through (iv) of paragraph (1)(B) during that fiscal year or the succeeding fiscal year. Any income not so used or obligated shall be paid into the United States Treasury.

"(3) Any payment made to an employee under this section shall be in addition to the regular pay of the employee and to any other awards made to the employee, and shall not affect the entitlement of the employee to any regular pay, annuity, or award to which the employee is otherwise entitled or for which the employee is otherwise eligible, or limit the amount thereof. Any payment made under this section to any employee shall continue after the employee leaves the employment of the laboratory or agency.

"(4) A Federal agency receiving income as a result of intellectual property management services performed for another Federal agency or laboratory under section 207 of title 35, United States Code, may retain such income to the extent required to offset the payment of income from intellectual property under paragraph (1)(A)(i), and costs and expenses incurred under paragraph (1)(B)(i), including the cost of foreign protection of the intellectual property of the other agency. All income remaining after payment of the income, costs, and expenses described in the preceding sentence shall be transferred to the agency for which the services were performed, for distribution in accordance with clauses (i) through (iv) of paragraph (1)(B).

"(b) CERTAIN ASSIGNMENTS.—If the intellectual property from which the income is derived was assigned to the Federal agency—

"(1) by a contractor, grantee, or participant in a cooperative agreement with the agency; or

"(2) by an employee of the agency who was not working in the laboratory at the time the intellectual property was originated;

"the agency unit that was involved in such assignment shall be considered to be a laboratory for purposes of this section.

"(c) REPORTS.—

"(1) In making its annual submission to the Congress, each Federal agency shall submit, to the appropriate authorization and appropriations committee of both Houses of the Congress, a summary of the amount of income received from intellectual property and expenditures made (including employee awards) under this section.

"(2) Not later than October 1, 1996, the Comptroller General shall review the effectiveness of the various income-sharing programs established under this section and report to the appropriate committees of the House of Representatives and the Senate, in a timely manner, the Comptroller General's findings, conclusions, and recommendations for improvements in such programs.".

SEC. 5. AMENDMENT TO BAYH-DOLE ACT.

Section 210(e) of title 35, United States Code, is amended by inserting "and the Technology Commercialization Act of 1993" after "Federal Technology Transfer Act of 1986".

REGISTER OF COPYRIGHTS,
Washington, DC, September 15, 1993.

DEAR SENATOR ROCKEFELLER: I am responding to your request of September 10, 1993 for comments about the conditions under which private sector partners who collaborate on a Cooperative Research and Development Agreement (CRADA) with a government-owned government-operated laboratory (GOGO labs) can claim copyright and computer chip mask work protection for works which arise from a CRADA.

You explain that you intend to propose legislation to amend the Stevenson-Wydler Technology Innovation Act of 1980 to require Federal laboratories "to ensure that rights to jointly developed intellectual property"

arising from a CRADA "are assigned to private sector party or parties to each agreement." You do not propose any amendment of the Copyright Act such as last year's bill, S. 1581. That is, the prohibition on copyright in works of the United States Government, as provided in section 105 of title 17 of the United States Code remains in force. The mask work law contains a similar prohibition. 17 U.S.C., section 903(d).

You seek guidelines for determining the copyright status of computer software, for example, created under different fact patterns relating to collaboration under a CRADA.

The Copyright Office can only provide tentative, preliminary comments since there are no settled precedents for all of the fact situations you pose.

Pattern #1. A private company develops a new computer-operated manufacturing process and takes its invention to a Federal laboratory to seek ideas on testing and improving necessary computer software through a CRADA research project. The laboratory employees are very helpful but contribute no copyrightable work. Can the private company own a copyright in the computer software which results from the collaboration?

Response. If the Federal employees contribute no copyrightable authorship, the private company can copyright the software which results from the CRADA collaboration since the private company is the sole author of the copyrightable material.

Pattern #2. A GOGO laboratory develops software that could be adaptable for use by a private company after considerable work to make the software commercially viable. The private company and the Federal employees work together to refine and adapt the software. Can the private company own a copyright in the computer software which results from the collaboration "as an original or as a derivative work?"

Response. It is clear that the private company cannot claim copyright as "an original work" under these facts since the company is adapting pre-existing public domain software. If the company works alone to adapt the software, the company could copyright the adaption as a derivative work, claiming copyright only in any new creative expression it has added to public domain material. Under fact pattern number 2, however, the private company employees and Federal employees work together. It is not clear, under these facts, whether or not copyright can be claimed. To the extent the private sector contribution can be segmented and separately identified, a valid copyright may be claimed. On the other hand, if the private sector and government contributions are merged or intermingled, the right to claim copyright is doubtful. As a general principle, you cannot protect material in the public domain. The courts will tend not to enforce the copyright, and may even hold the copyright invalid, if copyrightable matter and uncopyrightable matter are merged. This is known as the "merger doctrine."

Pattern #3. This fact pattern is similar to pattern number 2, except that although the private company and the Federal employees work together initially, their collaboration ends before they develop a commercially useful product. The private company on its own continues the adaptation work until it achieves a useful product. Can the private company own a copyright in this computer software "as an original or as a derivative work?"

Response. The response is essentially the same as the response to pattern number 2. Copyright cannot be claimed in an "original work," since the software has been adapted from pre-existing public domain software. To the extent the private The company can separately identify its original authorship contribution, the company may claim copyright as a derivative work. The fact that the collaboration ends before a commercially useful product is achieved should mean that the private company will be able to establish its separate authorship and claim copyright as a derivative work. The burden of proof may, however, be substantial, given that the company adapts public domain software with the initial collaboration of Federal employees in the adaptation. Excellent business records would probably be necessary to establish the separate authorship of the private company in any copyright infringement suit.

Pattern #4. The private company and the GOGO laboratory sign a CRADA to conduct research on a new product. In the course of this research, the scientists from each side jointly write an original software program to control the manufacturing process. Can the private company own a copyright in the computer software which results from this collaboration?

Response. This is the most difficult fact pattern of all. The Federal employee contribution should be part of the public domain. Our general response again is that if the private company can identify its separate copyrightable authorship, it may be able to claim a valid copyright. If, however, the private sector and federal contributions to the development of the software are merged, then the right to claim copyright is in doubt. If the court applies the merger doctrine, it would probably refuse to enforce the copyright against an alleged infringer because the public has the right to use the public domain portion of the work.

You asked for our comments about the claims of copyright in computer software primarily. The responses would be essentially the same with respect to mask works, although there is no case law that applies the copyright law's merger doctrine to mask works.●

By Mr. DASCHLE:

S. 1538. A bill to make a technical correction with respect to the temporary duty suspension for clomiphene citrate.

DUTY SUSPENSION LEGISLATION

● Mr. DASCHLE. Mr. President, I am introducing today noncontroversial legislation to make a technical correction to the temporary duty suspension on clomiphene citrate, a pharmaceutical preparation approved by the Food and Drug Administration and used for the treatment of human infertility. This legislation is similar to a measure that I introduced in the last Congress.

There are no U.S. manufacturers of clomiphene citrate, and it is imported into the country in bulk and finished form. Prior to 1989, both forms of clomiphene citrate were within the scope of the temporary duty suspension that prevailed at that time under the tariff schedules of the United States [TSUS].

When the conversion was made from the TSUS, to the Harmonized Tariff Schedule of the United States [HTSUS] on January 1, 1989, the finished form of clomiphene citrate was inadvertently omitted from the scope of the duty suspension. This probably occurred because the HTSUS, unlike the TSUS, distinguishes between finished and bulk products, resulting in two separate tariff classifications.

To remedy this omission, this bill amends the temporary duty suspension language so that it refers to the tariff classification numbers of both forms of clomiphene citrate.

I urge my colleagues to give this bill favorable consideration.

Mr. President, I request that the full text of the bill be printed in the RECORD following my remarks.

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

S. 1538

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

SECTION 1. CLOMIPHENE CITRATE.

(a) IN GENERAL.—Heading 9902.29.95 of the Harmonized Tariff Schedule of the United States is amended by inserting "or 3004.90.60" after "2922.19.15".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, after December 31, 1988, and before January 1, 1993.

(2) RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the appropriate customs officer on or before the 195th day after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of an article described in heading 9902.29.95 of the Harmonized Tariff Schedule of the United States—

(A) that was made after December 31, 1988, and before January 1, 1993, and

(B) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal, shall be liquidated or reliquidated as though such amendment applied to such entry or withdrawal.

(3) PROPER REQUEST.—For purposes of paragraph (2), the request filed with the Customs Service shall contain sufficient information to enable the Customs Service to—

(A) locate the entry relevant to such request; or

(B) reconstruct the entry, if the entry cannot be located.●

ADDITIONAL COSPONSORS

S. 289

At the request of Mr. REID, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 289, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes.

S. 340

At the request of Mr. HEFLIN, the names of the Senator from Utah [Mr. BENNETT], and the Senator from Pennsylvania [Mr. SPECTER] were added as

cosponsors of S. 340, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 416

At the request of Mr. DECONCINI, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 416, a bill to authorize the provision of assistance to the victims of war in the former Yugoslavia, including the victims of torture, rape, and other war crimes and their families.

S. 496

At the request of Mr. SIMON, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 496, a bill to amend chapter 44 of title 18, United States Code, to strengthen Federal standards for licensing firearms dealers and heighten reporting requirements, and for other purposes.

S. 545

At the request of Mr. BOREN, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 545, a bill to amend the Internal Revenue Code of 1986 to allow farmers' cooperatives to elect to include gains or losses from certain dispositions in the determination of net earnings, and for other purposes.

S. 578

At the request of Mr. KENNEDY, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 578, a bill to protect the free exercise of religion.

S. 651

At the request of Ms. MIKULSKI, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 651, a bill to amend the Office of Federal Procurement Policy Act to provide for expanded participation of historically black colleges and universities and nonprofit organizations owned and controlled by black Americans in federally funded research and development activities.

S. 732

At the request of Mr. KENNEDY, the names of the Senator from New Hampshire [Mr. GREGG], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 732, a bill to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes.

S. 784

At the request of Mr. HATCH, the name of the Senator from Ohio [Mr. GLENN] was withdrawn as a cosponsor of S. 784, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

S. 921

At the request of Mr. BAUCUS, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 921, a bill to reauthorize and amend the Endangered Species Act for the conservation of threatened and endangered species, and for other purposes.

S. 950

At the request of Mr. CHAFEE, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 950, a bill to increase the credit available to small businesses by reducing the regulatory burden on small regulated financial institutions having total assets of less than $400,000,000.

S. 1082

At the request of Mr. COCHRAN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1082, a bill to amend the Public Health Service Act to revise and extend the program of making grants to the States for the operation of offices of rural health, and for other purposes.

S. 1124

At the request of Mr. D'AMATO, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1124, a bill to enhance credit availability by streamlining Federal regulations applicable to financial institutions, and for other purposes.

S. 1154

At the request of Mr. DECONCINI, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1154, a bill to amend the Foreign Assistance Act of 1961 to provide for the establishment of a microenterprise development fund, and for other purposes.

S. 1406

At the request of Mr. KERREY, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 1406, a bill to amend the Plant Variety Protection Act to make such act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes.

S. 1425

At the request of Mr. CONRAD, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1425, a bill to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department, and for other purposes.

S. 1432

At the request of Mr. HOLLINGS, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1432, a bill to amend the Merchant Marine Act, 1936, to establish a National Commission to Ensure a Strong and Competitive United States Maritime Industry.

S. 1447

At the request of Mr. BRYAN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1447, a bill to modify the disclosures required in radio advertisements for consumer leases, loans and savings accounts.

S. 1522

At the request of Mr. KOHL, his name was added as a cosponsor of S. 1522, a bill to direct the U.S. Sentencing Commission to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than three offense levels for hate crimes.

SENATE JOINT RESOLUTION 41

At the request of Mr. MCCAIN, his name was added as a cosponsor of Senate Joint Resolution 41, a joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget.

SENATE JOINT RESOLUTION 75

At the request of Mr. ROTH, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Wisconsin [Mr. KOHL], the Senator from Connecticut [Mr. DODD], the Senator from Montana [Mr. BAUCUS], the Senator from Maryland [Ms. MIKULSKI], the Senator from Virginia [Mr. ROBB], the Senator from Kentucky [Mr. FORD], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Utah [Mr. HATCH], the Senator from Utah [Mr. BENNETT], the Senator from Florida [Mr. MACK], the Senator from Mississippi [Mr. LOTT], the Senator from South Dakota [Mr. PRESSLER], the Senator from Missouri [Mr. BOND], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 75, a joint resolution designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week."

SENATE JOINT RESOLUTION 83

At the request of Mr. DECONCINI, the names of the Senator from North Dakota [Mr. DORGAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Maryland [Mr. SARBANES], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of Senate Joint Resolution 83, a joint resolution designating the week beginning February 6, 1994, as "Lincoln Legacy Week."

SENATE JOINT RESOLUTION 122

At the request of Mr. LAUTENBERG, the names of the Senator from Texas [Mrs. HUTCHISON], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Mississippi [Mr. LOTT], the Senator from Indiana [Mr. COATS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Nebraska [Mr. KERREY], and the Senator from Georgia [Mr. COVERDELL] were added as cosponsors of Senate Joint Resolution 122, a joint resolution designating December 1993 as "National Drunk and Drugged Driving Prevention Month."

SENATE JOINT RESOLUTION 131

At the request of Mr. BRADLEY, the names of the Senator from West Virginia [Mr. BYRD] and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of Senate Joint Resolution 131, a joint resolution designating the week beginning November 14, 1993, and the week beginning November 13, 1994, each as "Geography Awareness Week."

SENATE JOINT RESOLUTION 132

At the request of Mr. BURNS, the names of the Senator from Nevada [Mr. REID], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Joint Resolution 132, a joint resolution designating the week of October 17, 1993, through October 23, 1993, as "National School Bus Drivers Safety Week."

SENATE JOINT RESOLUTION 134

At the request of Mr. BIDEN, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Joint Resolution 134, a joint resolution to designate October 19, 1993, as "National Mammography Day."

SENATE JOINT RESOLUTION 137

At the request of Mr. LEAHY, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Oklahoma [Mr. BOREN], the Senator from Nebraska [Mr. EXON], the Senator from New York [Mr. D'AMATO], the Senator from Tennessee [Mr. SASSER], the Senator from South Dakota [Mr. PRESSLER], the Senator from Nevada [Mr. REID], the Senator from Missouri [Mr. DANFORTH], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Ohio [Mr. GLENN], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 137, a joint resolution designating October 16, 1993, and October 16, 1994, each as "World Food Day."

SENATE JOINT RESOLUTION 140

At the request of Mr. LAUTENBERG, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Tennessee [Mr. SASSER], the Senator from Hawaii [Mr. AKAKA], the Senator from Rhode Island [Mr. CHAFEE], the Senator from South Dakota [Mr. DASCHLE], the Senator from Rhode Island [Mr. PELL], the Senator from Illinois [Mr. SIMON], the Senator from Ohio [Mr. GLENN], the Senator from Michigan [Mr. RIEGLE], the Senator from Alabama [Mr. SHELBY], the Senator from North Carolina [Mr. HELMS], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 140, a joint resolution to designate December 7, 1993, as "National Pearl Harbor Remembrance Day."

SENATE RESOLUTION 150—TO AUTHORIZE REPRESENTATION OF MEMBERS OF THE SENATE

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 150

Whereas, in the case of Douglas R. Page v. Robert Dole, et al., No. 93-1546, pending in the United States District Court for the District of Columbia, the plaintiff has named ninety-nine Members of the Senate, and a former Member, as defendants;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend present and former Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the present and former Members of the Senate who are defendants in the case of Douglas R. Page v. Robert Dole, et al.

SENATE RESOLUTION 151—TO AUTHORIZE THE PRODUCTION OF RECORDS

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 151

Whereas, in 1992 the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations conducted an investigation into allegations relating to the release of American hostages held in Iran;

Whereas, in the course of reviewing testimony taken by the staff of the House Task Force to Investigate Certain Allegations Concerning the Holding of American Hostages in Iran in 1980 to determine whether certain witnesses committed perjury, the Department of Justice has requested access to records of the related Senate investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Committee on Foreign Relations, acting jointly, are authorized to provide to the Department of Justice records of the investigation of the Subcommittee on Near Eastern and South Asian Affairs of allegations relating to the release of American hostages held in Iran.

NOTICES OF HEARINGS

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. AKAKA. Mr. President, I would like to announce for my colleagues and the public that an oversight hearing has been scheduled before the Subcommittee on Mineral Resources Development and Production.

The purpose of the hearing is to receive testimony on ocean mining technology.

The hearing will take place on Thursday, November 4, 1993, at 2 p.m., in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Heather Hart.

For further information, please contact Lisa Vehmas of the subcommittee staff at 202/224-7555.

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. AKAKA. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Subcommittee on Mineral Resources Development and Production.

The purpose of the hearing is to receive testimony on S. 1170, a bill to amend the Mineral Leasing Act to provide for leasing of certain lands for oil and gas purposes.

The hearing will take place on Thursday, October 14, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Heather Hart.

For further information, please contact Lisa Vehmas of the subcommittee staff at 202/224-7555.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the administration's National Action Plan to reduce greenhouse gases.

The hearing will take place on Thursday, October 28, 1993, at 9:30 a.m., in Room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony

for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510, Attention: Leslie Black Cordes.

For further information, please contact Leslie Black Cordes of the Committee staff at 202/224–4756.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE NUTRITION AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, October 7, 1993, at 2:30 p.m. in SR–332 on agricultural research priorities.

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 Thursday, October 7, 1993, at 10:30 a.m. to consider the nomination of Gen. George A. Joulwan, USA for reappointment to the grade of general and to be Commander in Chief, U.S. European Command and Supreme Allied Command, Europe.

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 today, Thursday, October 7, 1993, at 2 p.m., in closed session, to receive testimony on the current situation in Somalia.

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 Thursday, October 7, 1993, at 2 p.m. to hold a hearing on the nominations of Pierre Leval to be U.S. Circuit Judge for the second circuit, Leonie Brinkema to be U.S. District Judge for the Eastern District of Virginia, Deborah Chasanow to be U.S. District Judge for the District of Maryland, and Peter Messittee to be U.S. District Judge for the District of Maryland.

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 hold a business meeting during the session of the Senate on Thursday, October 7 1993, to consider the nomination of Doris Meissner of Maryland to be Commissioner of Immigration and Naturalization.

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

ADDITIONAL STATEMENTS

NATIONAL MEDAL OF TECHNOLOGY

• Mr. LIEBERMAN. Mr. President, on Thursday, September 30, 1993, President Clinton presented medals to the 1993 recipients of the National Medal of Science and the National Medal of Technology. These medals recognize individuals and companies whose discoveries and innovations greatly benefitted the United States in the areas of science and technology. This medal is the highest symbol of achievement in these areas awarded by the President and parallels such awards as the Baldridge Award.

Dr. William J. Joyce, of Newtown, CT, president and chief operating officer for Union Carbide Corp., has been selected as one of the recipients for the National Medal of Technology in recognition of his far-reaching vision and unceasing efforts on behalf of the world renowned UNIPOL polyethylene process. Dr. Joyce's tireless efforts to transform the polyethylene industry began when he joined the company in 1957 and led to the development of the UNIPOL process in the early 1970's. This technology has revolutionized the entire plastics industry, and enabled the United States to become the world leader in the $30 billion worldwide polyethylene industry.

The UNIPOL process also represents a vast improvement in environmental and safety performance over conventional technology. Since its introduction, it has resulted in energy, operating and raw material cost savings of nearly $7 billion. It uses less energy, reduces emissions to the environment, operates at lower, thus safer, temperatures and produces a superior product.

The administration works with the Foundation for the National Medals of Science and Technology to signify the importance of both science and technology and uses the medals to celebrate American achievement in these areas and to improve public understanding of the critical role that they play in America's global competitiveness.

Mr. President, it is also fitting that this award is presented in the same week that President Clinton announces his trade promotion policies. Under the direction of Dr. Joyce and Union Carbide chairman, Robert D. Kennedy, the Danbury-based corporation plans to enter into a partnership with Petrochemical Industries Co. K.S.C. [PIC] of Kuwait to construct a world-scale petrochemicals facility in that country to serve markets in the Far East. This $2 billion project will result in U.S. exports of about $600 million in products, service and technology, including Union Carbide's award-winning UNIPOL, and its other leading technologies.

I extend my deepest congratulations to Dr. Joyce and all of the people of Union Carbide for their commitment to technology excellence.•

REGARDING THE RETIREMENT OF GEORGE BRETT

• Mr. DANFORTH. Mr. President, I rise to pay tribute to George Brett, who retired from the Kansas City Royals last Sunday after 21 great seasons.

Last Sunday, baseball fans around the country watched as Brett grounded a single up the middle for his 3,154th, and final, base hit in his final at bat. Brett also got a game-tying hit up the middle in his last at bat in Kansas City last Wednesday.

This is not surprising. Brett will be remembered for many accomplishments as a baseball player, but I think he will be remembered most for his ability to come through in the clutch. The three-run home run Brett hit against the Yankees's ace stopper Rich Gossage in the 1980 playoffs to ice Kansas City's first league championship is etched into the minds of every Royals fan. So are the two home runs Brett hit in the third game of the 1985 playoffs, helping propel the Royals into the World Series. During the past two decades, we all were comforted knowing that George Brett would have a chance to win the game, win the division, win the league, and win the World Series. His ability to step to the plate when the game was on the line, stare down the pitcher, and deliver is what separated him from the rest.

George Brett's career numbers cannot fully reflect his unique qualities. But they show a lot. He is the only baseball player in history with as many as 3,000 hits, 600 doubles, 100 triples, 300 home runs, and 200 stolen bases. He is 5th all time in doubles, 10th in extra base hits, and 11th in hits.

Brett will be remembered for always playing hard. Whether trying to stretch a double into a triple in an important game during the pennant race, or running out a routine ground ball to second base in the ninth inning of a blowout, Brett always played baseball as it should be played—with intensity and sportsmanship.

Brett will be remembered as, and will continue to be, a great spokesman for the game. In his thousands of interviews, he was always cheerful, down to earth, witty, and self-deprecating. He never blamed other people for his, or the team's, problems. Nor did he boast when the team was doing well.

Finally, George Brett will be remembered for his loyalty. In announcing his retirement, Brett said that the one thing he was proudest of is spending his whole career with one team. In an era of free agents and players demanding trades from one team to another, Brett chose to play with Kansas City

for all 21 years of his career. Instead of asking to move to a city with a big media market, Brett chose to dedicate himself to making Kansas City a better place. Brett's activities in local charities are well-known and very well regarded. And luckily for Kansas City, this native of California has chosen to stay in the city, raise his family, work for the team, and I am sure maintain his commitment to public service.

These qualities are the reasons George Brett is a true American hero.

Thanks for the memories, George.●

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL FUND

● Mr. SIMON. Mr. President, today I would like to praise the good work of the National Law Enforcement Officers Memorial Fund. Their organization has been instrumental in gaining the important recognition that law enforcement officers, slain in the line of duty deserve. Their continuing efforts deserve our support and praise.

One of their most obvious accomplishments is the beautiful memorial located in Washington, DC. The memorial is a fitting tribute to law enforcement officers and their families. The visitors center provides the people of this country with a chance to gain a deeper understanding of the great sacrifice made by those in the law enforcement community. It is important that this memorial stand as a constant reminder of the honor and valor of those killed in the line of duty.

I would like to recognize the National Law Enforcement Officers Memorial Fund for their tireless dedication to this worthwhile endeavor. I wish the memorial continued success.●

DEATH OF DR. DONALD WOODS THOMAS

● Mr. LUGAR. Dr. Donald Woods Thomas was particularly well known to those of us in Congress for his frequent appearances before the Senate Foreign Relations Committee during the 1970's and 1980's in support of international assistance programs administered through the U.S. Agency for International Development and other international humanitarian concerns. Dr. Thomas, former executive director of the board for International Food and Agricultural Development and Economic Cooperation support staff in USAID, passed away on April 15, 1993.

Dr. Thomas began his career at Purdue University in 1954 as an assistant professor of agricultural economics, after having earned his bachelor's, master's and doctor's degrees from Pennsylvania State University. He served as associate dean and director of international programs in agriculture, Purdue University, since its inception in 1965. He was interim dean of the Office of International Programs from June 1990 until June 1992.

Among the positions D. Woods Thomas held at Purdue, he served as the first dean of international agriculture. Of the projects he led, developing institutional capabilities in research, education, and extension in countries of Africa, Asia, and Latin America, he was proudest of the institution he headed in Brazil. This formerly small 250-student, rural college is now the Federal University of Vicosa, a world-class research and teaching institution with an enrollment of over 10,000 students.

I would like to pay tribute to the memory of Dr. Donald Woods Thomas for his long service and leadership in and dedicated contribution to international development and especially to the participation of U.S. universities in international development activities. Dr. Thomas will be greatly missed by all of us who share his belief that international development activities are part of the land grant mission, and a clear responsibility of the United States as a participant in global affairs.●

HOW MANY MORE WAYS CAN THIS STORY BE TOLD?

● Mr. DASCHLE. Mr. President, I had the opportunity to read a commentary in Sunday's Washington Post by Cindy Loose. I am sure many others read it as well, and anyone who read it must have shared my deep sense of sorrow and rage at the violence in this tragic story. I will ask that a copy of the article be inserted into the RECORD at the end of my statement.

The evening of September 25 I turned on the news to learn that there had been five shootings in just 6 hours in Southwest Washington. Five shootings in 6 hours in the middle of a Saturday afternoon. One of those shot was 4-year-old Launice Smith. After being in intensive care for 5 days, Launice died last Thursday. This little girl's tragic death is the subject of Ms. Loose's commentary.

Ms. Loose talks about how every reporter writes about a story like this hoping that it will make a difference, that it will touch someone and arouse or renew in them the commitment to try to change the direction in which our society is heading. But the problem is, these stories, these tragedies do not seem to be making a difference. As Ms. Loose finally laments, "How many more ways can this story be told?"

I do not know how many people were affected as I was by Launice Smith's death. I do not know how many people have simply become immune to the tragedy we are witnessing in this city and around the Nation. I do know, however, that I have had enough. I am tired of hearing a new story of violence on the news each night. I am tired of waking up to another tragedy on the front page of the paper. I am tired of living in fear for my children's safety.

The status quo is unacceptable, and it is frankly unacceptable that we have not been able to stem the tide of this wave of violent crime sooner. The real point of my statement today is to add yet another voice to the chorus calling for change and expressing commitment to restoring some semblance of safety and order to the streets of our Nation. Because we cannot afford to go down this road any longer—that truth is becoming clearer and clearer every day.

The article follows:

[From the Washington Post, Oct. 3, 1993]

HOW MANY MORE WAYS CAN THIS STORY BE TOLD?

(By Cindy Loose)

A young mother sat in a rocking chair cradling the dead toddler whose brain had been invaded by a stray bullet. She did not cry, but looked down with a gentle, loving expression on her face.

The respirator had been turned off moments before. The white tape that had held the breathing tube in place was still splayed around the edges of the little girl's lips.

One by one, the teenagers and slightly older relatives who had loved 4-year-old Launice Smith took turns Thursday saying goodbye in that rocking chair in the intensive-care unit where Launice had lain in a coma for five days. They took pictures with a Polaroid.

It is the kind of moment reporters try to capture, then later have to live with. We do it to make money, but also with the vague hope it will somehow make a difference, that in the great scheme of things, we play our little part and it will spur other people to do their little parts.

But it isn't working.

I first wrote about such things in Detroit for little more than a year about eight years ago. I really believed then that my words would anger or sicken my fellow citizens and elected officials into making changes. But here it is, eight years later, and I see the same expression on the faces of the same kind of people who have seen the same kinds of things. It is a placid look, the features controlled and normal, except for the eyes.

The look was on the face of Launice's mother at Children's Hospital when she pulled away a loose cloth expecting to see bandages on her baby's head and instead saw the gaping wound doctors decided was best left uncovered.

The first time I saw that look nearly eight years ago, it was etched on the face of a 6-year-old girl who had been siting next to her cousin at an indoor birthday party when drug dealers mistook her house for a rival's and sprayed it with bullets.

The little girl was grazed across the cheek. Her 7-year-old cousin's head was blown away, large pieces of it landing in the little girl's lap.

The last time I saw her, a month after the shooting, she still had not spoken a word. The only time she made any sound was at night, when she would scream in her sleep.

How many more ways can this story be told?

We citizens tend to get angry at our public officials at moments like this. Yet they are not monsters, and only monsters could not be touched by what we've all seen in the last week.

Some of the measures we need to take are so obvious. So why do we seem unable to take them year, after year after year? The mayor and other people who are nominally

in charge of this city have called this week for more police. Few people want fewer police. But how many times do we want police to arrest and rearrest the people who terrorize these neighborhoods?

The man suspected in the death of Launice and Kervin Brown had been arrested in 1990 and again in 1991 on charges serious enough to have kept him in jail for years. More than a year before this week's slayings he had walked away from a work-release program. A bench warrant had been issued, but apparently no one had bothered to pick him up. And we wonder why people are reluctant to testify.

Many have despaired of the problem's ever being fixed. But there is hope. You can find it even in families that typify everything that is wrong with the inner city.

A glimmer can be found in the strength of the 21-year-old mother of Launice Smith. The behavior of this young black woman living in one of the worst projects in the city kept reminding me this week of the glamorous and wealthy Jackie Kennedy as she bravely carried herself through the funeral of her slain husband.

Angelia Smith took in her three half-siblings when her mother died and was raising them, along with her daughter, in a bare one-bedroom apartment. The day after her daughter's death, she went to get groceries for her brother and little sisters and kept reminding the girls to do their homework.

After Launice died, the city gave the family blankets and food vouchers and talked about getting them a bigger apartment. Workers fixed the living-room window that had been broken by someone throwing a snowball. In the hall leading to the third-floor walk-up, a window within reach of children had what appeared to be a bullet hole, shards of glass hanging from the window frame. Workmen did not fix that.

Meanwhile, the two political parties parry views on the rare occasions when they think about the problem at all. One end of the spectrum emphasizes law and order and demands personal responsibility. The other focuses on the ravages of poverty and underlying causes.

The politicians act as if the two philosophies were mutually exclusive, with no understanding that there are good people who need help and bad people who need punishment.

No one exists in a world of perfect justice. But those of us outside the inner city generally live by a system of rewards and punishments. Yet for some reason we are puzzled by the behavior of people who, by and large, get nothing for doing the right thing, for being honorable and kind and decent, and on the other hand see no penalties incurred by those who tear their neighborhoods apart.

I returned home through night after watching the mother of Launice Smith make funeral arrangements for her daughter. Over dinner, my husband and I talked about how exactly one year ago, I was in labor with our first child, a daughter. We remembered how scared we were, and how beautiful Madeline was the moment she was born with a mass of black hair on a perfectly shaped head.

At one point in our conversation, my husband asked if I was feeling all right, and I knew he was thinking of my work week, in which I had covered the murder of a Korean shopkeeper and the lingering death of a little girl. I said I felt fine, surprisingly so. A little later, I began to rock my baby to sleep. She was just hours away from being precisely one year old.

I looked at her sleeping face, and the image of another rocking chair and another child and another mother came to mind. My baby was so still. I jostled her slightly, the way I did in her first few months when I was paranoid about her breathing. She moved her hand against my chest.

I walked her to a bedroom decorated with pink elephants and blue giraffes and white lambs. I put her in her crib, and I began to sob.●

FACES OF THE HEALTH CARE CRISIS

● Mr. RIEGLE. Mr. President, I rise today in my continuing effort to put a face on the health care crisis in our Nation. Today I want to tell the story of a single working mother, Kathy Krueger, from Kentwood, MI. Kathy was recently blessed with the birth of her first child, Rachael. Unfortunately, as a result of complications from the delivery, Kathy lost her job and health insurance after her daughter's birth.

Kathy is 28 years old and has worked as a home lighting design consultant for 5 years. She worked at her most recent job for over 2 years and had good health insurance benefits through her employer.

After her daughter's birth on June 21, Kathy experienced complications which kept her from returning to work immediately after her maternity leave ended. Even though her doctor called her employer several times to verify that Kathy was unable to return to work, Kathy was fired on August 31. Unfortunately the Family and Medical Leave Act was not enacted by Congress in time to help Kathy keep her job.

As a result of losing her job, Kathy also lost her health insurance. Kathy is entitled to COBRA benefits but her former employer did not offer her this option to extend her health insurance for 18 months, as is required by law. I have contacted the Department of Labor on her behalf to investigate the situation, but meanwhile Kathy is uninsured and cannot pay for urgent medical care.

Since she lost her health insurance last month, Kathy has had to have outpatient surgery, called a DNC, to treat an infection. She is still waiting for the bill for this surgery, but she estimates the cost will be over $1,000. In addition, she has had to pay over $300 for prescriptions to prevent further infection and promote blood clotting after the surgery. In fact, Kathy found out she lost her health insurance when she went to fill a prescription to treat her infection.

Without a job and without health insurance, Kathy cannot support herself and her 3½-month-old daughter. She does not want to rely on public assistance, but she has nowhere else to turn. This is the first time in her life that she has not had a job and she is doing all she can to find another one. The problem is that even when Kathy finds another job with health insurance, her postpartum condition may not be covered because it is a preexisting condition.

It is important that working parents like Kathy Krueger have a guarantee of health insurance coverage regardless of their job situation or health status. Americans deserve the peace of mind that health insurance coverage can bring. I will do everything I can to work with my colleagues, President Clinton and First Lady Hillary Rodham Clinton to reform our health care system and provide access to affordable health care for all Americans.●

DEFENSE ACQUISITION PILOT PROGRAM AMENDMENT

● Mr. ROTH. Mr. President, in September, the Senate passed the 1994 Defense Authorization Act which included my amendment enhancing the Defense Acquisition Pilot Program. Today, I rise to emphasize to my colleagues here in the Senate, as well as to Secretary Aspin, the important opportunity my amendment provides for improving the Government's buying system.

First, Mr. President, I want to again express my thanks to my colleagues, Senators NUNN, BINGAMAN, THURMOND, SMITH, GRASSLEY, and COHEN, who cosponsored this amendment. I also wish to add my thanks to Senator GLENN and Senator LEVIN and the staffs of all of these Senators for their expert support in reaching an agreement on this amendment. In addition, Deputy Secretary of Defense, William Perry, and the DOD staff played a key role in shaping the amendment and I thank him for that. I believe that only through this type of cooperative and bipartisan effort will we really begin to solve the complex problems of the Federal procurement system.

Mr. President, many billions of taxpayer dollars can be saved by reforming the Federal buying system. The National Performance Review's recommendations are estimated to save more than $20 billion through reinventing the Federal Government's buying system. A recent Defense Sciences Board study showed that more comprehensive reforms could save $20 billion per year in the Defense Department alone. My amendment clearly places the Senate on the path to making the reforms needed to achieve these savings.

Mr. President, I have emphasized starting with the Pentagon's buying system because the vast majority of weapon acquisition programs are experiencing serious cost and schedule problems. The GAO reported that program cost increases on the order of 20 to 40 percent are common. Acquisition costs for Navy major weapon systems are over budget by as much as 179 percent, Air Force systems by as much as 158 percent, and Army systems by as

much as 220 percent, even after accounting for the effects of inflation and quantity.

Every week, we can read in the newspapers and trade journals new evidence on the critical need for the changes in the acquisition system.

Recently, we found more alarming news of the continuing problems with the C–17 airplane. A test plane failed to meet Air Force requirements when a wing was damaged during a static stress test. After spending $10.4 billion developing the C–17, the aircraft is basically unaffordable and does not meet Air Force requirements.

The Army decided to move ahead on its all source analysis system following a 2-year wait while officials debated the future of the program. Recent reports estimated the anticipated contract to be worth about $100 million. That 2-year delay cost the taxpayer in the range of $5 to $10 million with no return on their money.

The Air Force has reiterated its support for the stealthy tri-service standoff attack missile. This continued support is in spite of an increase in development and production costs from $13.9 to $15.4 billion while the inventory dropped from 7,450 to 6,650 missiles. This represents about a 25-percent increase in the per unit cost of the missile. I must raise the question about the affordability of a $2.3 million tactical missile.

Mr. President, anyway you look at these problems you have to conclude that the acquisition system is not working and that taxpayer money is being wasted. You also have to conclude that the problems are present in all stages of the acquisition cycle and in all participating and support organizations. Further, who is accountable for these decisions or lack of decisions and no one seems to be asking the affordability questions. Huge amounts of taxpayer money will continue to be wasted until the procurement system undergoes a comprehensive reform.

This is why my amendment is so critical to the Congress and to the Defense Department. It is also critical to the American taxpayer who is seeing tax increases looming in every direction. We must institute innovative concepts to improve the efficiency of government operations and my amendment does exactly that. My amendment, in conjunction with the original pilot program, empowers the Department of Defense to test the benefits of waiving statutes and regulations and innovative approaches to management and administration of the acquisition process. Additionally, it enables program managers to test innovative approaches to the procurement process itself. In discussions with program managers and program executive officers in each of the services, this is exactly the opportunity they are looking for. However, up to this time, the bureaucracy will not allow for such innovation. Mr. President, I believe that the chances to see these bureaucratic roadblocks removed are better than ever. From my discussions with Deputy Secretary of Defense Perry, I know that he is making every effort possible to change the culture of Defense Department procurement; however, the established bureaucracy has repealed many past attempts at reform.

In a December 1992 report on Defense weapons systems acquisition, the GAO concluded that, "the underlying cause of persistent and fundamental problems in the DOD's weapons acquisition process is a prevailing culture that is dependent on generating and supporting new weapons acquisitions. The culture is made up of interests that influence and motivate the behaviors of participants in the process." The Defense Science Board's task force on defense acquisition reform has just recently released its report and identified three major problems to be solved:

Broaden the industrial base upon which DOD depends,

Effective access to important technologies, products, and processes, and

Defense acquisition must be made more efficient.

However, they caution that, "These problems cannot be solved with current defense acquisition practices." The report further describes many specific problems associated with the acquisition system and recommends making profound changes and difficult choices. It specifically calls for DOD to commit to an evolutionary approach to a fundamentally new system. My amendment provides the congressional authority needed by DOD to start addressing the cultural problems identified by GAO and making the profound changes and difficult choices recommended by the Defense Science Board.

From my discussions with the Defense Department, I am aware of the seven programs that are to be recommended by DOD to be included in the pilot program. The systems to be recommended do not include any systems that are widely recognized horror stories. Mr. President, I am very pleased with the initiative being demonstrated by Ms. Colleen Preston and her staff and I can only encourage them to go further. I urge DOD to select one or more programs to test acquisition reform concepts contained in my amendment. Programs such as the C–17, unmanned aerial vehicles, the Army Tactical Command and Control System, Ballistic Missile Defense, Comanche helicopter, and the Milstar satellite have all demonstrated that the current procurement system is incapable of producing usable products within cost and schedule. If the Pentagon is serious about putting an end to its buying system problems, it must be willing to apply alternative management and process approaches that can fix the problems on such highly visible programs.

Mr. President, there are a number of initiatives in DOD and Federal Government procurement reform currently underway. I must say that I am delighted that this issue, which I have worked on for over a decade, is finally receiving the attention required to make significant changes. However, Mr. President, most of these initiatives just do not go far enough to streamline the process or to realize the large potential dollar savings to the American taxpayer.

A joint effort of the Senate Armed Services and the Governmental Affairs Committees which proposes legislation implementing the recommendations of the section 800 panel is nearing completion. My colleagues, Senator BINGAMAN and Senator LEVIN, informed this body in August that this bill soon would be introduced and hearings held this fall. I have been heavily involved in this effort and I look forward to working with my fellow cosponsors and in particular with the chairman of the Governmental Affairs Committee to get a bill adopted that makes major improvements in the Federal buying system. The efforts of the section 800 panel were to address the statutes of procurement and therefore, the legislation is focused on the interface between Government and industry and more specifically, the contract formation process. However, the current draft of the Senate bill represents only about 10 percent of the savings that could be realized by comprehensive reform.

I am aware that the Defense Department is developing its own response to the section 800 panel recommendations and that legislation from the Vice President's National Performance Review should be reaching the Congress soon. When these proposals reach the Senate, I look forward to continuing to work with the administration in my role as the ranking Republican on the Governmental Affairs Committee and as a long time advocate of reducing the bureaucracy.

Mr. President, we must address the entire acquisition system from requirements definition to equipment retirements.We have to streamline the buying process and the over-built bureaucracy that has a vested interest in preventing reform. The buying system must procure affordable systems when they are needed.

Mr. President, the time is here for the bureaucracy to stand aside and allow innovative actions to demonstrate the time and dollar savings of comprehensive acquisition reform. My amendment creates the environment for demonstrating reforms that work. The Defense Department needs to embrace it and take advantage of it.●

ADDRESS OF HAMPTON UNIVERSITY PRESIDENT DR. WILLIAM R. HARVEY, "A VISION OF OUR TIME"

• Mr. ROBB. Mr. President, I rise today to place in the CONGRESSIONAL RECORD the speech that a remarkable individual delivered at a historic event in the Commonwealth of Virginia.

On April 1, 1993, Hampton University, located in Hampton, VA, celebrated the 125th anniversary of the opening of the Hampton Normal and Agricultural Institute. Throughout the distinguished history of what is now Hampton University, strong leadership with a vision of the institution's role in the society at large has been its hallmark.

When Brig. Gen. Samuel Chapman Armstrong opened the doors of the Hampton Normal and Agricultural Institute on April 1, 1868, he was just 29 years old. The founding of this school at a difficult time of adjustment for the country was a feat in and of itself. The dreams and aspirations of the students who had only recently known freedom, combined with young General Armstrong's vision and leadership, made a reality of the fine institution that Hampton University is today.

As Dr. Harvey so eloquently relates, Hampton University has continued its spirit of leadership throughout its distinguished 125 years. Within 12 years of its founding, Hampton graduates were teaching more than 10,000 black Southern children. Its museum, founded in August 1868, was the Commonwealth's first, and its fine collections of African, African-American, and native American pieces is world renowned. In 1878, Hampton contributed to American history by becoming the first federally funded boarding school of native Americans who joined with African-Americans in a multicultural setting. In the medical field, the first native American woman physician, Susan Laflesche Picotte, graduated from Hampton, the first public hospital in the city was founded on the campus by faculty members, and in 1944 Hampton's School of Nursing awarded the first baccalaureate nursing degree in Virginia.

Today, Hampton is blessed with another visionary leader in its president, Dr. William Harvey. He sounds the call for Hampton, its students, and graduates to now step to the forefront in battling those national problems that threaten the social, political, and economic well-being of our society. Dr. Harvey envisions Hampton battling these problems by "becoming once again not only an academy for learning, but also an academy for leadership and service." I commend him for his efforts toward establishing a leadership institute and curriculum at Hampton University that can then be replicated nationwide. Such efforts will improve the lives of all our citizens and are deserving of our praise and our support.

Mr. President, given the tradition of leadership that has blessed Hampton University throughout its proud history, the standards of excellence within its student body, faculty, and alumni upon which it can draw, and the vision and dedication of its current president, Dr. Harvey, I have no doubt the next 125 years of this remarkable institution's history will be just as glorious as the past 125 years.

I ask that the remarks of Dr. William R. Harvey, president of Hampton University, delivered on the occasion of Hampton's 125th anniversary, be placed in the CONGRESSIONAL RECORD immediately following my statement.

The remarks follow:

A VISION FOR OUR TIME

(By Dr. William R. Harvey)

On this day, April 1, 1868, one hundred and twenty-five years ago, Brigadier General Samuel Chapman Armstrong opened the doors of Hampton Normal and Agricultural Institute. In so doing, he facilitated physical entry into an academy of learning. He also opened up a world to a generation of people who only recently had thrown off the shackles of bondage, emerging into a world dramatically different from any they had known.

Although confused and perplexed by the implications of their newly won freedom, they recognized that this place, Hampton Normal and Agricultural Institute, represented more than a mere school. It represented the road to true freedom—to freedom of the body, the mind, the soul. It represented the opportunity to grow, to achieve, to value, and to serve. Therefore, they brought to Hampton Normal and Agricultural Institute the hopes, the dreams, the aspirations of their hearts and the unfulfilled dreams of their ancestors who did not make it to that hour. Indeed, they brought with them the burden of the past. But more importantly, they brought with them the promise of the future.

Although he was only 29 when he started Hampton, General Armstrong was wise beyond his years; a visionary without qualification. And because of his vision, the hopes of these black men and women were indeed realized. The man who stood before them on that bright April day, regal, courageous, and determined in his cause translated his vision into reality. He said to his eager young students, it is your time, a time to learn, a time to grow, and a time to prepare yourselves "to lead and to serve." He said, we shall achieve these aims by subscribing to the principles of "learning by doing" and offering an "education for life."

He said, it is the aim of this institution "* * * to build up an industrial system for the sake not only of self-support and intelligent labor, but also for the sake of character." General Armstrong was big on character.

These ideas were, in all aspects, revolutionary. They were borne of the hopes of a visionary, a dreamer. General Armstrong paid dearly for those dreams. They were borne in an atmosphere of lingering racism, of continuing rejection of black worth, of ongoing disbelief in black potential to lead, to serve, to effect good in this world.

Despite severe economic limitations and basic resources, Armstrong resisted affiliation with any one entity, be it state, federal or religious. This spirit of independence reflected his belief that his pioneering institution needed to approach all potential friends with an unbiased posture, maintaining its independence and unencumbered freedom and swing with the Pendulum of Time and Circumstances. That independence continues to prevail today. Hampton is not intimidated by the whims of political person or party. Rather, it embraces the best and most positive from all parties or people. I stand here tonight in the shadow of Samuel Chapman Armstrong and I, too, am fully committed to Hampton University's independence for now and for generations yet unborn.

Samuel Chapman Armstrong founded a school that recognized centuries of strong black backs and hands. He added the sunlight of education wrapped around the dignity of human labor. As U.S. history records, within 12 years of Hampton's founding, its graduates were teaching more than 10,000 black southern children, reversing the cycle of pain, ignorance and human degradation. Again, this reversal was not popular or widely endorsed, but Armstrong knew that it was the right thing to do, and he did it resolutely.

The emphasis on preparing students for leadership and service has demanded excellence in all of the school's endeavors. The result has been the pioneering of programs with national and international impact in numerous areas. For example:

The University's renowned museum, founded in August of 1868, is the first in Virginia. It includes a superb collection of African art, the first to be assembled by an African-American. In 1894, Hampton also distinguished itself by becoming the first institution in the world to acquire African-American art. Today the museum houses one of the world's premier collections.

Hampton made a significant contribution to American history through the development of the first federally funded boarding school for Native Americans. Beginning in 1878, for 45 years Hampton educated over 1,300 Native American students from 65 different tribes. This program was a model for a network of schools established throughout the country. However, Hampton was unique in that it was the only school which educated African-Americans and Native Americans together in a multi-cultural setting.

The global impact of the program which General Armstrong created is evidenced by the fact that by 1890, Hampton had an international student body. This "girdle around the world" consisted of students from Japan, China, Cuba, Hawaii, Gabon, Russia and Armenia. Moreover, twenty-eight schools were established on the Hampton model in this country and abroad. They included St. Paul's and Tuskegee University in the United States, and schools in Japan, Hawaii, the Virgin Islands, the Philippines, Greece, and several countries in Africa.

In addition to serving as a model for other schools, Hampton has lent its support to numerous institutions. In the early years, General Armstrong used his influence and connections on several occasions to help the College of William and Mary recover from the devastation of the Civil War. In 1872, Armstrong provided William and Mary President Benjamin Ewell with an entre to influential politicians in Washington, and to northern philanthropists who might provide resources for the impoverished College of William and Mary. Another example occurred in 1907, when William and Mary President Lyon Tyler wrote Hampton University President Hollis B. Frissell, asking if he would intercede on behalf of William and Mary which was seeking $40K from the General Education Board. Dr. Tyler wrote, "You reside near us and know what we are doing,

and I know that your generous spirit can be relied on to join in assisting our institution. The College has greatly improved along all lines, and we will reach this year about 240 students."

Hampton's pathbreaking contributions in the field of medicine have spanned more than a century. Many of the earliest graduates became doctors, including Susan Laflesche Picotte, the first Native American woman physician. In 1891, Dixie Hospital, today known as Hampton General Hospital, the first public hospital in the City of Hampton, was founded on the campus by Hampton faculty members. Another milestone in medicine was achieved in 1944, when Hampton's School of Nursing awarded the first baccalaureate nursing degree in Virginia.

The above selected milestones demonstrate that through the years, Hampton University has opened the floodgates for the emergence of more than a century of black leaders who served their people, this nation and this world. In formulating the Hampton philosophy with its emphasis on character, General Armstrong set a standard which is timeless in its use and application. Can we in our time do otherwise?

Now as then, our nation cries out for men and women "who will not be bought or sold * * * who in their innermost souls are true and honest * * * men and women who are not afraid to call sin by its right name * * * men and women who are as true to duty as is the needle to the pole * * * men and women who will stand for the right though the heavens fall." In short, like Armstrong's world, our world today cries out for men and women who are willing to exercise the courage of their own convictions, and promote what is right and what is fair, without regard for popular acclaim.

It is not enough, for educational institutions to produce successful physicians, accountants, or systems analysts, if they are unwilling or unable to transfer those experiences and sound values to those who walk beside them and to those who will succeed them. For all the progress of the 1950's and 1960's, too many of us became too prematurely self-satisfied with short-term "illusions of success."

We relaxed our resolve and tabled those experiences which gave us that "grit in our craw." For example, we stopped those precious annual oratorical contests in our schools and churches, and now too many of our young people are unable to manage basic oral and written communications skills. We stopped our open discussions of values, ethics, and character and their development in the classrooms, and began to insert sensational, empty and directionless "rap sessions." We became so caught up in blaming others, that we surrendered the responsibility for our own lives, our own cultural preservation and community sustenance. We bargained away those sacrifices made by our forebears. The result is our continuing suffering and languishing with social, political and economic inertia—the willingness to hoard and the unwillingness to share those accumulated blessings with those truly in need. That my friends, is a crime * * * and we will and are paying dearly for that crime.

What am I suggesting? It is time for us to take back—our neighborhoods * * * our responsibilities * * * our todays * * * our tomorrows * * * our legacy. We must save our children. Somebody said that "children are the message that we send into the future." We must reclaim, rekindle, reignite and reinvigorate the hopes and aspirations of our children—the greenest, richest and most precious Plants in this Garden called Life. In this society, many of us have made children and their hopes and dreams an afterthought and such callousness must cease.

We must return to being unashamed and unapologetic in openly discussing with young people values, character development, and ethics clarifications. We must stand for what is right and not tip-toe around what is wrong. Let us call it what it is: We need to propagandize—yes, Evangelize with a Holy Fire—make clearcut distinctions between right and wrong. We must outline our lofty expectations and be clear about what is nonnegotiable. We must become the embodiment of men and women striving to do what's right, against hapless but popular alternatives. Our young people are hungering for leadership. Someone to stand up, straighten and stiffen their backs, take a stand for Justice and Truth and acknowledge the responsibility for our own destiny.

What do I mean?

No one is irresponsibly impregnating our teenage girls but us—not racism, not sexism, not classism, not elitism—but us.

We own no poppy fields; we own no marijuana farms; we possess no fleet of airplanes to bring drugs from overseas, and we own no crack laboratories. No one is putting the needles into our veins but us. No one is cramming cocaine powder up our nostrils but us. And no one is routinely gunning down our young, ripening and potential-laden youths in our streets and our playgrounds but us. We are the problem: therefore, we must become its solution.

Since no one person or no one entity can be all things to all people, I will not propose a wide array of solutions. In my vision of the future, Hampton University will attack these national problems by becoming once again not only an academy for learning, but also an academy for leadership and service. In my vision, you would see the hundreds and thousands of young people who leave their Home by the Sea in Hampton, Virginia, go out into the world with a lifetime dedication to correcting the ills in our society.

You would see hundreds of the best and brightest young people in this country—young people totally committed to leadership and community service—young people recruited and trained for just this purpose. You would see a curriculum focused on critical and analytical thinking skills, problem solving, the issues of race, economics, crime, morality, and a required community service component at some point during the student's four years.

In this vision, you would see talented young people fully indoctrinated with the ideals of self-sufficiency, ownership and community as the foundation for true liberation. You would see thousands of young, well-trained people of impeccable character, leaders committed to becoming great teachers, and artists, and scientists, but also committed to ridding our communities of crime and illiteracy, to improving the environment, to moving our race from a position of consumership to ownership, to creating a world where man's inhumanity to man is the rare exception rather than the prevailing rule.

If I could render up for you a portrait of the kinds of young leaders this academy would produce, you would see a procession of Sojourner Truths, Samuel Chapman Armstrongs, Booker T. Washingtons, W.E.B. DuBoises, Thurgood Marshalls, Marva Collinses, and Martin Luther Kings.

In order to translate this vision into reality, it would mean building a leadership program into the entire university structure. Whether they were going to pursue physics, math, history, engineering, architecture, education, nursing, or any of the other 50-odd majors that we offer, every student that came to Hampton would be a part of this mandatory leadership program.

The four-year leadership program would teach that wise and courageous leadership and service must be dedications for life. We would honor and teach: values, decency, dignity, honesty, respect for oneself, respect for others, integrity.

Before graduation, every student would be required to work one year in a school, community center, or some other community uplift program. There will be no restrictions on size or type of community to be served. It could be an affluent neighborhood or it could be a ghetto.

It is my feeling that it would take approximately $50 million to support this kind of program, because I would want every student admitted to Hampton to receive a full tuition scholarship. Room and board would be paid by their parents, guardians or student entitlements such as the Tuition Assistance Grant in Virginia or the Federal Pell Grant. Financing for the $50 million would come from individuals, corporations and foundations who share my vision of an academy for the training of outstanding leaders. To some such a concept may seem expensive, but it is not nearly so expensive as the continuing cost of welfare and the construction of more prisons. More importantly, an investment in the training of America's leaders is an investment in the nation.

I truly believe that we are limited only by the boundaries of our imaginations. Whatever we envision, we can accomplish; whatever we dream, we can become. Call me a radical, a visionary, a dreamer. I welcome the designation. General Samuel Chapman Armstrong was a radical, a dreamer. And because he dreamed we find ourselves this evening in this time, in this place, revering his dream. Armstrong had a vision for his time. And I have a vision for our time.

Therefore, call me a dreamer, but better yet, join me in the fulfillment of this dream. For, as Langston Hughes so eloquently put it, "The dream belong not to the dreamer alone, but to all who helped to build." Whether you know it or not, those of you in this room tonight, those of you who have given so generously to the University's scholarship fund already share the dream. Moreover, you too are inspired by what Hampton University was and motivated by what you know she can become.

Through our countless contributions and sacrifices we have kept faith with the directive General Armstrong issued moments before he died. Quite simply, he said, "Hampton must not go down!" "Hampton must not go down!"

On this 125th anniversary of our founding, let it be said that Hampton has not gone down. We have kept General Armstrong's nobel dream alive and we have expanded it. We have strengthened its academic program and financial base. More importantly, we honor his tradition of leadership and service. We have embibed the Hampton spirit. It is a spirit that fuses ordinary people with extraordinary ideas and strength of purpose. On Anniversary Day 1993, let it be said that by adhering to Armstrong's vision in his time, the Hampton community sets forth a brand new vision for its time. Let's get on with it.●

FRANKLIN NATIONAL MEMORIAL COMMEMORATIVE MEDAL CEREMONY

• Mr. BIDEN. Mr. President, yesterday, in the midst of Fire Prevention Week, and just 3 days away from the anniversary of the great Chicago fire of 1871, the Clinton administration chose to recognize and celebrate the contributions of firefighters to American society in a Rose Garden ceremony.

The White House ceremony honored the contributions of a great American and the organizer of the first fire company—Benjamin Franklin—as well as the programs which the sale of the newly created Ben Franklin firefighters silver medal will go to support. More importantly, this ceremony served to personally recognize and honor our Nation's hard-working firefighters.

America's firefighters themselves are true heroes. They are the brave men and women who put themselves at risk—the ultimate risk—to work to protect our lives and our homes every time they are called.

Knowing of the Delaware firefighting community's level of interest and active participation in and contributions to firefighting issues, the White House invited a number of Delawareans to the ceremony as honored guests. They included the Delaware Volunteer Firemen's Association [DVFA] officers—president Harry Warner, 1st vice president Al Metheny, 2nd vice president Lynn Rogers, secretary Ace Carrow, and treasurer Charles L. Emerson.

In addition, director of the Delaware State Fire School Lou Amabili, and one of the directors of the DVFA, Steve Austin, were also honored. Finally, the White House also chose to recognize the officers of the Delaware Volunteer Firemen's Ladies' Auxiliary—namely, president, Peg Scarpitti, 1st vice president, Annabelle Boone, 2nd vice president, Sally Stevenson, secretary, Virginia Yeager, and treasurer, Betty Taylor.

As I walked along the parade route of the Delaware Volunteer Firemen's annual convention in Laurel several Saturdays ago, I wished I could have handed out to all present a personal invitation to yesterday's very special event. However, I am sure the thousands of firefighters' friends and families who attended the parade, as well as my colleagues, would want to join me in paying tribute to these men and women in Delaware and across this Nation who give of themselves daily to make our world more secure.

This ceremony was the culmination of legislation I introduced in 1991 and was based on the previous work of our late colleague, Senator John Heinz, to provide financial support to the over 1 million men and women risking life and limb in the dangerous—and sometimes deadly—battle against fire.

My legislation, which passed in the Senate and was signed into law by President Bush, created the Benjamin Franklin National Memorial Commemorative Medal. At no cost to the taxpayer, the sale of this medal supports programs in areas including burn research, education programs for low-income areas especially hard-hit by fires, arson prevention, and the John Heinz Memorial Scholarship Fund. I am pleased to report that, after much nay-saying about possible sales of the medal, recent U.S. Mint figures indicate that over 85,000 medals have already been sold—surpassing all initial mint projections.

It is clear that there is far more that we should do to assist our Nation's firefighters—fighting not only fires, but also finances and fatigue to keep their companies well-equipped and ready to respond—but this medal will go a long way toward providing firefighters better training and equipment, educating the public about the threat of fire, and developing better ways to treat the victims of fire.

Today, I take this opportunity to salute my fellow Delawareans for their leadership in the firefighting community. In the months ahead, I will continue to work—as I have for the last 21 years as a U.S. Senator—to provide well-deserved support and recognition for all of America's firefighters.•

ORDERS FOR WEDNESDAY, OCTOBER 13, 1993

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand adjourned until 9:30 a.m. on Wednesday, October 13, and that when the Senate reconvenes on Wednesday, October 13, the Journal of proceedings be deemed to have been approved to date, the call of the calendar be waived, and no motions or resolutions come over under the rule; that the morning hour be deemed to have expired, that the time for the two leaders be reserved for their use later in the day; that at 9:30 a.m., the Senate proceed to consideration of the Department of Defense appropriations bill and that the period between 9:30 a.m. and 11:30 a.m. on that day be for opening statements and debate only; and that at 11:30 a.m., the Senate proceed to executive session to resume consideration of the Dellinger nomination; that upon disposition of the nomination of Walter Dellinger, the Senate return to legislative session and resume consideration of the Department of Defense appropriations bill, which is H.R. 3116.

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

ADJOURNMENT UNTIL WEDNESDAY, OCTOBER 13, 1993, AT 9:30 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now move that the Senate stand adjourned until 9:30 a.m., Wednesday, October 13, as provided for under the provisions of House Concurrent Resolution 161.

The motion was agreed to and, at 7:18 p.m, the Senate adjourned until 9:30 a.m., Wednesday, October 13, 1993.

NOMINATIONS

Executive nominations received by the Senate October 7, 1993:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE POSITION AND GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8037:

To be deputy judge advocate general of the U.S. Air Force

COLONEL (BRIG GEN SEL) ANDREW M. EGELAND, JR. [redacted] U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. JIMMY D. ROSS [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. LEON E. SALOMON [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. WILSON A. SHOFFNER [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. JOHNNIE E. WILSON [redacted] U.S. ARMY.

DEPARTMENT OF STATE

NICHOLAS ANDREW REY, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF POLAND.

THE JUDICIARY

DAVID W. HAGEN, OF NEVADA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEVADA VICE EDWARD C. REED, JR., RETIRED.

CLAUDIA WILKEN, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

ENVIRONMENTAL PROTECTION AGENCY

MARY DOLORES NICHOLS, OF CALIFORNIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE WILLIAM G. ROSENBERG, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate, October 7, 1993:

EXECUTIVE OFFICE OF THE PRESIDENT

JOHN ROGGEN SCHMIDT, OF ILLINOIS, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS THE CHIEF U.S. NEGOTIATOR TO THE URUGUAY ROUND.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MARY JO BANE, OF MASSACHUSETTS, TO BE ASSISTANT SECRETARY FOR FAMILY SUPPORT, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

SHIRLEY SEARS CHATER, OF TEXAS, TO BE COMMISSIONER OF SOCIAL SECURITY.

DEPARTMENT OF ENERGY

TARA JEANNE O'TOOLE, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENT, SAFETY AND HEALTH).

DANIEL A. DREYFUS, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT, DEPARTMENT OF ENERGY.

DEPARTMENT OF LABOR

ANNE H. LEWIS, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF LABOR.

KATHARINE G. ABRAHAM, OF IOWA, TO BE COMMISSIONER OF LABOR STATISTICS, UNITED STATES DEPARTMENT OF LABOR, FOR A TERM OF FOUR YEARS.

DEPARTMENT OF STATE

ROGER R. GAMBLE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SURINAME.

WILLIAM DALE MONTGOMERY, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BULGARIA.

RICHARD A. BOUCHER, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CYPRUS.

PETER F. ROMERO, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ECUADOR.

JOHN D. NEGROPONTE, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE PHILIPPINES.

PARKER W. BORG, OF MINNESOTA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ICELAND.

THOMAS MICHAEL TOLLIVER NILES, OF KENTUCKY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO GREECE.

EDWARD JOSEPH PERKINS, OF OREGON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO AUSTRALIA.

WILLIAM LACY SWING, OF NORTH CAROLINA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HAITI.

RICHARD W. TEARE, OF OHIO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO PAPUA NEW GUINEA AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SOLOMON ISLANDS AND AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF VANUATU.

THERESA ANNE TULL, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM.

PEACE CORPS

CAROL BELLAMY, OF NEW YORK, TO BE DIRECTOR OF THE PEACE CORPS.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

MARGARET V.W. CARPENTER, OF CALIFORNIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

CAROL J. LANCASTER, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

ASIAN DEVELOPMENT BANK

LINDA TSAO YANG, OF CALIFORNIA, TO BE UNITED STATES DIRECTOR OF THE ASIAN DEVELOPMENT BANK, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF COMMERCE

DAVID J. BARRAM, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF COMMERCE.

THE JUDICIARY

HERBERT L. CHABOT, OF MARYLAND, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM EXPIRING FIFTEEN YEARS AFTER HE TAKES OFFICE.

NATIONAL SCIENCE FOUNDATION

NEAL F. LANE, OF OKLAHOMA, TO BE DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION FOR A TERM OF SIX YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF STATE

MADELEINE KORBEL ALBRIGHT, OF THE DISTRICT OF COLUMBIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 48TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

EDWARD S. WALKER, JR., OF MARYLAND, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 48TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

VICTOR MARRERO, OF NEW YORK, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 48TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

KARL FREDERICK INDERFURTH, OF NORTH CAROLINA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 48TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

SAM GEJDENSON, U.S. REPRESENTATIVE FROM THE STATE OF CONNECTICUT, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 48TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

WILLIAM F. GOODLING, U.S. REPRESENTATIVE FROM THE STATE OF PENNSYLVANIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 48TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

GEN. GEORGE A. JOULWAN, xxx-xx-xxxx UNITED STATES ARMY.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING MALCOLM D. STEVENS, AND ENDING PATRICK M. GORMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 7, 1993.

FORIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING PAUL SNOW CARPENTER, AND ENDING JAMES G. WALLAR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 14, 1993.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING GORDON D. GARRETT, AND ENDING JOSEPH R. CASTILLO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 14, 1993.

COAST GUARD NOMINATIONS BEGINNING JON D. ALLEN, AND ENDING ROBERT M. DEAN, IV, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 4, 1993.