□ 1110

HERE WE GO AGAIN

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

Mr. DREIER of California. Mr. Speaker, here we go again. Today the House will take up consideration of an urgent supplemental appropriations bill for the Department of Housing and Urban Development. Without calling into question the necessity or propriety of the individual programs involved today, it is important that we understand what is happening.

Day after day, Members from both sides of the aisle rise to denounce the budget deficits. And yet, year after year, Congress continues to pass so-called urgent supplemental appropriations and continuing resolutions. It is no wonder, Mr. Speaker, that the American people are confused with the budget process here in Washington. We do not even seem to understand it. Every time we pass one of these bills, we are ignoring our responsibilities to construct one annual budget for the Federal Government.

The dictionary defines urgent as "calling for immediate attention." That would seem to fit appropriately the need for action on a rational budget process that will lead to responsible actions on our part and a balanced budget—one that does not need mending and patching through supplementals halfway through a fiscal year.

TAX LOOPHOLE OF THE WEEK

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

Ms. KAPTUR. Mr. Speaker, our Tax Code should not make it easier for American firms to locate overseas than to invest in this country. The tax loophole of the week is subsidized foreign investment. Fifteen million jobless and underemployed Americans care about this abuse, as do an estimated 2 million Americans who will lose their jobs this year because of our import-export trade deficit, expected to top $100 billion.

Strange as it may seem, our Tax Code often makes it cheaper for an American company to produce abroad than at home. For example, an American firm can pay less taxes if it produces in a foreign country, even if all the sales of the product are made in this country. This is because the Tax Code allows U.S. companies to defer tax payments on the profits of its overseas subsidiaries.

Congressman DON PEASE of Ohio has a proposal to close this loophole tight. With the Pease proposal, if U.S. firms produce abroad but then sell their goods back to this country, they could not defer their taxes. His proposal also imposes a per-country limit on the foreign tax credit. Together, these provisions would raise $2.2 billion in revenues over the next 3 years. As we examine options to cut the deficit caused by this administration's failed budget policies, the Pease proposal should be considered. It raises revenues and preserves jobs in one fell swoop.

INTRODUCTION OF INDIVIDUAL TRAINING ACCOUNT

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

Mr. DURBIN. Mr. Speaker, we have been told recently that the Nation is in an economic recovery, and yet for many areas of our country it is not clear that that recovery has arrived.

In fact, there is another statistic that we have learned recently which indicates that the problem we have had with the recession is not a temporary one, but one that may be with us for quite some time. It is estimated that 25 percent of the Americans who lost their jobs in American industry as a result of this recession will not be able to go back to work in those same factories. In fact, they will face a life of frustration or a life that will seek a new working career to find something productive to do in their communities.

I have introduced H.R. 4832 with Congressman BOEHLERT of New York which attempts to initiate a program known as the individual training account to address this problem. The individual training account is a voluntary program which would allow employers and employees to contribute to a fund which would be a nest egg available to help train the dislocated worker.

This, I think, is an important first step. It mirrors the success we had with the GI bill. It provides the possibility, like an individual retirement account, that there would be a retirement nest egg in the future for people who do not need it for retraining.

We learned many things during the Great Depression. We made many changes in our Government policy. Let us hope that the great recession that we have just gone through will create an opportunity for us to learn even more.

The individual training account is an important step in the direction of retraining American workers to make certain that they are productive and not frustrated, to make certain that our communities across this country stay alive with the kind of healthy economy that we need to keep this Nation great.

PASS THE BANKRUPTCY BILL

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

Mr. KINDNESS. Mr. Speaker, I take this time in order to attempt to alert the Members of the House that soon we will have, presumably, a bankruptcy bill coming to us from the other body. That bill may be in the form that is presently being negotiated on the other side of the Hill or it may be somewhat different. It will not be exactly what the House passed. It will be quite different from it; but we may find that it is quite acceptable.

This morning in the Judiciary Committee, a motion was railroaded through under an extraordinarily tight procedure that did not allow debate, which would direct the chairman of the Judiciary Committee to move to disagree with the Senate amendments to the bankruptcy bill and request a conference.

Let us not be deceived. That will be an effort to kill the bankruptcy legislation. That will be an effort to kill the bankruptcy legislation. That will be an effort to kill the bankruptcy legislation.

Let us not vote for such a motion. Let us see what the other body produces and study it a little bit before voting for a conference, which will "deep-six" bankruptcy legislation.

If you want to wake up on Monday morning without any bankruptcy courts in your districts, you might vote for such a motion on the House floor.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution (H.J. Res. 517) making an urgent supplemental appropriation for additional annual contract authority for the fiscal year ending September 30, 1984, for the Department of Housing and Urban Development.

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

There was no objection.

URGENT SUPPLEMENTAL APPROPRIATION FOR DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, 1984

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House of Wednesday, March 21, 1984, I call up for consideration in the House as in the Committee of the Whole, the joint resolution (H.J. Res. 517) making an urgent supplemental appropriation for additional annual contract authority for the fiscal year ending September

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30, 1984, for the Department of Housing and Urban Development.

The SPEAKER pro tempore. The Clerk will report the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. RES. 517

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the paragraph under the heading "ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING" in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45, 97 Stat. 219, 220), as amended by section 127 of Public Law 98-151, making further continuing appropriations for fiscal year 1984 (97 Stat. 964, 980), is further amended by (a) deleting "$1,550,000,000" in the second proviso and inserting in lieu thereof "$1,612,982,000"; (b) striking out in the seventh proviso thereof the second citation to section 1437f of title 42, United States Code (including the parentheses), and inserting in lieu thereof the following: ", $261,675,000 of budget authority shall only be made available for the section 8 voucher program (section 8(o) of the United States Housing Act of 1937, as added by section 207 of the Housing and Urban-Rural Recovery Act of 1983, Public Law 98-181, 97 Stat. 1153, 1155, 1181), including payment of fees to Public Housing Agencies"; (c) deleting, in the clause numbered (1) in the ninth proviso, "shall not become available until March 31, 1984, and at such time", and in that clause deleting "such heading" and inserting in lieu thereof "this heading"; (d) deleting "$2,217,150,000" in the seventh and ninth provisos and inserting in each such proviso in lieu thereof "$3,820,320,000"; and (e) deleting the period at the end thereof and inserting a colon in lieu thereof and the following: *"Provided further,* That, notwithstanding any proviso hereof, any amounts of budget authority recaptured and becoming available for obligation in fiscal year 1984 in excess of $2,500,000,000 shall be made available only for use under section 14 of the United States Housing Act of 1937, as amended: *Provided further,* That the amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and heretofore approved in appropriation Acts, is increased by $69,490,893, of which $6,160,000 shall be available for contracts using contract authority released by Acts of Congress prior to 1976: *Provided further,* That budget authority in the amount of $300,000,000 shall be available as an appropriation of funds only for rental rehabilitation grants to authorized grantees pursuant to section 17(a)(1)(A) of the United States Housing Act of 1937, as amended, as authorized in section 17(a)(3)(A) of that Act, to remain available until September 30, 1986: *Provided further,* that $150,000,000 of such budget authority shall not be available until October 1, 1984: *Provided further,* That, notwithstanding the provisions of section 17(b)(4) of such Act, any rental rehabilitation grant amounts not obligated at the end of fiscal year 1984 shall not be added to the amount available for allocation for such grants for fiscal year 1985 but shall remain available for obligation according to the fiscal year 1984 allocation and consistent with the terms and conditions of law applicable as of September 30, 1984: *Provided further,* That, budget authority in the amount of $315,000,000 shall be available as an appropriation of funds only for development grants to authorized grantees pursuant to section 17(a)(1)(B) of the United States Housing Act of 1937, as authorized in section 17(a)(3)(B) of that Act, to remain available until September 30, 1986: *Provided further,* That, $115,000,000 of such budget authority shall not be available until October 1, 1984.".

Mr. WHITTEN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise in support of House Joint Resolution 517, making an urgent supplemental appropriation for additional annual contract authority for the fiscal year ending September 30, 1984, for the Department of Housing and Urban Development.

This resolution is a follow-on to the actions taken by the committee in the regular fiscal year 1984 appropriation bill for housing and the further continuing resolution.

This resolution was recommended by the HUD-Independent Agencies Subcommittee, which is chaired by our good friend, the gentleman from Massachusetts (Mr. BOLAND). As all my colleagues in this House know, the strength of the Appropriations Committee is based on the knowledge of our subcommittees which hold hearings and study these matters. As chairman, I am proud of our committee and our record and I urge everyone in the House to support this joint resolution and to support the committee.

Mr. BOLAND. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, first of all, I want to pay my compliments to the distinguished member from New York (Mr. GREEN) who is the ranking minority member on the subcommittee for the work he has done, not only on this joint resolution, but every bill that comes before the subcommittee—and that cuts across a very wide spectrum of the appropriations process of the House.

I also pay my respects to all the members of the subcommittee for the diligence with which they have addressed this particular problem and also the other matters that come before the committee.

Mr. Speaker, House Joint Resolution 517 addresses a number of 1984 subsidized housing issues. When the HUD bill was enacted last July we reserved $1.5 billion in anticipation of the passage of a housing authorization bill. Subsequently, that reserve was extended until March 31 of this year while the House and Senate Banking Committees worked out the final details on the authorization.

An authorization bill was adopted by the Congress as part of the first 1984 supplemental appropriations bill—and it authorized programs for fiscal years 1984 and 1985. In January, with the submission of the President's 1985 budget, the administration submitted its proposal on the use of the $1.5 billion. At the same time, a request was also submitted for an additional $62 million of contract authority so that $1 billion of unutilized budget authority could be made available for subsidized housing.

The recommendations in this resolution reflect the committee's endorsement of the administration's proposal with one or two minor changes. Those changes are outlined in the report and include a small additional amount of contract authority to provide for $63 million of public housing modernization funds over and above the $1,550,000,000 made available in the regular 1984 bill. In addition, any moneys recaptured above the estimated $2.5 billion are earmarked for modernization activities. However, if recaptures do not reach the $2.5 billion level, the Department should reduce funding for interest rate adjustments and amendments.

The prompt enactment of this joint resolution will authorize the release of funds for two new major program thrusts—housing vouchers and rental development and rental rehabilitation grants. A total of $315 million is included in this joint resolution for rental development grants—$200 million in 1984 for an estimated 10,000 units and $115 million in 1985 for an estimated 6,000 units. Funds under this program will be awarded to localities through a nationwide competition similar to the UDAG program. The grants may be used by State and local governments to make grants or loans, provide interest reduction payments or other assistance which would support new construction or substantial rehabilitation of rental housing. Each grant cannot exceed 50 percent of a project's total development cost and projects must set aside 20 percent of the units for families at or below 80 percent of median income.

The rental rehabilitation grant program will provide assistance to States, urban counties and localities to support the rehabilitation of rental properties. Grants can only be used in neighborhoods where the median income does not exceed 80 percent of the median income for the area. Buildings occupied by very low income persons and substandard units will receive first priority. Section 8 existing housing certificates or vouchers will be made available in conjunction with rental rehabilitation grants to assist those eligible lower income persons who cannot afford the rent on rehabilitated properties. It is expected that the rehabilitation subsidies will generally be limited to 50 percent of the cost of rehabilitation and not exceed $5,000 per unit.

The other major program thrust is the new housing voucher program. A total of 15,000 units are provided under this resolution as a pilot pro-

GARCIA) has in this particular program. I am also aware of the fact that the gentleman from New York (Mr. GARCIA) bears a major responsibility for section 123 being included in the Housing and Urban-Rural Recovery Act of 1983.

In response to the gentleman from New York (Mr. GARCIA), let me say that this committee will agree to provide the authority to permit HUD to use the $2 million in the Secretary's discretionary fund pursuant to section 123 of the Housing Authorization Act. We will provide that authority in the first vehicle that comes along—the next general supplemental appropriations bill in this year.

I am sure that the gentleman from New York (Mr. GREEN) would agree with this position, and I would ask the gentleman from New York (Mr. GARCIA) to yield to him.

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

Mr. GARCIA. I yield to the gentleman.

Mr. GREEN. I thank the gentleman.

Mr. Speaker, I simply say that the minority concurs in the statement of the distinguished chairman of the subcommittee.

Mr. GARCIA. I thank the chairman.

Mrs. ROUKEMA. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise in support of House Joint Resolution 517, which allocates the $1.5 billion previously held in reserve pending the enactment of the 1983 housing authorization bill. This funding will enable several newly authorized programs to get underway. I would like to express my particular approval and support for the $52.3 million in annual contract authority and $261.7 million in budget authority for a 15,000-unit pilot housing voucher program.

This voucher demonstration program is a very important step toward innovative and cost-effective ways of aiding low-income renters across the country. While the voucher system may not be a panacea, it certainly holds promise as a method of looking at an old housing problem in a fresh, new way. It is certainly worthy of this modest pilot project. A hallmark of the voucher system is its flexibility and responsiveness to local needs and markets.

Housing vouchers can be financed through much shorter subsidy contracts than those governing current housing assistance programs, because there is no need to assure property owners a steady flow of long-term rental income in order to induce them to undertake the costly construction and rehabilitation often associated with traditional housing assistance programs.

Furthermore, because vouchers are much less costly than current new construction programs, a greater number of low-income families can be assisted for fewer dollars than is possible through existing or new section 8 or public housing programs. By way of illustration, if all the 1982 new construction/substantial rehabilitation funds had been reprogramed for vouchers with 5-year assistance terms, approximately 90,000 more households could have been aided in that year at about the same annual expense—at a potential reduction of $8 billion in long-term Federal obligations. (CBO May 1982: "Federal Housing Assistance—Alternative Approaches.")

In addition to the increased number of families who could benefit, the budget implications and the potential for reductions in burdensome regulations, the families participating in the voucher program would have a greater freedom of choice in housing.

This modest program of 15,000 voucher units does something better than simply continue the traditional—and often recklessly inefficient—method of spending housing tax dollars. I believe that it is sensible; does the job as cost effectively as possible; and serves both taxpayers and low-income housing aid recipients well. It is an idea whose time for testing has clearly come.

● Mr. ADDABBO. Mr. Speaker, I would like to voice my support for the urgent supplemental appropriations bill, House Joint Resolution 517, for Housing and Urban Development, presented by Hon. Chairman BOLAND, of the Subcommittee of Housing and Urban Development. This bill provides urgently needed funding for federally assisted housing programs and we must act on it immediately to insure that the people of this country receive the housing they so readily need.

I share Chairman BOLAND's concerns that this Congress provide additional housing funds for low-income housing programs. These programs offer many people the opportunity to own homes who otherwise could not enjoy this privilege.

It was my intent to introduce an amendment to the section on housing to this bill. After receiving the assurances of Chairman BOLAND that he will include funding for the section 235 homeownership assistance program, I have agreed to hold off and wait for him to include this in the normal supplemental which will be considered in the next few weeks.

Section 235 is a vital program. It provides for 5,511 units in the amount of $167 million. It enables eligible families to purchase new homes that meet HUD standards. HUD insures mortgages and makes monthly payments to lenders to reduce interest rates. The homeowner must contribute 20 percent of adjusted income to monthly mortgage payments and must make a downpayment of 3 percent of the cost of acquisition. According to the Banking Committee, the unit estimate provided is based on the assumptions that the average income of the assisted families will be 50 percent of area median, the average home price will be $40,000, and the term of the assistance will be 10 years.

Section 235 is important because it develops communities. It means new construction, jobs, the purchase of building materials, and so on. It permits homeownership to families that could not otherwise qualify or afford it. Homeownership increases pride and responsibility which, in turn, stabilizes and enhances a community. It is a good program and has been highly successful. It will come to an end unless funding is provided.

Section 235 is by no means a "Big City" program. It also benefits rural and suburban communities. I look forward to its continued success and appreciate the support of the chairman of the Housing and Urban Development Committee and my colleagues in the House. Thank you.●

● Mr. CORRADA. Mr. Speaker, I rise in support of House Joint Resolution 517, legislation providing for an urgent supplemental appropriation which would enable the Department of Housing and Urban Development to either keep in place existing housing programs and start up new ones which were authorized by the passage of the Housing Urban-Rural Recovery Act of 1984.

Chairman ED BOLAND of the Subcommittee on HUD-Independent Appropriations Subcommittee has, with his usual skill and with some urgency, once again provided the necessary funds to either continue or start some HUD programs which are instrumental in helping provide decent shelter for U.S. citizens from all walks of life.

In providing for authority to release more than $1.6 billion in funds for the public housing modernization program, the committee is urging that HUD move quickly to help public housing authorities—in Puerto Rico and throughout the Nation—plan with some intelligence those modernization activities in public housing units sorely in need of continued rehabilitation. Puerto Rico makes effective and efficient use of this program and I am fully supportive of this provision.

The committee, further, is correct in providing additional funds in budget authority to get the new housing voucher program provided for in the housing reauthorization bill successfully started. The action in providing annual subsidy increases from $2,953 to $3,214 will provide for a more realistic program, and one more in line with inflationary increases so onerous to many low-income families who are having difficulties providing adequate housing for their families.

The funds contained in House Joint Resolution 517 for the rental development grants program in fiscal year 1984 and 1985 as well as the new rental rehabilitation grants program in the same fiscal years are important since many mayors of Puerto Rico's 78 municipalities will now have additional resources to cope with rehabilitation rental housing needs in their communities.

This resolution meets some critical and pressing housing needs and I urge its speedy adoption.●

Mr. BOLAND. Mr. Speaker, I move the previous question on the joint resolution to final passage.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 340, nays 55, not voting 37, as follows:

[Roll No. 58]

YEAS—340

Ackerman
Addabbo
Akaka
Albosta
Anderson
Andrews (TX)
Annunzio
Applegate
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biliey
Boehlert
Boggs
Boland
Boner
Bonior
Borski
Bosco
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Bryant
Burton (CA)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
D'Amours
Daniel
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fish
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frost
Fuqua
Garcia
Gejdenson
Gekas
Gephardt
Gilman
Gingrich
Gonzalez
Gore
Gradison
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Harkin
Harrison
Hatcher
Hawkins
Hayes
Hefner
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Huckaby
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Leach
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Marlenee
Marriott
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCloskey
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Moore
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Oxley
Packard
Panetta
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Rodino
Roe
Roemer
Rogers
Rostenkowski
Roth
Roukema
Rowland
Roybal
Sabo
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shannon
Sharp
Shaw
Shelby
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stangeland
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weaver
Weiss
Wheat
Whitehurst
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)
Zschau

NAYS—55

Archer
Bilirakis
Brown (CO)
Broyhill
Burton (IN)
Crane, Daniel
Crane, Philip
Dannemeyer
Dorgan
Dreier
Evans (IA)
Fields
Frenzel
Gibbons
Glickman
Gramm
Hansen (UT)
Hartnett
Hubbard
Hughes
Kindness
Latta
Leath
Loeffler
Lott
Lungren
Mack
MacKay
Martin (IL)
McCandless
McCollum
Montgomery
Moody
Moorhead
Nielson
Parris
Petri
Pursell
Roberts
Russo
Schaefer
Sensenbrenner
Shumway
Shuster
Slattery
Smith, Denny
Snyder
Solomon
Stenholm
Stump
Tauke
Taylor
Walker
Weber
Winn

NOT VOTING—37

Alexander
Andrews (NC)
Anthony
Biaggi
Bonker
Boucher
Cheney
Corcoran
Craig
Dixon
Donnelly
Foglietta
Gaydos
Goodling
Hall (OH)
Hance
Hansen (ID)
Heftel
Ireland
Kazen
Markey
Martin (NC)
McCurdy
Owens
Paul
Perkins
Robinson
Rose
Rudd
Savage
Stark
Tallon
Towns
Whitley
Wright
Young (AK)
Young (MO)

□ 1150

The Clerk announced the following pair:

On this vote:

Mr. Tallon for, with Mr. Hance against.

Messrs. EVANS of Iowa, WINN, and MACKAY changed their votes from "yea" to "nay."

Mr. WEAVER and Mr. LAGOMARSINO changed their votes from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON THE BUDGET TO HAVE UNTIL 5 P.M. SATURDAY, MARCH 31, 1984, TO FILE REPORT ON FIRST CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1985

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that the Committee on the Budget have until 5 p.m. on Saturday, March 31, 1984, to file the report on the first concurrent resolution on the budget for fiscal year 1985.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

HONORABLE EDWIN B. FORSYTHE

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

Mr. RODINO. Mr. Speaker, I merely want to take the time of the House to announce, very sadly, that one of our Members, our colleague from New Jersey, the Honorable ED FORSYTHE, passed away. I know that all of us at this moment grieve for his family. ED FORSYTHE for many years was a very distinguished Member of this body. He was a very, very important member of the New Jersey delegation.

It is with great sadness that I inform the House of their loss. My heartfelt sympathy, and I am sure the sympathy of all of my colleagues go to ED's family at this time. He will be missed.

I yield to the gentleman from New Jersey (Mr. RINALDO).

staffing required would be at maximum three professional staff and two clerical. That there could be a lesser number if agreed. But, in principle, I was not willing to take a lesser proportion of total staff requirements. To do so would make it impossible to do our job.

I would like to yield to the chairman since he initially formulated the budget, and I would like to hear his comments with respect to his professional staff request.

Mr. LELAND. I thank the gentlewoman for yielding.

Mr. Speaker, the reason that the number 15 was derived was because we had worked with House Finance, the House Administration Committee, and the Subcommittee of Jurisdiction, and we had also tracked the other activities that had been instituted. We did as much as we could to scale down the number of staff realizing that we would only be in existence for the remainder of the year which would probably, by passage of the resolution itself, be about three-quarters of the year.

So we came to that conclusion by way of just looking at the other select committees and working with the House Finance and the House Administration Committee asking them what would be a reasonable number of positions in the respective categories that we have asked for.

□ 1210

Mr. EMERSON. Mr. Speaker, if the gentlewoman will yield further, I would just say, like the gentlewoman from New Jersey, I opposed the creation of this select committee not because I do not have concern for the issue it is to address but because I have been concerned that we are going to be reinventing the wheel.

I have tried to make the point, and the committee has not yet met so I have not been able to make the point in committee, that having served, as I have, for 3 years on the Committee on Agriculture and 1 year as the ranking Republican on the Nutrition Subcommittee, that we do have, both on the majority and the minority staffs of the Committee on Agriculture some truly outstanding staff people. There is a great body of evidence that we have accumulated in the course of our field hearings on the subject of hunger and nutrition, and I just want to assure that this data that we have already gone to such effort and time and expense to collect is not something that will have to, of necessity, be repeated by the Hunger Committee.

I think Chairman PANETTA and I, and both of us are going to be serving on the Hunger Committee, would share all of the data that we have accumulated and can, thus, forego reinventing the wheel.

Mr. LELAND. Mr. Speaker, if the gentlewoman will yield further, I would like to say that I appreciate the gentleman's position.

The SPEAKER pro tempore. The time of the gentlewoman from New Jersey (Mrs. ROUKEMA) has expired.

Mr. BADHAM. Mr. Speaker, I yield 3 additional minutes to the gentlewoman from New Jersey.

Mrs. ROUKEMA. I yield further to my chairman.

Mr. LELAND. I thank the gentlewoman for yielding further.

Mr. Speaker, I would just like to say that we do not preclude the opportunity to work with the existing staff not only of the Committee on Agriculture, but also the Committee on Foreign Affairs, the Committee on Appropriations, and the other committees of jurisdiction that, indeed, have the expertise in the areas that we are concerned with.

Mrs. ROUKEMA. Mr. Speaker, I would like to comment to my colleague, the gentleman from Missouri, that he and I have discussed this issue previously and he should know that the House Administration Subcommittee discussed at length the use of professional staff on the committees of jurisdiction and recognized them as valuable tools and adjuncts to the activities of this committee.

However, committee staff time seems to be stretched on all the committees of responsibility, and while we shall use them as adjuncts, we concluded that we could not impose unduly on their time. While we will work cooperatively there is no feasible way that could be found to loan standing committee staff to the Select Committee on Hunger.

Mr. ANNUNZIO. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas (Mr. LELAND), the chairman of the new select committee.

Mr. LELAND. I thank the gentleman for yielding time to me.

Mr. Speaker, I commend the gentleman from Illinois (Mr. ANNUNZIO) for the careful attention he has given to this important legislative initiative. I really appreciate it. The gentleman and I have worked together now for the last few days on arriving at a conclusion about where we are today, and I really, truly, appreciate all that he has done to help us.

Mr. Speaker, I rise in strong support of the funding resolution which provides $449,250 for operational expenses created by the establishment of the Select Committee on Hunger, and I urge my colleagues to vote in favor of this resolution.

On February 22, 1984, the resolution establishing a Select Committee on Hunger passed the House with overwhelming bipartisan support, as was mentioned 309 to 78. House Resolution 15 came to the floor of the House of Representatives with the support of 258 Members of Congress and an unusual coalition of over 60 religious, antipoverty, farm and labor, education, minority, senior citizen, and women's organizations. This overwhelming support was an expression of belief in the increasing need for a comprehensive, coordinated examination of antihunger initiatives and policy recommendations. The passage of House Resolution 15 signified the importance of the concept that food is a basic human need, a fundamental human right that all individuals must have access to in order to maintain acceptable health, and of equal importance, to maintain human dignity and self-respect.

The funding request for the Select Committee on Hunger was carefully considered by myself and Mrs. ROUKEMA, the ranking Republican on the committee, after discussions with the finance office and Committee on House Administration, and is very much in line with the first year budget allowances of other select committees.

In view of the critical mission with which the Select Committee on Hunger is about to embark, Mr. Speaker, it is my strong conviction that this request for $449,250 is reasonable. The overwhelming bipartisan support of the House of Representatives attests to its worthiness. I appreciate this opportunity to support this important resolution and I look forward to beginning the work which the select committee has before it.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. LELAND. I am glad to yield to the gentleman from California.

Mr. THOMAS of California. I thank the gentleman for yielding.

Mr. Speaker, I wanted to ask the chairman of the committee, in terms of the discussion in the subcommittee, and unfortunately I was not able to be at the full committee and I understand it was a very short meeting and there was no general discussion at the meeting, a member of the committee indicated that they were looking for the reasons for the 15 staff members.

I know when we discussed the plans of this select committee in the subcommittee, the chairman indicated that there were approximately four hearings that were to be planned around the United States. One of the members of the subcommittee I thought pretty substantially indicated that there were findings, GAO studies, Committee on Agriculture reports on the question of hunger.

The question I would like to ask of the chairman is: Do we anticipate a significant amount of staff time digesting the material that already has been printed on the question of hunger? Of course, and record was de-

lineated in the subcommittee of a number of reports.

Could the chairman talk a little bit about staff time not being utilized for hearings but, rather, just to get on top of the rather voluminous material on hunger?

Mr. LELAND. It is this gentleman's opinion, and of course that would be subject to change, subject to the full committee meeting and making decisions about how we proceed, but as chair of the committee, I hope that I will be able to offer my advice, which would be to have the staff digest the materials that are already available.

The gentleman has suggested that there is a vast amount of material out there. We need to bring in all of that material, collate it, and make sure that we do not reinvent the wheel, make sure that indeed we are able to regurgitate the material that is already available, and then to embark on trying to find new information that is available.

Mr. THOMAS of California. Mr. Speaker, if the gentleman would yield further, it is my understanding that the amount that is being requested is in no way a cut from the amount that the committee requested; rather, it is an adjustment for the time period left in this year. Is that correct?

Mr. LELAND. The amount of money is satisfactory to this gentleman, the Chair of the committee, and I think, by the way, it is reasonable.

Mr. THOMAS of California. If the gentleman will yield further, it is this gentleman's understanding that what occurred was an adjustment for a 9-month period from the 12-month budget that was provided. There certainly was a discussion about reducing the amount, given the timeframe in which we were dealing and the fact that the committee had budgeted $1,000 per member for attendance at the four anticipated hearings and there was some discussion that perhaps the staff could better spend its time digesting this voluminous amount of material before they went out and held hearings to find out just exactly what their direction ought to be from the material that was already submitted but that, as a matter of fact, there was not a cut in the budget but there was an adjustment for a 9-month period, that the services and the staff were adjusted to a 9-month period from a 12-month budget.

So I think if we will check our numbers, we will find that there has been no cut; there has simply been a reflection of what is reality, and that is, 3 months have passed from this particular year.

Mr. LELAND. I thank the gentleman.

□ 1220

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BADHAM. Mr. Speaker, I yield 5 minutes to the gentleman fron New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of House Resolution 443, legislation that sets forth funding levels for the Select Committee on Hunger. Also, I would like to take this opportunity to thank the distinguished chairman of the House Administration Committee's Subcommittee on Accounts for his role in assuring that this trim budget was acceptable.

I was pleased to have joined the gentleman from Texas, the select committee's distinguished chairman (Mr. LELAND) in introducing what we believe to be an important legislative initiative to resolve the problem of hunger, both here and abroad. I commend and congratulate the gentlewoman from New Jersey (Mrs. ROUKEMA) for assuming the ranking minority leadership role of the committee and I wish to associate myself with her remarks. I look forward to working with our chairman and our ranking member and assisting them in any way that they deem appropriate in assuring the success of the Hunger Committee.

Mr. Speaker, as you know the bill establishing the Select Committee on Hunger was previously adopted by the House, by a substantial vote of 308 to 78. That overwhelming support was indicative of the importance that the American people attach to this issue. Indeed, a coalition of some 60 religious, antihunger, women, minority, private, and voluntary associations, and other groups came together from all segments of our society in support of the Hunger Committee bill.

In my work as a member of the Committee on Foreign Affairs and the Presidential Commission on World Hunger (1978–80), I have come to recognize that hunger is a problem of many dimensions. Many of these areas have been explored at length by various review groups and several congressional committees. Unfortunately, the public is by and large unaware of the extensive work or our committees, the programs they have reviewed, and the underlying need for our Nation to markedly intensify its initiatives against hunger. It is our hope that a Select Committee on Hunger will be able to support our standing committees by bringing greater visibility to their efforts in the hunger field, by exploring with them how best to underscore to the public our Nation's need to assign a higher priority to hunger and by finding ways to more effectively utilize the funds available for hunger needs.

Mr. Speaker, hearings on world hunger conducted last year by our Committee on Foreign Affairs, focused particularly on how far we have come since the 1974 World Food Conference, outlined the hope that "within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted."

At these hearings, witnesses from the administration and from the private sector presented a picture that when compared to the lofty goals of the World Food Conference seemed pretty dismal. "This masks," as one witness stated, "considerable variation in availability between countries, and appreciable seasonal fluctuation and year-to-year variability within the countries."

As we grapple with the problem of revitalizing a troubled economy, we must not undermine previously successful initiatives both at home and abroad designed to alleviate hunger. At the same time, we cannot refrain from scrutinizing current programs with an eye to assuring that they are cost effective and making certain that the merger funds available are utilized to help those they are designed to assist.

Accordingly, I urge my colleagues to support House Resolution 443.

Mr. BADHAM. Mr. Speaker, I yield 5 minutes to the gentleman from Utah (Mr. NIELSON).

Mr. NIELSON of Utah. Mr. Speaker, I rise as one Member who opposed the establishment of this committee to begin with.

I felt that the Committee on Education and Labor, the Committee on Foreign Affairs, and other committees, including the Committee on Agriculture, could do the job necessary in this particular area. We also have select committees at various other levels.

One of the first votes I made in this Congress in January of last year was to vote for the Children, Youth, and Families Select Committee. I did it unthinkingly, with a study of the family structure and after looking at some of the things to improve the family situation. I find that that committee has not gone in that direction. That is one vote I would like to have had back, and I would vote against it if I had the opportunity now.

I note that that committee started on April 1, 1983, and spent $363,581 during that year. I find it rather puzzling that this committee would ask for $449,000 for a period which is going to be shorter because we have a bobtail session. Effectively, nothing will be done after October 1, at least not by the Members of Congress, although the staff, of course, will continue its work. But this is a shorter period of time. It is a less critical issue than the Children, Youth, and Families Committee, in my judgment, and I

□ 1250

COAST GUARD AUTHORIZATION ACT OF 1984

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 472, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 472

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4841) to authorize appropriations for the Coast Guard for fiscal years 1985 and 1986, and for other purposes, and the first reading of the bill shall dispensed with. All points of order against the bill for failure to comply with the provisions of clause 5(a), rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be considered for amendment under the five-minute rule, and each section shall be considered as having been read. It shall be in order to consider the amendment recommended by the Committee on Merchant Marine and Fisheries inserting new sections 12 through 18 now printed in the bill, all points of order against said amendment for failure to comply with the provisions of clause, 7, rule XVI are hereby waived, and said amendment shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN). Pending that, I yield myself such as I may consume.

Mr. Speaker, House Resolution 472 is a 1-hour open rule providing for the consideration of H.R. 4841, an authorization for appropriations for the U.S. Coast Guard for fiscal years 1985 and 1986. In addition, a motion to recommit is provided.

Mr. Speaker, the rule provides for waivers of points of order in two instances. The first instance waives clause 5(a) of rule XXI, which prohibits appropriations in a legislative bill. In this instance, the waiver is necessary because the bill in section 10 allows the Commandant of the Coast Guard to use funds already appropriated to establish a helicopter rescue swimmer program. Since these funds obviously were not appropriated for this purpose, the bill allows their use for a new purpose and thereby is a technical violation, one of the rule.

In addition, Mr. Speaker, the rule waives clause 7, rule XVI (16) against the committee amendment. The bill was reported with an amendment, which adds seven new sections, numbers 12 through 18. This is a single amendment. Several of the provisions in the amendment are nongermane. For example, section 14 provides protection for seamen against retribution if the seaman has reported suspected violations of rules. This provision allows certain judicial remedies. The bill, as introduced, did not address such procedures. Because all seven sections are drafted as one amendment, the point of order lies against the entire amendment and thus if it were left unprotected, all seven sections could be stricken by a point of order. The Rules Committee felt it necessary to protect the entirety of the amendment.

Mr. Speaker, H.R. 4841 authorizes a total of $2.39 billion for fiscal year 1985, and $2.63 billion in fiscal year 1986, for the operations and programs administered by the U.S. Coast Guard; also, the bill authorizes such sums as may be necessary for increases in salaries and benefits which are projected to cost about $30 million in 1985 and $50 million in 1986.

Mr. Speaker, the funding levels approved by the Merchant Marine Committee would provide for the operations of five heavy icebreakers instead of four, the upgrading of military personnel strength in the Coast Guard, and the purchase of four long-range surveillance aircraft with advanced electronic systems, and improving the fleet of vessels and aircraft engaged in search, rescue, and law enforcement.

Mr. Speaker, the Coast Guard operates under the authority of the Secretary of Transportation with primary responsibility for promotion of safety of life and property at sea. The enforcement of Federal laws on and under the high seas and U.S. waters, and the safety of vessels, ports, waterways, and their related facilities. Also, Mr. Speaker, the Coast Guard maintains a readiness to operate as a specialized service in the Navy during national emergencies or declaration of war.

Mr. Speaker, H.R. 4841 was unanimously approved by the Committee on Merchant Marine and Fisheries. The committee, with their vote, recognized the importance of this authorization that enables the Coast Guard to continue to carry out its many vital missions and to insure the safety of all U.S. waterways. I urge adoption of the rule so the House will have an opportunity to consider this important legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, the rule is an open rule; I know of no controversy on the rule whatsoever.

The authorization bill provides for the operation of the Coast Guard for fiscal years 1985 and 1986. We all know the good job that the Coast Guard does and we should support the authorization legislation.

Mr. Speaker, I have no requests for time. I urge the adoption of the rule and the passage of the bill when it comes up for final vote.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, at this time, I yield 1 minute to the gentleman from Florida (Mr. PEPPER), chairman of the Rules Committee.

"OH, SON, MY TEARS ARE NOT FOR MYSELF"

(By unanimous consent, Mr. PEPPER was allowed to speak out of order.)

Mr. PEPPER. Mr. Speaker, the Governor of Colorado, who happens to be in the same political party I am, made the statement that the elderly who were in a terminal state, whose precious life is sustained temporarily by some kind of mechanical or medical devices, he said:

> Why don't you old folks go on off and die and get out of the way and make room for other people?

Mr. Speaker, it is shocking that anybody should make a statement like that. In reply, I would like to tell that Governor of a story I heard that in a certain country at a certain time there was a practice that the oldest son would take an elderly father who became very ill to the mountainside and expose him there to die before the elements and the vultures.

On one occasion, an older son took his father to that accustomed place and he laid him down to die, the victim of the elements and the vultures.

As the son turned away, he heard the sobs of his father and he looked back to see his eyes filled with tears.

The son said, "Father, I am so sorry that I have to do this to you."

The father said, "Oh, son, my tears are not for myself. My tears are for the time when your son will bring you here."

This Governor, I hope, will be spared a time such as that on the part of those whom he castigates. But if he does come to such a time in his life when the slender thread of life is held together by some means of artificial character, that those who make the decision will be more compassionate to him than he has expressed himself as being of those who are in that state today.

□ 1300

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 394, nays 0, not voting 38, as follows:

[Roll No. 60]

YEAS—394

Ackerman
Addabbo
Albosta
Alexander
Anderson
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biliraki
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fields
Fish
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hayes
Hefner
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Patman
Patterson
Pease
Penny
Pepper
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weaver
Weber
Weiss
Wheat
Whitehurst
Whittaker
Whitten
Williams (MT)
Williams (OH)
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zschau

NOT VOTING—38

Akaka
Andrews (NC)
Biaggi
Boucher
Cheney
Corcoran
Craig
Crockett
Donnelly
Dymally
Fiedler
Foglietta
Gaydos
Goodling
Hall (OH)
Hance
Hansen (ID)
Hawkins
Heftel
Ireland
Kazen
Kemp
Markey
McCurdy
Nelson
Pashayan
Paul
Perkins
Rangel
Rose
Rudd
Savage
Stratton
Tallon
Waxman
Whitley
Wilson
Young (MO)

□ 1310

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House resolution 472 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4841.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4841) to authorize appropriations for the Coast Guard for fiscal years 1985 and 1986, and for other purposes, with Mr. JACOBS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Tennessee (Mr. JONES) will be recognized for 30 minutes and the gentleman from Alaska (Mr. YOUNG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. JONES).

Mr. JONES of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Coast Guard Authorization Act of 1984 was unanimously approved by the Committee on Merchant Marine and Fisheries on March 14, 1984. The bill contains funding levels and other provisons that the committee has determined are necessary to enable the Coast Guard to carry out its many vital missions.

The Coast Guard is a hard-working, cost-effective organization and is truly a national asset, both in peace time and in war. The Coast Guard's remarkable ability to carry out its many responsibilities is indicated by its performance data for 1983. The Coast Guard responded to over 65,000 search and rescue cases, assisted over 165,000 persons, prevented property loss of $614 million, and most importantly saved 5,784 lives. The Coast Guard also boarded almost 3,000 vessels for the purpose of fishery law enforcement, and in the area of drug law enforcement seized 164 vessels and confiscated over 2 million pounds of marihuana.

These figures only begin to point out the numerous and widely varied functions which the Congress has assigned to the Coast Guard over the years. In addition to traditional search and rescue and law enforcement functions, the Coast Guard is responsible for: Performing vessel inspections, investigating marine casualties, insuring boating safety, engaging in polar and domestic icebreaking operations, maintaining an extensive aids-to-navigation system, responding to pollution incidents, and insuring port security. The Coast Guard also has a military readiness mission and operates as a service in the Navy in time of war or national

a military service equal to those in the Department of Defense.

I have long been a supporter of the Coast Guard because of the highly professional and cost-effective service it provides to the American public. As the Representative from Alaska with its extensive coastline and harsh maritime environment, I can assure you that these services are essential—often a matter of life and death. As the ranking minority member on the Coast Guard and Navigation Subcommittee, I can assure you that the same is true on all the coasts and the inland waterways of our Nation.

Mr. Chairman, this bill not only provides for adequate funding of the Coast Guard and its important programs but also fulfills our oversight responsibilities to review the programs and laws of the Coast Guard and make improvements where required. Therefore, I urge all of my colleagues to support and approve this legislation today.

Mr. Chairman, at this time I yield 1 minute to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of H.R. 4841, the Coast Guard Authorization Act of 1984. During my years of service on the House Committee on Merchant Marine and Fisheries, I have come to know the Coast Guard to be a highly capable, dedicated group of people, successfully performing many missions of national importance.

The Nation has asked the Coast Guard to undertake numerous significant additional at-sea responsibilities during the last few years, such as enforcement of the FCMA, drug interdiction, and—most recently—patrol around the island of Grenada in relief of the U.S. Navy. We also count upon the Coast Guard for activities as diverse as safety of the U.S. merchant fleet, security at the Los Angeles Olympic games, polar and domestic icebreaking, nationwide marine search and rescue, and numerous military roles such as coastal antisubmarine warfare, convoy escort, and port mobilization during time of war or national emergency.

I believe that the Coast Guard performs these diverse responsibilities remarkably well. We must not shortchange the Coast Guard when it comes to providing the service with adequate numbers of personnel, and providing them with adequate training and equipment to carry out their jobs safely and efficiently.

I am pleased to see that President Reagan's budget request for fiscal year 1985 takes a kinder view of the Coast Guard's requirements than the administration did in previous years. However, I still have some concern about the adequacy of the administration's request for certain budget accounts, for example, the operating expense and research and development accounts. In particular, I am concerned that the administration's request for only $23.5 million for research and development may be a penny-wise and pound-foolish way of saving some money, if the projects which the Coast Guard might pursue with additional money would have a high potential for achieving moneysaving efficiencies in future years.

I want to make clear that I support many of the President's efforts to streamline Government operations and turn appropriate functions over to the private sector. It may well be reasonable, and more cost effective, to contract out certain functions that now are performed by Government agencies; some of the Coast Guard aids-to-navigation functions may fall in this category. However, I have a great concern that the administration's fiscal year 1985 proposals to reduce civilian and military personnel levels may erode the Coast Guard's overall capability to carry out its civilian and military missions. I believe that the personnel "floors" included in the Coast Guard Authorization Act for both military and civilian personnel will enable the Coast Guard to carry out its responsibilities fully, and will a quality of performance that the people of the United States expect and the public interest demands.

In addition to authorizing dollar amounts and personnel levels, this bill also directs the Coast Guard to initiate several activities which I believe are greatly in the public interest. Section 7 requires the Secretary of Transportation to prepare design and construction plans for the purchase of at least two new icebreaking vessels capable of operating in the heavy ice regions of the Artic and the Antarctic. This planning is necessary to prepare for the replacement of the older existing Coast Guard icebreakers. The Secretary is to report to Congress in 1985 and 1986 on the status of these plans.

Section 10 directs the Commandant of the Coast Guard to establish a helicopter rescue swimmer program for the purpose of training selected Coast Guard personnel in rescue swimming skills. The Coast Guard estimates that this specialized rescue swimmer training should help to save several dozen lives each year.

Section 11 of the bill directs the Secretary of Transportation to proceed vigorously with efforts to develop improved lifesaving equipment for use on passenger ferries. Ferries now are required to carry only certain amounts and types of equipment which may or may not be sufficient to save the lives of all persons on board if a ferry sank, particularly if the sinking occurred in cold waters such as Puget Sound.

Section 16 of the bill would amend various statutes that currently make reference to only one sex—for example, "enlisted man," "widow"—to make them gender-neutral—for example, "enlisted member," "surviving spouse,"—to eliminate any substantive sexual discrimination that may result from use of these terms under existing law. I am glad to see these amendments providing legal equity to the women of the Coast Guard.

Mr. Chairman, the well-being of the United States benefits from a Coast Guard having the equipment and the capably trained, confident personnel to carry out the numerous missions to which I have just referred. I urge all my colleagues in the House of Representatives to support H.R. 4841.

Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. LENT).

Mr. LENT. I thank the gentleman for yielding time to me.

Mr. Chairman, I want to commend the distinguished chairman of the Coast Guard Subcommittee and the full House Merchant Marine and Fisheries Committee, the Honorable WALTER B. JONES, and the distinguished ranking minority member of the Coast Guard and Navigation Subcommittee, the Honorable DON YOUNG, for their efforts in expediting consideration of this important Coast Guard authorization bill for fiscal years 1985 and 1986.

As a member of the Coast Guard and Navigation Committee, I strongly support the modest increases in funding provided in this bill. I do so because the increases are necessary to maintain end-of-year active military personnel strength for the next 2 years and assure that the Coast Guard can continue to carry out its many missions.

Several provisions in the bill are of immediate importance to the many recreational boaters in my congressional district on Long Island. For example, this legislation establishes Federal penalties for operating a vessel while intoxicated and provides for data gathering and educational efforts associated with this problem. Clearly, this provision is consistent with the growing outrage in this country over the abuse of alcohol and its threat to safety on land as well as at sea.

In addition, this legislation will prohibit the retail sale of recreational boats containing a known safety defect. With growing numbers of Americans turning to boating as a means of recreation, this provision should enhance safety at sea, as can the bill's provision for specialized rescue swimming skills for certain Coast Guard personnel and improved safety equipment for use on passenger ferries.

Again, Mr. Chairman, I applaud my colleagues efforts in bringing this responsible piece of legislation before this body, and I urge a vote for its passage.

Mr. YOUNG of Alaska. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in strong support of H.R. 4841, the proposed Coast Guard Authorization Act of 1984.

This bill contains within it one overriding message. Congress will not stand by and watch the U.S. Coast Guard robbed of the people, the equipment, and the operating funds it must have to do its many jobs in service to the American people.

The Coast Guard is perhaps the single most popular agency in the entire Federal Government, faint praise though that may be. Every year, it is responsible for saving 6,000 human lives and a billion dollars' worth of property; for blocking more than 2 billion dollars' worth of drugs from entry into the United States; for operating and maintaining one-fourth of the world's aids to maritime navigation; for operating this country's entire fleet of heavy icebreakers; for protecting our multibillion-dollar fisheries resource from illegal exploitation by foreign fishermen; for insuring the safe construction and operation of merchant vessels; and for responding to spills of oil and hazardous chemicals into the waters of the United States. It is also one of the largest and most capable navies in the world, required by law to maintain the readiness to serve in war or national emergency in any capacity directed by the President.

No other agency of the Federal Government requires individuals with the variety of skills, strength of character, and sense of duty demanded of Coast Guard personnel. Neither Congressmen nor bureaucrats are called upon to hover in a helicopter over 30-foot seas in a midwinter storm at midnight risking their lives to save others, and sometimes risking their lives simply to retrieve the bodies of the dead. As a country, we ask much of the Coast Guard, and in so doing we incur obligations of our own.

But for decades, the Coast Guard has been asked to serve on old ships; to cut training time short; to curtail operations in order to save on fuel; to place additional emphasis on one task without reducing efforts elsewhere; to respond promptly and favorably to all requests for help and to all complaints about regulatory unfairness; and to accept new jobs without new resources, without complaint, and without fail.

This year, the administration suggests that Congress eliminate 513 military personnel and 242 civilians from the Coast Guard. The President apparently believes that we have 176 people too many working primarily on Coast Guard law enforcement; 122 too many dedicated primarily to search and rescue; and that we can get rid of 351 now working mostly on aids to navigation.

I believe he is wrong. I think the time has come to stop nickeling and diming, overanalyzing, micromanaging, and second-guessing the Coast Guard; it is time instead to give them what they need, let them do their job, and trust them to do it right. The legislation before us today is designed to further that goal, to make certain the Coast Guard will have enough resources and personnel at least to maintain operations at their present level.

I congratulate the subcommittee and full committee chairman, Mr. JONES of North Carolina, for his leadership in developing this bill, as well as the distinguished, unbelievably distinguished ranking minority member of the Subcommittee on Coast Guard and Navigation, Mr. YOUNG of Alaska. I reserve of course, a special tribute, however, to the late ranking minority member of the Committee on Merchant Marine and Fisheries, Mr. FORSYTHE, who was throughout his career both a staunch supporter of the Coast Guard, and the very embodiment of the kind of nonpartisan, constructive legislative leadership which I believe is demonstrated in the bill before us today. We will miss him very much.

H.R. 4841 is responsive to the needs both of the Coast Guard and the country, and I hope it will today win overwhelming approval from Members of the House.

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Mr. JONES of North Carolina. Mr. Chairman, may I inquire, how much time do I have remaining?

The CHAIRMAN. The gentleman from North Carolina (Mr. JONES) has 13 minutes remaining.

Mr. JONES of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. BENNETT), the newest member of our committee.

Mr. BENNETT. Mr. Chairman, as we approach the question of the Coast Guard and what it does for our country, we must have a feeling of very deep gratitude because this organization has so nobly attempted to assist the lives and welfare of our country throughout the years.

As a Congressman who represents a fishing community or several fishing communities, both on Amelia Island and Mayport and other places in our area, I am deeply grateful for what they do to protect the seamen at sea.

I am also very deeply involved and have been deeply interested in the fight that is being put up by the Coast Guard in protecting the young people and the older people of our country in the drug traffic situation. They have done a magnificent job, and they need more assistance.

Mr. Speaker, the Coast Guard does not get the credit it should have in my opinion, and I hope we will go forward in supporting the Coast Guard unanimously in this bill and in other bills that I hope may follow to give more strength to the Coast Guard in these battles.

Mr. JONES of North Carolina. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN of North Carolina. Mr. Chairman, I want to commend the distinguished chairman of the committee and of the subcommittee, the distinguished gentleman from North Carolina (Mr. JONES), for bringing this legislation to the floor of the House for action here today.

There has been quite a bit of commentary already on the varied responsibilities of the U.S Coast Guard ranging from the somewhat clerical and routine responsibilities of documentation of vessels, which nevertheless requires a high degree of persuasion and exactness, to the responsibilities for maintaining communications for all seagoing craft in the vicinity of the coast and navigable waters, and also to the very dangerous and hazardous duty of their rescue operations that they are frequently called upon to assist with.

Mr particular reason for wanting to speak has to do with a new responsibility the Coast Guard is fulfilling most ably. In recent years, as the drug trafficking into our coastline has increased, the Coast Guard has found it necessary to work with other Federal and State and local authorities to coordinate the tracking and surveillance of vessels and aircraft that are approaching our borders to see that they are apprehended and that that dangerous cargo is confiscated and those responsible are penalized.

This legislation will provide encouragement for them to continue to do that. As we have succeeded so well in the State represented by the gentleman from Florida, we have seen so much of that traffic beginning to route its way up the coastline as far as Maryland, as the distinguished gentleman from the Eastern Shore of Maryland has already indicated. The same is true of South Carolina and North Carolina, where we have unfortunately come to be counted among those States where there is a high degree of drug traffic coming across our coasts.

So I want to commend the gentleman for his efforts to encourage and

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provide for the effective participation by the Coast Guard in that drug-opposing and intercepting activity.

We know in North Carolina that in recent years there has been a tripling of the importation of cocaine into our coastline, there has been an increase in marihuana smuggling, and it is very important that we be able to have this vital unit operating in our area, with its aircraft facility at Elizabeth City, which is in the district represented by the gentleman from North Carolina (Mr. JONES).

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of North Carolina. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of H.R. 4841, authorizing appropriations for the Coast Guard in the amount of $2.4 billion for fiscal year 1985 and $2.6 billion for fiscal year 1986.

In recent years the Coast Guard's responsibilities have been vastly increased to include seaborne interdiction of illicit drugs to the United States, but, unfortunately, the resources for this effort have not been commensurate to its responsibilities. Despite this constraint, the Coast Guard has performed its drug interdiction efforts admirably, stopping an estimated 30 percent of the illicit maritime drug shipments to the United States, compared to only 15 percent a few years ago. Although this seizure rate is an improvement over past years, we have a long way to go before the Coast Guard is able to prevent the illicit drug trade from penetrating our shores.

Mr. Chairman, H.R. 4841 would authorize funds for the Coast Guard's drug interdiction efforts in the all important area of acquisition, construction, and improvement (ACI) of aids to navigation, shore facilities, and vessels. Under this legislation, $550 million would be authorized for this function for fiscal year 1985 and $650 million for fiscal year 1986. The $550 million for ACI, which is $188 million above the President's budget request and $119 million below the amount appropriated for 1984, is intended to upgrade the Coast Guard's cutters, aircraft, and shoreside physical plants, particularly its search and rescue missions and its at-sea law enforcement and military readiness responsibilities. This measure would also provide the urgently needed equipment—aircraft, helicopters, sensors, cutters, and personnel—to carry out its drug interdiction effort and would provide operation and maintenance funding amounting to $1.8 billion for fiscal year 1985, and $1.95 billion for fiscal year 1986.

Last year under the leadership of the distinguished gentleman from New York, CHARLES B. RANGEL, our Select Committee on Narcotics Abuse and Control, of which I am the ranking minority member, conducted field investigations and hearings in California, New York, Florida, and Texas where we learned that the Coast Guard resources, already stretched thin, were diverted from the Northeast to the south Florida region to help stem the flow of marihuana and cocaine originating from South America. This diversion has left the Northeast exposed to the onslaught of Mideast opium that is converted into heroin in Europe and trafficked to every city, town, and school district of the Northeast and from there, distributed to the hinterland of our Nation.

If we are to assign the Coast Guard the difficult task of combating the illicit flow of drugs into the United States, then we, as legislators, have the responsibility for providing that dedicated service with the tools to do the job. The Coast Guard desperately needs personnel and sophisticated equipment to fulfill its mission. H.R. 4841 would go a long way toward providing that law enforcement agency with the funds to meet the dangerous task of interdicting drug traffickers who are well armed and who have the fastest and best equipped boats and aircraft. Accordingly, Mr. Chairman, I urge my colleagues to support this urgently needed legislation.

Mr. MARTIN of North Carolina. Mr. Chairman, I thank the gentleman from New York (Mr. GILMAN), and I yield back the balance of my time.

● Mr. FRENZEL. Mr. Chairman, today we have before us H.R. 4841, which authorizes appropriations for the U.S. Coast Guard for fiscal years 1985 and 1986.

The Coast Guard, Mr. Chairman, is in my judgment, a very well run branch of Government. Its original duties of defending our Nation's shores have been added to greatly and perhaps even eclipsed by other assignments that we have given them, such as intercepting drug traffic, and overseeing boat safety activities on our Nation's waterways.

However, I do feel compelled to vote against this authorization bill, despite my admiration for the Coast Guard's workload.

This legislation calls for a 10-percent increase this year and another 10 percent next year. In our struggles to restrain the deficit we should not vote for increases of this magnitude under other than emergency circumstances.

This bill would authorize approximately $244 million more than the President's budget request for 1985 alone. It also hampers the Coast Guard's ability to better manage their own affairs by not allowing for any transfers of funds between accounts, on an even limited basis.●

● Mr. GEJDENSON. Mr. Chairman, I rise in strong support of H.R. 4841, the Coast Guard authorization legislation for fiscal years 1985 and 1986. On March 2, 1984, I had the privilege of attending a hearing on this bill by the Subcommittee on Coast Guard and Navigation in Boston. The testimony I heard that day clearly demonstrated the need for the proposed authorization increases to fulfill the many expanded regulatory and service responsibilities that have fallen within the broad mandate of the U.S. Coast Guard's traditional roles.

Of particular interest is the increased budget authority for research and development (R&D). While the fiscal year 1984 authorization for R&D was $32 million, only $22.5 million was appropriated. H.R. 4841 establishes a budgetary authorization for R&D of $35 million and $38 million for fiscal years 1985 and 1986, respectively. This is a step in the right direction but still below the levels recommended in January 1983 by the National Advisory Committee on Oceans and Atmosphere in its special report to the President and the Congress on the U.S. Coast Guard.

This report recommended that the Coast Guard substantially increase its resources for research and development by shifting its focus from reactive, short-term engineering problems to long-term exploratory research and by increasing the number of civilian scientists and engineers to assist in gaining a perspective less burdened by short-term operational priorities. Specifically, the Advisory Committee recommended that the R&D budget should be increased by an amount equivalent to 0.75 percent of the Coast Guard's operating budget each year until it reached a level equivalent to 8 percent of operating expenses—a figure generally considered healthy by industry and the Department of Defense for R&D needs. In today's fiscal climate, a target of 8 percent may be unrealistic, but I note that the existing R&D appropriation is only 1.3 percent of the Coast Guard's operating budget, a low point to which it has fallen steadily over the past decade. The Coast Guard R&D budget remains significantly below the level this technology-dependent agency needs.

I support the present Commandant in his committee to solidify the R&D program and provide consistent funding and stable civilian personnel levels. H.R. 4841 provides a much needed statutory civilian employee floor although it is still 15 percent below the level of the late 1970's. Civilian employees are critical to Coast Guard research and development and other support missions and their numbers should not be reduced while the Congress is reassessing the missions and roles of the future Coast Guard.

In summary, I am pleased to find that no one no longer argues about the indispensability of the Coast Guard's R&D program. I am encouraged by the direction that H.R. 4841 leads us in. I urge my colleagues to wholeheartedly support H.R. 4841.●

Mr. JONES of North Carolina. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, each section is considered as having been read under the 5-minute rule, and the committee amendment inserting new sections 12 through 18 is considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Coast Guard Authorization Act of 1984".

The CHAIRMAN. Are there any amendments to section 1?

Mr. JONES of North Carolina. Mr. Chairman, I ask unanimous consent that the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The text of the remainder of the bill, H.R. 4841, is as follows:

AUTHORIZATION OF FUNDS

SEC. 2. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1985 and 1986 as follows:

(1) For the operation and maintenance of the Coast Guard, including expenses related to the Capehart housing debt reduction, $1,800,000,000 for fiscal year 1985 and $1,950,000,000 for fiscal year 1986; and for increases in salary, pay, and other employee benefits authorized by law, and for the full amount of fixed costs associated with icebreaking operations by Coast Guard vessels in polar regions, such sums as may be necessary for each such fiscal year.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $550,000,000 for fiscal year 1985 and $650,000,000 for fiscal year 1986.

(3) For research, development, test, and evaluation, $35,000,000 for fiscal year 1985 and $38,000,000 for fiscal year 1986.

(4) For the alteration or removal of bridges over navigable waters of the United States, constituting obstructions to navigation, $8,700,000 for fiscal year 1985.

(5) For retired pay including the payment of obligations therefore otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, such sums as may be necessary for fiscal years 1985 and 1986.

END OF YEAR STRENGTH

SEC. 3. Notwithstanding any other provision of law, the Coast Guard shall have an end-of-year strength for active duty military personnel of not less than 39,392 for fiscal years 1985 and 1986. This end-of-year strength shall not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code, or Public Health Services officers on active duty with the Coast Guard.

MILITARY TRAINING

SEC. 4. For fiscal years 1985 and 1986, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, three thousand five hundred student-years.

(2) For flight training, one hundred and eighteen student-years.

(3) For professional training in military and civilian institutions, five hundred and fifty-six student-years.

(4) For officer acquisition, one thousand and thirty-eight student-years.

CIVILIAN EMPLOYEES

SEC. 5. Notwithstanding any other provision of law, the level of full-time equivalent employment of civilians in the Coast Guard shall be maintained at a level not less than five thousand eight hundred and fourteen throughout fiscal years 1985 and 1986.

TRANSFER OF FUNDS

SEC. 6. (a) Whenever the Secretary of the Department in which the Coast Guard is operating (hereinafter in this Act referred to as the "Secretary") determines it to be in the national interest, the Secretary may transfer not to exceed 5 per centum of the funds appropriated for the purposes described in paragraph (1) or (2) of section 2 for use for any purpose described in any paragraph of section 2 except that the total available for the purposes for which the funds are transferred shall not be increased by more than 10 per centum as a result of the transfer.

(b) No transfer of funds may occur under subsection (a) until fifteen days after the Secretary has provided written notification to the chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives and the chairman of the Committees on Commerce, Science, and Transportation of the Senate stating the reasons for the determination and a description of the purposes for which the funds proposed to be transferred will be used.

POLAR ICEBREAKING

SEC. 7. (a) It is the sense of Congress that the United States has important security, economic, and environmental interests in developing and maintaining a fleet of icebreaking vessels capable of operating effectively and independently in the heavy ice regions of the Arctic and Antarctic.

(b) The Secretary shall prepare design and construction plans for the purchase of at least two new polar icebreaking vessels to be operational by the conclusion of fiscal year 1990, and shall provide detailed reports to the Congress describing the status of those plans in January 1985 and January 1986.

ALCOHOL USE BY BOATERS

SEC. 8. (a) Section 2302 of title 46, United States Code, is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) An individual who is intoxicated while operating a vessel, as determined in accordance with standards prescribed by the Secretary by regulation, shall be—

"(1) liable to the United States Government for a civil penalty of not more than $5,000; or

"(2) fined not more than $5,000, imprisoned for not more than one year, or both.".

(b)(1) Section 6101(b) of title 46, United States Code, is amended by adding at the end thereof the following: "Each report filed under this section shall include information as to whether the use of alcohol was cause of the casualty.".

(2) Section 6102(a) of title 46, United States Code, is amended by inserting before the period at the end thereof the following: ", including information and statistics concerning the number of casualties in which the use of alcohol was a cause of the casualty".

(3) Section 13102(c)(4) of title 46, United States Code, is amended by inserting after "program" the following: ", which includes the dissemination of information concerning the hazards of operating a vessel while under the influence of alcohol".

RECREATIONAL BOATING SAFETY

SEC. 9. (a) Chapter 43 of title 46, United States Code, is amended by adding after section 4302 the following new section:

"§ 4302a. Safety defects

"A recreational vessel, associated equipment, or component of the vessel or equipment containing a defect which creates a substantial risk of personal injury to the public does not conform with this chapter.".

(b) The table of sections for chapter 43 of title 46, United States Code, is amended by adding after the item relating to section 4302 the following:

"4302a. Safety defects.".

(c) Section 4311(f)(1) of title 46, United States Code, is amended by inserting after "conform" the following: "with this chapter or".

RESCUE SWIMMING PROGRAM

SEC. 10. The Commandant of the Coast Guard shall use such sums as are necessary, from amounts appropriated for the operation and maintenance of the Coast Guard, to establish a helicopter rescue swimmer program for the purpose of training selected Coast Guard personnel in rescue swimming skills.

LIFESAVING EQUIPMENT ON PASSENGER FERRIES

SEC. 11. The Secretary shall proceed vigorously with efforts to develop improved lifesaving equipment for use on passenger ferries.

Mr. JONES of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, four amendments to H.R. 4841 were unanimously approved at the Coast Guard and Navigation Subcommittee markup. The first amendment, in section 8 of the bill, reduces the civil penalty in H.R. 4841 for operating a vessel while intoxicated from $5,000 to $1,000. The second amendment, section 12 of the bill, provides that sufficient funds be available to operate fully the vessel traffic system (VTS) in San Francisco. The third amendment, section 13 of the bill, authorizes funds to operate a fleet of 29 long-range search and surveil-

lance aircraft. This amendment also authorizes funds for the Coast Guard to begin research and development of an "Aireye" type of electronic surveillance system for the long-range aircraft. The final amendment, section 14 of the bill, provides legal protection to seamen who report violations of Coast Guard vessel safety laws to the Coast Guard.

At the full committee markup, four amendments were also approved. Section 15 of the bill establishes a procedure for congressional review of proposals to contract out certain Coast Guard activities to the private sector. Section 16 of the bill removes gender-based distinctions in statutes administered by the Coast Guard. Section 17 of the bill reauthorizes the Towing Safety Advisory Committee and the rules of the Road Advisory Council for an additional 5 years. And finally, section 18 of the bill improves on Coast Guard management and efficiency.

Mr. Chairman, these amendments are strictly technical in substance. The first amendment merely conforms the language in section 14 of H.R. 4841 to the structure of title 46 of the United States Code and corrects a few clerical errors made in the bill. the second amendment corrects a clerical error on page 6, line 3 of the bill. The law should read, "fined not more than $1,000", instead of the "$5,000" printed in the bill.

Mr. Chairman, this concludes my remarks on the committee amendments, but I also have two technical amendments to the committee amendments at the desk.

The CHAIRMAN. Does the gentleman from North Carolina (Mr. JONES) ask that the committee amendments be considered en bloc and considered as read at this time?

Mr. JONES of North Carolina. Yes, Mr. Chairman, I ask unanimous consent that the committee amendments be printed in the RECORD, considered en bloc, and considered as read.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

COMMITTEE AMENDMENTS

The committee amendments to the bill, H.R. 4841, are as follows:

Committee amendments: On page 5, line 23, change "while" to "when"; line 24, change "in accordance with" to "under"; line 2 on page 6, strike out "$5,000" and insert "$1,000".

On page 6, line 16, change "which" to "that"; line 17, change "while" to "when"; line 25, change "which" to "that".

On page 7, after line 19, add the following new sections:

SAN FRANCISCO VTS

SEC. 12. (a) Of the funds authorized by paragraph (1) of section (2), such sums as are necessary shall be used to maintain in full operation the vessel traffic service (VTS) system in San Francisco, California throughout fiscal years 1985 and 1986.

(b) None of the funds authorized by this Act may be used to develop or issue a request for proposals to contract any function or activity involved in operating the vessel traffic service (VTS) system in San Francisco, California which is, on the date of enactment of this Act, performed by Coast Guard personnel.

LONG RANGE SEARCH AND SURVEILLANCE AIRCRAFT

SEC. 13. (a) Of the amounts authorized by paragraphs (1) and (2) of section (2), such sums as are necessary shall be used to procure, maintain, and operate a fleet of twenty-nine long range search and surveillance aircraft for use by the Coast Guard.

(b) The Secretary is encouraged to conduct the research, development, test, and evaluation necessary for an electronic surveillance system, capable of producing and documenting images for search and rescue or law enforcement purposes, for the long range search and surveillance aircraft of the Coast Guard.

PROTECTION OF SEAMEN

SEC. 14. Chapter 21 of title 46, United States Code, is amended by adding at the end thereof the following new section:

PROTECTION OF SEAMEN AGAINST DISCRIMINATION

SEC. 2114. (a) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel may not discriminate against a seaman because the seaman, in good faith, has reported or is about to report to the Secretary, that the seaman believes a violation of this subtitle, or a regulation prescribed under this subtitle, has occurred.

(b) A seaman discriminated against in violation of this section may bring an action in an appropriate district court of the United States. In that action, the court may order any appropriate relief, including—

(1) restraining violations of this section; and

(2) reinstatement to the seaman's former position with back pay.

NOTIFICATION OF CONTRACTING

SEC. 15. (a) The Secretary of the Department in which the Coast Guard is operating is encouraged to identify those functions and services presently performed by Coast Guard personnel which are not inherently governmental in nature, and which may be performed with equal effectiveness and at lower cost under contract to the private sector.

(b) None of the funds authorized under this Act may be used to develop or issue a request for proposals to contract out any function or activity which is, on the date of enactment, performed by civilian employees or members of the United States Coast Guard, unless a period of thirty days on which either the House or the Senate is in session has expired after the Secretary has submitted in writing to the Speaker of the House of Representatives, the President of the Senate, the chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives, and the chairman of the Committee on Commerce, Science and Transportation of the Senate a full and complete statement (including relevant supporting studies) concerning the proposed contracting and the reasons therefor.

(c) No statement may be submitted pursuant to paragraph (b) unless it contains a certification that the Secretary has determined that the function or activity being considered for contracting can be performed by contractor personnel without any deterioration or loss to the Coast Guard's overall ability to carry out its missions in behalf of the security, safety, and economic and environmental well-being of the United States.

(d) The requirements of paragraphs (b) and (c) do not apply to contracts for functions or activities which are performed by three or fewer Coast Guard personnel.

LEGAL EQUITY FOR WOMEN

SEC. 16. (a)(1) Section 371 of title 14, United States Code, is amended—

(A) by striking out "male" both places it appears in the second sentence of subsection (a);

(B) in subsection (c)(1)—

(i) by striking out "he agrees in writing that, upon his" and inserting in lieu thereof "the person agrees in writing that, upon"; and

(ii) by striking out "he will" and inserting in lieu thereof "the person will"; and

(C) by striking out "he has the consent of his parent or guardian to his agreement" in subsection (c)(2) and inserting in lieu thereof "the person has the consent of the person's parent or guardian to the agreement".

(2) The first sentence of section 487 of such title is amended by striking out "widows" and inserting in lieu thereof "surviving spouses".

(3)(A) The following sections of such title are amended by striking out "enlisted man" each place it appears and inserting in lieu thereof "enlisted member": 353, 354, 355, 357, 359, 360, 361, 362, 365, 366, 367, 370, 421, 423, and 424.

(B) The following sections of such title are amended by striking out "enlisted men" each place it appears and inserting in lieu thereof "enlisted members": 41, 211(a)(2), 212(a)(2), 213(a)(1), 214, 357, 432(c), 478(d), and 480.

(C) The following sections of such title are amended by striking out "Enlisted men" each place it appears and inserting in lieu thereof "Enlisted members": 41, 352, 367, 478(a), 481, and 482.

(D) The following sections of such title are amended by striking out "officers and enlisted men" each place it appears and inserting in lieu thereof "members": 92(b), 144(a), 145(a)(2), 148, 149, 487, and 832.

(E) Section 149 of such title is amended by striking out "Officers and enlisted men" and inserting in lieu thereof "Members".

(F) Section 351(a) of such title is amended by striking out "men" and inserting in lieu thereof "persons".

(G) Section 361 of such title is amended by striking out "the man" and inserting in lieu thereof "the member".

(H) Sections 192 and 483 of such title are amended by striking out "commissioned officer, warrant officer, or enlisted man" each place it appears and inserting in lieu thereof "member".

(I) Section 488 of such title is amended by striking out "officers and men" and inserting in lieu thereof "members".

(4)(A)(i) The heading of section 149 of such title is amended to read as follows:

"§ 149. Detail of members to assist foreign governments".

(ii) The item relating to such section in the analysis of chapter 7 of such title is amended to read as follows:

"149. Detail of members to assist foreign governments.".

(B)(i) The heading of section 360 of such title is amended to read as follows:

"§ 360. Recall to active duty with consent of member".

(ii) The item relating to such section in the analysis of chapter 11 of such title is amended to read as follows:

"360. Recall to active duty with consent of members.".

(C)(i) The heading of section 361 of such title is amended to read as follows:

"§ 361. Relief of retired enlisted member promoted while on active duty".

(ii) The item relating to such section in the analysis of chapter 11 of such title is amended to read as follows:

"361. Relief of retired enlisted member promoted while on active duty.".

(D)(i) The heading of section 487 of such title is amended to read as follows:

"§ 487. Procurement and sale of stores to members and civilian employees".

(ii) The item relating to such section in the analysis of chapter 13 of such title is amended to read as follows:

"487. Procurement and sale of stores to members and civilian employees.".

(E)(i) The heading preceding section 350 in such title is amended to read as follows:

"ENLISTED MEMBERS".

(ii) The heading preceding the item relating to section 350 in the analysis of chapter 11 of such title is amended to read as follows:

"ENLISTED MEMBERS".

(b)(1) first section of the Act of August 19, 1950 (33 U.S.C. 771) is amended—

(A) by striking out "he" in clause (1) and inserting in lieu thereof "that employee";

(B) by striking out clause (2) inserting in lieu thereof the following:

"(2) the surviving spouse of the former employee was married to the former employee prior to the retirement of the former employee from the Lighthouse Service and has not remarried—"; and

(C) by striking out "such widow, so long as she" in the material after clause (2) and inserting in lieu thereof "the surviving spouse, so long as the surviving spouse".

(2) Section 2 of such Act (33 U.S.C. 772) is amended—

(A) by striking out clause (2) and inserting in lieu thereof the following:

"(2) the surviving spouse of the employee has not since remarried,"; and

(B) by striking out "such widow, so long as she" in the material after clause (2) and inserting in lieu thereof "the surviving spouse, so long as the surviving spouse".

COASTAL AND INLAND NAVIGATION SAFETY

SEC. 17. (a) Subsection (e) of Public Law 96-380 (33 U.S.C. 1231a(e)) is amended by striking out "five years from the date of enactment of this Act" and inserting in lieu thereof "on September 30, 1990".

(b)(1) Rule 24(i) of the Inland Navigational Rules, enacted by section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2024(i)), is amended by inserting "(except below the Huey P. Long Bridge on the Mississippi River)" after "Western Rivers".

(2) Section 5 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended—

(A) by striking out the second sentence in subsection (c) and inserting in lieu thereof "Members of the Council, while away from their home or regular place of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code."; and

(B) by striking out "5 years from the date of enactment of this Act" in subsection (d) and inserting in lieu thereof "on September 30, 1990".

COAST GUARD MANAGEMENT AND EFFICIENCY

SEC. 18. (a) Section 971(b) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(3) no officer of the Coast Guard may be credited with service as a midshipman at the United States Naval Academy or as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy.".

(b)(1) Section 257 of title 14, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) An officer whose retirement or separation that is required by law is deferred under section 295 of this title is not eligible for consideration for promotion to the next higher grade during the period of that deferment.".

"(2)(A) Chapter 11 of such title is amended by inserting after section 294 the following new section:

"§ 295. Deferment of retirement or separation for medical reasons

"(a) Subject to subsection (b), the Secretary may defer the retirement or separation of a commissioned officer, other than a commissioned warrant officer, if the evaluation of the physical condition of the officer and determination of the officer's entitlement to retirement or separation for physical disability require hospitalization, medical observation, or other physical disability processing that cannot be completed before the date on which the officer would otherwise be required to retire or be separated.

"(b) deferment under subsection (a)—

"(1) may only be made with the consent of the officer involved; and

"(2) if the Secretary receives written notice from the officer withdrawing that consent, shall end not later than the end of the 60-day period beginning on the date the Secretary receives that notice.".

(B) The analysis of such chapter is amended by inserting after the item relating to section 294 the following new item:

"295. Deferment of retirement or separation for medical reasons.".

(3)(A) Section 647 of such title is amended by striking out "$25,000" and inserting in lieu thereof "$100,000".

(B) The amendment by subparagraph (A) shall apply to all claims considered, ascertained, adjusted, determined, compromised, or settled on or after the date of the enactment of this Act.

(4) Section 367 of such title is amended—

(A) by striking out "(a)" before "Under regulations";

(B) by striking out "person detained" and inserting in lieu thereof "member detained"; and

(C) by striking out "(1) of this subsection" and inserting in lieu thereof "clause (1)".

(c) Section 1114 of title 18, United States Code, is amended by striking out "any officer or enlisted man of the Coast Guard," and inserting in lieu thereof "any member of the Coast Guard, any employee of the Coast Guard assigned to perform investigative, inspection, or law enforcement functions,".

(d) Section 402(d) of title 37, United States Code, is amended by inserting "and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy" after "Secretary of Defense".

(e)(1) Subsection (a) of section 3732 of the Revised Statutes of the United States (41 U.S.C. 11) is amended—

(A) by striking out "except in the War and Navy Departments" in subsection (a) and inserting in lieu thereof "except in the Department of Defense and in the Department of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy"; and

(B) by striking out "or transportation" and inserting in lieu thereof ", transportation, or medical and hospital supplies".

(2) Subsection (b) of such section is amended by inserting "and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy" after "The Secretary of Defense".

(3) The first proviso under the heading "MEDICAL DEPARTMENT" in the Act entitled "An Act making appropriations for the support of the Army for the fiscal year ending June 13, 1907", approved June 12, 1906 (34 Stat. 255), is repealed.

(f)(1) Section 911 of the Military Construction Authorization Act, 1982 (95 Stat. 1386; 42 U.S.C. 248c), is amended—

(A) by striking out "and the Secretary of Health and Human Services" each place it appears and inserting in lieu thereof ", the Secretary of Health and Human Services, and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy"; and

(B) by inserting "the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy," before "and the appropriate officials".

(2) Section 1252 of the Department of Defense Authorization Act, 1984 (97 Stat. 698; 42 U.S.C. 248d), is amended—

(A) by striking out "and the Secretary of Health and Human Services" each place it appears and inserting in lieu thereof ", the Secretary of Health and Human Services, and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy"; and

(B) by inserting "and the Secretary of Transporation when the Coast Guard is not operating as a service in the Navy" after "with the Secretary of Health and Human Services" each place it appears.

(g)(1) The first section of the Act of March 23, 1906 (33 U.S.C. 491), popularly known as the "Bridge Act of 1906", is amended—

(A) by striking out "and Chief of Engineers for their approval, nor until they" and inserting in lieu thereof "for the Secretary's approval, nor until the Secretary";

(B) by striking out "by the Chief of Engineers and";

(C) by striking out "of the Chief of Engineers and"; and

(D) by striking out "of Transportation" the second and third place it appears.

(2) Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) is amended—

(A) by striking out "the Chief of Engineers and"; and

(B) by striking out "they" both places it appears and inserting in lieu thereof "the Secretary".

The CHAIRMAN. Are there amendments to the committee amendments offered en bloc?

The Chair recognizes the gentleman from North Carolina.

TECHNICAL AMENDMENTS OFFERED BY MR. JONES OF NORTH CAROLINA TO THE COMMITTEE AMENDMENTS

Mr. JONES of North Carolina. Mr. Chairman, I have two technical amendments to the committee amendments at the desk which I offer, and I ask unanimous consent that the two technical amendments be considered as read and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The amendments referred to are as follows:

Amendments offered by Mr. JONES of North Carolina to the Committee amendments: Strike section 14 and substitute the following:

PROTECTION OF SEAMEN

SEC. 14. (a) The analysis of chapter 21 of title 46, United States Code, is amended by adding at the end:

"2114. Protection of seamen against discrimination.".

(b) Chapter 21 of title 46, United States Code, is amended by adding at the end thereof the following new section:

"§ 2114. Protection of seamen against discrimination

"(a) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel may not discriminate against a seaman because the seaman, in good faith, has reported or is about to report to the Secretary, that the seaman believes a violation of this subtitle, or a regulation prescribed under this subtitle, has occurred.

"(b) A seaman discriminated against in violation of this section may bring an action in an appropriate district court of the United States. In that action, the court may order any appropriate relief, including—

"(1) restraining violations of this section; and

"(2) reinstatement to the seaman's former position with back pay.".

On page 6, line 3, change "$5,000" to "$1,000".

The CHAIRMAN. The gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes in support of his technical amendments offered en bloc.

Mr. JONES of North Carolina. Mr. Chairman, these amendments are strictly technical in substance.

The first amendment merely conforms the language in section 14 of H.R. 4841 to the structure of title 46 of the United States Code and corrects a few clerical errors made in this bill.

The second amendment corrects a clerical error on page 6, line 3, of the bill. The law should read, "Fined not more than $1,000" instead of the "$5,000" printed in the bill.

The CHAIRMAN. The question is on the technical amendments offered by the gentleman from North Carolina (Mr. JONES) to the committee amendments.

The technical amendments to the committee amendments were agreed to.

The CHAIRMAN. The question is on the committee amendments, as amended.

The committee amendments, as amended, were agreed to.

The CHAIRMAN. Are there further amendments to the bill? If not, under the rule, the Committee rises.

□ 1350

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DYSON) having assumed the chair, Mr. JACOBS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4841) to authorize appropriations for the Coast Guard for fiscal years 1985 and 1986, and for other purposes, pursuant to House Resolution 472, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STUDDS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 348, nays 38, not voting 46, as follows:

[Roll No. 61]

YEAS—348

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnes
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biliraki
Billey
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Broyhill
Bryant
Burton (CA)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
D'Amours
Daniel
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
Dicks
Dixon
Dowdy
Downey
Duncan
Durbin
Dwyer
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foley
Ford (MI)
Fowler
Frank
Franklin
Frost
Garcia
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Hall (IN)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Hertel
Hightower
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Luken
Lundine
Mack
MacKay
Madigan
Marlenee
Marriott
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Patman
Patterson
Pease
Penny
Pepper
Petri
Pickle
Porter
Price
Pritchard
Pursell
Rahall
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Roemer
Rogers
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Shaw
Shelby
Sikorski
Siljander
Simon
Sisisky
Skelton
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
Staggers
Stangeland
Stark
Stenholm
Studds
Sundquist
Swift
Synar
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst

Williams (MT)	Wolpe	Yates
Williams (OH)	Wortley	Yatron
Wirth	Wright	Young (AK)
Wise	Wyden	Young (FL)
Wolf	Wylie	Zschau

NAYS—38

Bartlett	Gramm	Sensenbrenner
Brown (CO)	Gunderson	Shumway
Burton (IN)	Hiler	Shuster
Conable	Jeffords	Skeen
Crane, Daniel	Loeffler	Slattery
Crane, Philip	Lujan	Smith, Denny
Dannemeyer	Lungren	Stump
DeWine	Martin (IL)	Tauke
Dickinson	Moody	Vucanovich
Dorgan	Nielson	Walker
Dreier	Roberts	Whittaker
Frenzel	Schaefer	Winn
Glickman	Schulze	

NOT VOTING—46

Andrews (NC)	Goodling	Quillen
Barnard	Gregg	Rangel
Biaggi	Hall (OH)	Rose
Boucher	Hance	Rudd
Cheney	Hansen (ID)	Savage
Corcoran	Harrison	St Germain
Craig	Heftel	Stokes
Dingell	Ireland	Stratton
Donnelly	Kaptur	Tallon
Dymally	Kazen	Traxler
Early	Markey	Whitley
Feighan	McCurdy	Whitten
Foglietta	Oakar	Wilson
Ford (TN)	Pashayan	Young (MO)
Fuqua	Paul	
Gaydos	Perkins	

□ 1400

Messrs. SENSENBRENNER, MOODY, and SKEEN changed their votes from "yea" to "nay."

Mr. STENHOLM changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. HAYES). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERSONAL EXPLANATION

Mr. STOKES. Mr. Speaker, on rollcall No. 61, the final passage of the bill, H.R. 4841, the Coast Guard authorization, I was unavoidably absent due to congressional business relating to the Lewis Research Center in Cleveland. Had I been present I would have voted "yea."

TRIBUTE TO THE LATE HONORABLE EDWIN B. FORSYTHE

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

Mr. JONES of North Carolina. Mr. Speaker, I would in conclusion like to state that the legislation considered here today and some of that which will be considered next week out of our committee was fashioned and assisted by the late EDWIN FORSYTHE, and this body owes him a debt of gratitude for his dedication to the U.S. Coast Guard. Certainly we will all miss him.

LEGISLATIVE PROGRAM

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

Mr. MICHEL. Mr. Speaker, I ask to proceed for whatever time necessary to inquire of the distinguished majority leader the program for the balance of the day and next week.

□ 1410

Mr. WRIGHT. If the distinguished minority leader would yield.

Mr. MICHEL. I am happy to yield.

Mr. WRIGHT. This concludes the legislative business scheduled for today.

We will be in session, pending a decision in the other body on whether it wants to act on the bankruptcy legislation which we passed in the House and sent over there.

The Senate, as of the latest accounting, had not yet acted.

The temporary court extension, as all of us know, expires on Saturday. If the other body acts on that legislation in a form that we can accept, then there might be a vote tomorrow on accepting the Senate amendments and passing the bill. If, on the other hand, the other body insists upon extraneous inclusion of a type that we do not find acceptable, then we would expect to go to conference. And that is what we imagine might happen tomorrow.

On the other hand, there is no certainty that the Senate even is going to act on the bill, in which case we would not have any business at all. That is our reason for being in session tomorrow.

Upon our adjournment tomorrow, I will ask unanimous consent that we meet on Monday next.

Mr. MICHEL. Would the gentleman yield for just a moment and back up a moment? If perchance the other body does complete action, say late tonight on that measure, and it is not found to be acceptable to the House, would we not have to be in session tomorrow for the appointment of conferees?

Mr. WRIGHT. That is correct.

Mr. MICHEL. And would it be assumed that the conferees would be working over the weekend?

Mr. WRIGHT. Well, that would be up to the conferees. I am not going to make an assumption. I would suppose they might be working either formally or informally over the weekend.

But as the gentleman knows, that would be a judgment made by the conferees on the part of the House and the other body.

Mr. MICHEL. Would the distinguished majority leader wager a guess as to what the critical hour might be later on today that we might inform our Members of whether or not, you know, we do or do not do anything of significance tomorrow?

Mr. WRIGHT. I think we must inform Members there will be a session tomorrow, not scheduled as a pro forma session, scheduled in the anticipation that the Senate will pass the bankruptcy bill in one form or another. Depending upon the character of their legislative offering, there could be a motion to agree with the Senate amendments and pass the bill or there could be a move to disagree with the Senate amendments and ask for a conference. And that would be voted upon tomorrow.

If the Senate does not act on the bill in time for us to do either of those things tomorrow, then we would adjourn and await their pleasure on Monday.

Mr. MICHEL. I thank the gentleman.

Mr. WRIGHT. On Monday next we have scheduled four bills under suspension of the rules and would postpone votes on those bills until afternoon on Tuesday. Those bills presently scheduled for consideration under suspension of the rules motions are:

Payroll Deduction Facility Act, Controlled Substance Registration Protection Act, Arizona Wilderness bill, and truth in lending amendments.

On Tuesday, we meet at noon. There are no bills scheduled under suspension that would not have been taken care of. We will have Private Calendar. Then we would move to consider authorizations for the maritime programs, 1 hour open rule, after which we would vote on that and on any suspensions debated on the previous day for which votes were ordered.

On Wednesday and the balance of the week we will hope to take up the first budget resolution for fiscal year 1985.

We would expect to meet at 3 o'clock on Wednesday and be in session fairly late that evening; meet at 11 o'clock on Thursday and on Friday, if necessary, until that bill is finally disposed of, before we end our sessions next week.

Mr. MICHEL. If the gentleman would yield, he said he would hope that we would get to the budget resolution. Is there any possibility that budget resolution would be put off until the following week or is it absolutely going to be scheduled no matter what next week?

Mr. WRIGHT. Well, it is our firm plan and our determined intention to

schedule that resolution for consideration next week. We would expect that we would adopt a rule on Wednesday and begin debate; going rather late on Wednesday and then considering, on Thursday, such amendments or substitutes as may have been made in order under the rule and having votes on Thursday.

Mr. MICHEL. Could the distinguished majority leader advise me whether the Rules Committee will be meeting Monday for a hearing on the rule on the budget resolution?

Mr. WRIGHT. It is my understanding that the Rules Committee will have that matter under consideration on Tuesday.

Mr. MICHEL. But not on Monday? Then might I also inquire, if there is a rule reported out Tuesday, would there be any advantage to our coming in earlier Wednesday rather than the normal 3 o'clock hour, since it obviously is going to be a spirited discussion on whatever rule, I would assume, and then on whatever amendments are made in order to the budget resolution?

Mr. WRIGHT. Well, there might be some advantage to that. If the gentleman would desire, we could rearrange that hour. I do not know that it is necessary; but we could. We could come in earlier. We could come in at 1 o'clock if the gentleman feels that would be beneficial.

If the gentleman requests that we do so, I have no reason to suggest otherwise.

Mr. MICHEL. I think, unless there is some real special circumstances under which we could not, because we all know we will barely get into the measure and, of course, under any circumstance it will run late Wednesday, and I would assume that the more time we could gain by coming in at 1 or 12 o'clock for that matter, why, we ought to do it.

Mr. WRIGHT. Well, I think the gentleman makes a valid point. The rule, the law, itself, of course, grants 10 hours of debate on the proposition. That time might not all be consumed, but we would have to assume that a substantial part of it may be. We will have an hour on the rule.

HOUR OF MEETING ON WEDNESDAY, APRIL 4, 1984

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday next, it adjourn to meet at 12 o'clock noon on Wednesday next.

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

There was no objection.

Mr. MICHEL. I thank the gentleman and I think that will be acceptable. I yield to my friend, the gentleman from New York (Mr. FISH).

Mr. FISH. I thank the leader for yielding.

Mr. Speaker, if I could address a question also to the distinguished majority leader. And that is: In the event that tomorrow, 11 o'clock comes and goes and we have not got an opportunity to react to the work of the other body, either in terms of agreeing to the Senate amendments or appointing conferees over which I understand there will be some controversy, does the majority leader anticipate that perhaps Monday we might have a rerun of Friday and receive the Senate amendments and have to consider them on Monday?

Mr. WRIGHT. That is conceivable, of course. The gentleman from New York realizes that the time is running on the extension granted by the court and it will have expired prior to Monday. If the other body fails to act in sufficient time for us to keep the process moving tomorrow, we will hope they will do it in time that we might do one or the other on Monday.

So while we are trying to arrange it, in deference to Members from New York and other Members who have reasons to desire not to have to be in session on Monday, that cannot be guaranteed, and we will have a session Monday, and if it becomes desirable from the point of view of the business of Congress for us to take action either to agree with the Senate amendments or to send the bill to conference, we can do that on Monday, if tomorrow does not provide that opportunity.

Mr. FISH. I thank the gentleman.

Mr. MICHEL. I thank the distinguished majority leader. I have no more questions.

HOUR OF MEETING ON MONDAY, APRIL 2, 1984

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns tomorrow, it adjourn to meet at noon on Monday next.

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

There was no objection.

□ 1420

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

PERSONAL EXPLANATION

Mr. FOLEY. Mr. Speaker, I was inadvertently absent on Tuesday, the 27th of March, on rollcall 55, on the vote on H.R. 3755.

Had I been present, I would have voted "aye."

PUBLIC INTEREST HYDROELECTRIC FACILITY RELICENSING REFORM ACT OF 1984

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

Mr. OTTINGER. Mr. Speaker, today I am introducing the Public Interest Hydroelectric Facility Relicensing Reform Act of 1984. The bill would establish policy and procedures to guide the Federal Energy Regulatory Commission in the issuance of new licenses to operate existing hydroelectric facilities when their licenses expire. This bill would resolve the dispute over whether, and under what circumstances, a preference exists for States or municipalities upon the issuance of a new license to operate an existing hydroelectric facility once the original license has expired.

I am introducing this measure because I believe that the other pending bill that treats the relicensing of existing hydroelectric facilities, H.R. 4402, does not represent sound public policy. Most importantly, I think it is in the public interest that there be meaningful competition for expiring licenses rather than a presumption that the existing license should continue. The Nation's waterways are public resources and we have an obligation to assure that their use be in the public interest. There are also other matters that concern me with H.R. 4402.

To initiate review of the subject, the Subcommittee on Energy Conservation and Power, which I chair, will hold a hearing on my bill, H.R. 4402 and any other pending legislation related to relicensing issues on May 17, 1984. In the materials that follow, I describe the background of the dispute that has led to this legislation and describe the way my bill proposes to resolve it.

BACKGROUND

The dispute that led to the introduction of this legislation grows out of ambiguous language contained in sections 7 and 15 of the Federal Power Act.

These sections are part of the original Federal Water Power Act, enacted in 1920 to resolve controversy between privately owned utilities and a coalition of conservationists and public power advocates over who, if anyone, should develop the energy potential of the Nation's navigable waterways. Private interests had advocated easy access to stretches of water with hy-

droelectric potential, while others wanted only limited development of such potential and, then, only by Federal, State, or local governments.

Congress attempted to resolve this dispute in 1920 by requiring that any private party or State or local government could develop a hydrosite, but only pursuant to a license issued by the Federal Power Commission—now the Federal Energy Regulatory Commission—for a term no longer than 50 years. In order to resolve contests between competing applicants for choice sites, Congress, in section 7(a) of the act, established that the applicant whose "plans * * * are the best adapted to develop, conserve, and utilize in the public interest the water resources of the region * * *" should be given preference to the site. However, if there are two such plans that are equally well adapted to such objective, the Commission is required to give preference to a State or municipality filing a plan for the site. Thus, on the matter of whether a public agency preference exists with respect to an initial or original license to develop a hydrosite, the law is clear: The public agency preference exists to break ties between competing applications to develop a site when one of the applicants is a public agency.

Most of the initial or original licenses to develop a site were issued for a 50-year term as authorized by the Federal Water Power Act. As the time approached for the expiration of the first of these licenses in the late 1960's, the question was raised whether such a tie-breaker preference for public agencies existed at the time of relicensing of existing facilities for a new term of up to 50 years. While there are varying views on this question, most would agree that the law is not as clear with respect to this matter as it is with respect to whether the public agency preference exists for an original license. Here is what the statute ways.

First, section 7(a) states that—

> In issuing licenses to new licensees under section 15 hereof the Commission shall give preference to applications therefor by States and municipalities, provided the plans for the same are deemed by the Commission to be equally well adapted.

Section 15 is the section of the statute that says what happens upon the expiration of an original license. Section 15(a) states that—

> At the expiration of the original license, the Commission is authorized to issue a new license to the original licensee upon such terms and conditions as may be authorized or required under the then existing laws and regulations, or to issue a new license under said terms and conditions to a new licensee.

The legal issue presented by these provisions is whether new licensee in section 7(a) includes within its meaning original licensee. If it does, then the preference exists at the time of relicensing of an existing facility for a new license term. If it does not, then the public agency preference exists to break ties only when an original licensee is not one of the applicants for a new license for the existing facility.

Since most original licensees are privately owned utilities, it is they who have banded together to argue before the Commission and the courts that a public agency preference does not exist in situations in which the original licensee has filed an application for a new license for an existing facility. They point to the fact that section 7(a) accords a public agency preference only to break ties between new licensees and that, on its face, section 15(a) distinguishes between original licensees and new licensees, thereby creating a presumption that new licensees was not intended to include original licensees. Thus, they argue, no public agency preference exists when an original licensee has filed for a new license for an existing facility.

Public agencies have grouped together to argue that the legislative history demonstrates that new licensees in section 7(a) was intended to include original licensees.

Many lawyers on both sides of this matter have broken their litigation swords trying to convince the Commission and the courts regarding the wisdom of their position. Even though the question of a preference was raised as early as the 1960's, it is not yet settled in the law, as I shall explain below.

A second, I think more important, issue underlies the question of the existence of a preference and that is: In reviewing competing plans for the use of an existing facility for a new license term, what should the Commission consider? The significance of a tie-breaker public agency preference depends on how this question is answered.

Some public agencies have argued that the Commission should, and is legally required to, consider only a relatively narrow range of factors, namely the plan for the use of facility to produce power and protection of fish, wildlife, and other similar amenities. It would appear that, if the scope of Commission review of competing plans is narrow, it is easier for a public agency to submit a plan that is at least as good as that of the existing licensee and, therefore, produce a tie to be broken by the preference.

Some privately owned utilities have argued that the Commission should examine a broad range of impacts associated with the issuance of a new license to a licensee other than the original licensee. In particular, these utilities have argued that the Commission must look at the economic impact on their ratepayers if they lose a facility to such a new licensee. In many, if not all, situations, consideration of the economic impact on the ratepayers of the existing licensee will tend to favor the existing licensee because the existing licensee may be able to show that its cost of replacing the power from an existing hydrofacility greatly exceeds the cost of producing power from that facility.

What does the statute say about this issue? As in the case of the preference, it gives no certain guidance. Like the question of the existence of the preference, the law respecting scope of review of competing plans is not settled.

A third and final issue pervades this dispute: The amount of compensation due to an original licensee upon the loss of a facility to a new license applicant pursuant to the preference or otherwise. Section 14(a) of the act states that the original licensee is entitled to net investment plus severance damages. The Commission has so far interpreted this to approximate the original cost of the facility, less depreciation amounts recovered from ratepayers, plus whatever actual costs would be associated with removal of the original licensee's presence from the facility. Since the original cost of many of these facilities is small in today's inflated energy cost world and because many of the facilities have been substantially depreciated over the term of the original license, the compensation due an original licensee under this standard will likely be little when compared to costs which may have to be incurred to replace the power from the lost facility. Private utilities have argued that this provision is unfair to their ratepayers.

COMMISSION AND COURT ACTION

Among other things, the advisability of congressional action to settle the issues described above depends, first, on whether the failure to resolve them expeditiously is causing significant difficulty and, second, on whether the Commission and the courts are in a position to resolve them expeditiously and with finality, without help from Congress, by interpreting the existing statute.

Since 1970 about 90 facilities have had to be relicensed by the Commission. Most of these relicensings have been uncontested and resulted in issuance of new licenses to original licensees. In 11 cases, however, public agencies have contested a relicensing. It is these cases that remain unresolved, partly because the Commission has considered only one of them on the merits and partly because the recent decisions in the cases that the Commission has tried to use to create precedent lack finality. Six of the contested cases relate to facilities located in California totaling about 570 megawatts of capacity. The others are in Utah, Washington, Montana, and Wisconsin and total about 330

megawatts of capacity. By 1993, another approximately 157 facilities totaling about 3,000 megawatts and located in 28 States, will need to be relicensed in addition to some nonutility facilities owned by paper, textile and other companies. It is not known, of course, how many, if any, of these facilities will be the subject of competition for a new license. For comparison, the total installed generating capacity in the United States of all kinds is about 600,000 megawatts.

These figures show that the amount of generation capacity at stake through 1993 is insignificant, the equivalant of about three to four nuclear or coal powerplants. On the other hand, these hydrofacilities, while old, are low cost resources and, thus, have value beyond the value associated with a like amount of most thermal generation capacity. In addition, while the amount of generation capacity at stake is very small nationally, on some utility systems, notably in parts of California, the amount is not insignificant, particularly when viewed from a cost or rate perspective.

One of the Commission's first public statements on relicensing was in 1967 when then Chairman Lee White testified before Congress that the Commission's General Counsel's office had interpreted the Federal Power Act to confer a limited relicensing preference on public agencies, to apply as a tie breaker only when the applicants for a new license for an existing facility do not include the existing licensee. Eventually, in the 1970's when the first contested relicensings surfaced, public agencies challenged this interpretation. The Commission chose a contested case, in which the city of Bountiful, Utah, sought a new license for an existing facility which had been operated by Utah Power & Light, to examine the issues. Virtually all affected privately owned utilities and many public agencies participated in this proceeding. Finally, in 1980 in the decision city of Bountiful, the Commission decided, on the basis of a thorough review of the statute and legislative history, that Congress had intended that a public agency preference exist to break a tie between a public agency and an original licensee seeking a new license to operate an existing facility. Private utilities sued.

In September 1982 the 11th circuit affirmed the Commission's decision. The private utilities then sought review of this decision by the Supreme Court. By this time, President Reagan had appointed three new members of the Commission. The Commission then held a secret session in which, reportedly, it decided that the Commission would ask the Solicitor General of the United States to petition the Supreme Court for the purpose of seeking a remand of the litigation to the 11th circuit so that the case could, in turn, be returned to the Commission for a new decision on the legal issue of whether the preference existed. Review by the Supreme Court of the litigation was requested by the Solicitor General but was denied.

On the basis of the facts as I understand them, the Commission's action in deciding in secret session to reverse itself on a simple question of law, without briefs of the parties affected, after the Commission in Bountiful had spent considerable time and effort in deciding this issue is, at best, bad governance. Our subcommittee will look into what caused this reversal and why it was done in such a fashion in our hearing on May 17.

In September 1983, the Commission issued its first decision treating the merits of a contested relicense. In the Merwin Dam case, the Commission decided, by a 5-to-0 vote, that the existing licensee's plans for the Merwin Dam facility were "best adapted" to serve the public interest and, thus, the existing licensee (Pacific Power & Light, a privately owned utility) should be issued the new license. In so doing, the Commission decided that it has the authority to review competing plans broadly, in light of their economic and other impacts on the public interest.

However, in Merwin, the Commission also decided by a vote of 3 to 2 that no public agency preference exists in a relicensing case when an original licensee is seeking a new license. This decision, unnecessary to reach the decision to issue a new license to the existing licensee, caught many by surprise. Again, it was made without full briefing of the issue by the parties affected.

Public agencies involved in the Merwin Dam case have appealed that decision on the issue of the scope of review of competing plans as well as on whether a preference exists on relicensing. In addition, public agencies have asked the 11th circuit to order the Commission to implement the Bountiful decision in which a preference was found to exist in the law. The timing and future path of judicial action in review of Merwin and in response to the request for an order to implement Bountiful is not known. However, it could be several months or even years before the interrelated scope of review and preference issues are finally resolved by the courts.

LEGISLATION

What is sound public policy in this complicated area? While the subcommittee's hearing on May 17 will help answer this question, I think it possible to discern the principles of appropriate policy now.

First, the Nation's waterways are public resources. The public owns them. Similarly, the energy potential of these waterways is public. The public owns it too, although it takes investment to harness the potential. Thus, I think it entirely proper that the public should be as certain as possible that any entity using this public resource under license will conduct its business in a manner consistent with the public interest and, in fact, will enhance the attainment of desirable public objectives. Why should the public settle for anything less?

Second, the best way to encourage the filing of plans for the use of the public's resource that are consistent with, and enhance, publicly desirable objectives is through competition. When applicants for a new license to use an existing hydrofacility are aware of competition, they will attempt to outdo each other to demonstrate how their plans best serve the public interest. The filings in competitive relicensing cases to date is ample evidence that the public is well served by vigorous competition for the use of this public resource.

Third, any solution to the relicensing dispute should be fair. While fairness obviously is in the eye of the beholder, one thing can be said with which many would agree and that is that the Commission should consider the impact on the ratepayers of applicants of the issuance of a license to each of the applicants. If, indeed, it is the case that the ratepayers of an existing licensee would be hit by high replacement costs upon the loss of a hydro facility at relicensing, the Commission should certainly take this fact into account. However, a public agency or, for that matter, any applicant challenging an existing licensee should be able to offer to mitigate that impact.

The Public Interest Hydroelectric Facility Relicensing Reform Act is an attempt to integrate these principles into legislation. What follows is a summary of the main provisions.

First, the bill would require the Commission to issue a new license for an existing facility to the applicant whose plans are the best adapted to serve the public interest. In determining the merits of each plan, the Commission would be required to scrutinize plans under three criteria:

The plans of the applicants to develop, conserve, and utilize in the public interest the water resources, including plans to protect, mitigate adverse impact on and enhance fish, wildlife, natural, cultural, and recreational resources;

The economic impact of the issuance of a license to each of the applicants including the economic impact on the ratepayers of each of the applicants if their utility does not receive the license; and

The electricity consumption efficiency improvement programs of each of the applicants.

Obviously, the Commission should review each plan filed for its proposed

use of the water and attendant impact on environmental amenities. The Commission already reviews plans for the use of an existing facility during a new license term with respect to some of these criteria. In applying this criterion, the Commission should take into account the record of the existing licensee in operating the facility over the term of the original license as well as the likelihood that a new licensee can implement the plan it proposes.

I think that the Commission should also consider the economic impact of each plan, including the impact on economic efficiency and, particularly, the impact on ratepayers of each utility applicant.

Economic impact on ratepayers depends on the value of the facility to the ratepayers of the existing licensee that would be lost if the existing licensee did not receive the license and, similarly, on the costs that would have to be incurred by the challenging utility if its challenge is unsuccessful and also the benefits to the challenger's ratepayers if it is successful. Thus, in each instance, the Commission, as it did in the Merwin Dam case, would have to consider the applicants' evidence relating to replacement costs of each utility.

In most instances, the replacement costs of existing private licensees will exceed those of a challenging public agency. Thus, consideration of the impact on ratepayers often will place such a challenger at a disadvantage. Knowing this, many public agencies may be discouraged from competing against existing licensees for the use of a facility and competition will not occur.

My bill proposes to overcome this disincentive to compete while mitigating the adverse impact on the ratepayers of the loss of a license by permitting a challenger to offer to pay, as compensation, more than the "net investment" required under section 14(a) of the act. The amount above net investment would partially reimburse the existing license for its replacement costs. Failure of a challenger to agree to pay an amount above net investment would subject a challenger's application to the possibility of rejection on the ground that issuance of the license to the challenger would hurt the ratepayers of the existing licensee too much. In effect, then, this provision should result in the transfer of a portion of the value of the facility from a licensee back to the ratepayers of the existing licensee.

Substituting this procedure for the inflexible "net investment" standard seems fair. It would also relieve the Commission from having to compute the "fair market value" of the facility or some such other amount in each case as is proposed in H.R. 4402.

An aspect of my proposal is that it ties the level of compensation of the ratepayers of an existing licensee and, thus, the encouragement of competition for new licenses in any one case to the relative level of replacement costs of the existing licensee and challenger. As such, the proposal may result in more transfers of ownership to new licensees where such new licensees have high replacement costs than when they have low costs. This has the benefit of assuring that, if a facility is to change ownership, it will do so usually only in cases where the new owner can capture large benefits for its ratepayers.

The third criterion, efficiency improvement programs, is included in view of the critical national need to continue to encourage energy conservation where cost effective. Those seeking to use the energy potential of the Nation's waterways should be encouraged to achieve conservation, and assist their ratepayers in conserving energy, as a quid pro quo for the use of the resource. I think it is appropriate to encourage conservation among utilities, many of whom are still not sufficiently serious about it, by making their commitment to conservation one of the criteria which the Commission reviews in deciding competitive relicensing cases.

Finally, my bill would reaffirm that a preference for public agencies exists to break bona fide ties between applicants for a new license. The existence of a public agency preference will act to encourage public power entities, usually much smaller than private utilities, to compete for hydro sites: they will know that if they file a plan as good as that filed by an existing licensee, they can have the site. Knowing this, existing licensees will file plans better adapted to serve the public interest than they would file otherwise for fear that if they do not, they will lose the facility on a tie. In short, the preference will stimulate competition, not discourage it.

I believe that my approach is significantly better than that embodied in H.R. 4402.

First, H.R. 4402 does not resolve one of the major issues in the dispute, that is, the scope of the Commission's review of competing plans. My bill does. Second, H.R. 4402 would establish a new procedure for the Commission to use in deciding competitive relicensing cases. The new procedure would create a rebuttable presumption in favor of the existing licensee. A challenger could only receive the new license if the Commission finds a negative—that the existing licensee will not meet the standards in section 10 of the Federal Power Act—something that the Commission may be loathe to do for reasons unrelated to the merits. This aspect of the bill will, in my view, discourage competition. My bill creates no such presumption and encourages competition for the use of a public resource on the merits.

Third, H.R. 4402 alters the compensation standard from "net investment" to "just compensation * * * in accordance with due process of law." This is a vague standard which, in other contexts, has been interpreted by the courts to mean "fair market value," not far from "replacement costs." If this is what this phrase means in the relicensing context, it will almost always greatly increase the level of compensation due an existing licensee, thereby discouraging competition. And, if anyone could afford to pay such an amount, the ratepayers of the existing licensee would get a windfall—they would be paid for their investment and use of a public resource, from which they have already benefited, as if they had sold a much more expensive nuclear or coal plant at cost. If, on the other hand, it is intended to mean whatever the Commission finds to be equitable on a case-by-case basis, this standard would be practically impossible for the Commission to implement. I think a better way is to let the amount of compensation float above net investment, as I explained above, as a function of what a challenger to an existing licensee is willing to pay to offset any negative impact on the ratepayers of the existing licensee in order to improve the challenger's chances of receiving the license. This is what my bill would do.

H.R. 4402 would also extinguish the preference for public agencies. It is silent on what would happen in the event of a tie. Thus, the bill would not only discourage competition between public agencies and existing licensees, but would also create a regulatory gap: What is the Commission supposed to do in the event of a tie? My bill does not suffer from these infirmities.

All of these aspects of H.R. 4402 cause me to have serious reservations about that bill as sound public policy. However, the subject area of my bill and H.R. 4402 is very complicated and I remain openminded about what is the proper policy for relicensing. My subcommittee will take a thorough look at the issue on May 17.

THE LATE HONORABLE EDWIN B. FORSYTHE

Mr. RODINO. Mr. Speaker, I offer a privileged resolution (H. Res. 474) on the death of the Honorable EDWIN B. FORSYTHE.

The Clerk read the resolution, as follows:

H. RES. 474

Resolved, That the House has heard with profound sorrow of the death of the Honorable Edwin B. Forsythe, a Representative from the State of New Jersey.

Resolved, That a committee of such Members of the House as the Speaker may designate, together with such Members of the

Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The resolution was agreed to.

ELDERLY CONFUSED BY MISLEADING LETTER SENT BY COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BOEHLERT) is recognized for 5 minutes.

Mr. BOEHLERT. Mr. Speaker, the noble-sounding National Committee to Preserve Social Security and Medicare has mailed a misleading, and at times inaccurate fundraising letter signed by former Congressman James Roosevelt to more than 9 million senior citizens nationwide.

I am concerned. You should be, too.

Senior citizens are confused and upset by Mr. Roosevelt's letter. They want to know if they are required to send money. They want to know if they are about to lose their benefits.

The answer to both questions is "No."

I have some questions of my own.

I want to know what purpose is served by contriving to create that sort of panic among the elderly. I want to know whether any laws have been violated by this mailing. And I want to know what we can do to block future efforts to manipulate the worst fears of senior citizens.

To get answers to those questions I have written to Attorney General William French Smith asking for a Justice Department investigation. I have also written to the Postmaster General William Bolger asking if his agency has any enforcement powers in this situation. And finally, at my request, Congressman PICKLE has agreed to have his Subcommittee on Social Security examine the issue.

These actions are warranted. My colleagues have told me that the reaction of senior citizens in my district to this outrageous letter has been duplicated in their districts from coast to coast.

We must let our senior citizens know that they have nothing to fear but Mr. Roosevelt's effort to play upon fear itself.

My involvement in this is in furtherance of a basic objective: to assure that there are in place Federal programs which guarantee that our Nation's elderly will be able to live with a measure of dignity and security during their retirement years.

Social security and medicare must be preserved and must be protected.

Yesterday I met with Mr. Roosevelt, at his request, and in forceful terms expressed to him our deepest concern about the manner in which his organization is proceeding.

I advised Mr. Roosevelt and his associates that I will do all that I can to promote responsible action designed to preserve and protect social security and medicare.

□ 1430

But I quickly added that the actions to date of his noble-sounding organization failed the responsible action test.

Moreover, I pointed out specific instances where the organization's mailings, which have already been sent to more than 10 million Americans, most of whom are elderly, are in error and/or are misleading.

Further, I expressed, as strongly as my vocabulary permitted, the feeling that the mailings are scaring millions of senior citizens who are being led to believe that both social security and medicare are on the verge of collapse. I said such action is cruel, is insensitive and wrong, and I urged that it be stopped.

Mr. Roosevelt and his associates acknowledged "mistakes had been made," and they agreed to take corrective action. The meeting was productive. Now it is important that words are backed up with deeds.

I intend to pursue my request that Chairman PICKLE conduct a hearing on this with his Subcommittee on Social Security to bring all the facts in the open.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate insists upon its amendments to the bill (H.R. 4072) entitled "An act to provide for an improved program for wheat," disagreed to by the House, agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HELMS, Mr. DOLE, Mr. LUGAR, Mr. COCHRAN, Mr. BOSCHWITZ, Mr. HUDDLESTON, Mr. ZORINSKY, Mr. MELCHER, and Mr. PRYOR to be the conferees on the part of the Senate.

THE FEDERAL RESERVE BOARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, the day before yesterday, ironically, but in line with the remarks I made last week, in which I included excerpts from a New York Sunday edition Times article, giving a very descriptive, very comprehensive report on the size, the extent, and the complexity, of the so-called Latin debt which, day before yesterday, was reflecting the continuing concern because of Argentina's reported inability to meet even the interest payments. Argentina was asking for a little bit more time and perhaps even a reduction in the rates of interest due and payable.

The significant thing is that this was exactly what I had anticipated last week, and even a year ago. And it goes back to the situation now prevalent politically. This is an election year. I think that our leadership in and out of the Congress, those up for election, particularly—of course, the House every 2 years must seek renewal, one-third of the Senate is up, the President is out seeking reelection. Everybody seems to be doing what I described last month in my district as whistling in the dark, hoping that everything will hold together until about November 6, economically speaking.

There is no question but that the President and Paul Volcker in a secret meeting at the White House some 6 weeks ago or more agreed on the general agreement in political presidential election years, like in 1972, in which, through the policy manipulations, monetary policy, fiscal policy, on the part of the Treasury, the Federal Reserve will accommodate an administration in power.

But it is the same Federal Reserve that has abdicated the responsibility that the Congress intended would be its main function when it passed the original 1913 Federal Reserve Act but which, as I have said repeatedly—in fact, now since I came to the Congress 22 years ago—the whole thrust of the congressional intent has been subverted, and paticularly in the last two decades the Federal Reserve Board has now an area of activity, an orbit all of its own, completely a runaway agency. It is not a Federal agency. A private agency, if you please. Completely in its own orbit, completely a runaway, unaccountable but vastly powerful, the most powerful entity in the world, certainly more powerful than the Government itself that it can make or break any time the Open Market Committee, so-called, decides that it wants to do such a thing.

Now, the Congress, as I have said repeatedly, has failed, it has abdicated in its continuing responsibility as the national policymaking body in following through, and especially after 1920, in its oversight of the administration of the Federal Reserve Board Act of 1913, so that no one should be surprised who reads history, who is conscious of the responsibilities that our Constitution places on the three separate, coequal, independent branches of Government. And we should not be

surprised if in our midst has grown full bloom a vast organism with powers hitherto unknown to any such structured body in the whole world, in the whole history. The Federal Reserve Board can determine exactly what is happening now, whether or not our economy, or what we call the American standard of living, which is what the real issue is all about, is going to perish, as it is slowly, or whether or not it is going to endure and whether or not the entity known as the Federal Reserve Board, which, as I say and repeat, must be clearly defined as a nongovernmental entity. It is not a Federal agency. The common impression, even among Congressmen, is that this is a Federal agency. It is not. And in fact the idea and the basic legislative intent of the Congress in creating it has become so perverted that Congressmen will fight to the death to preserve the "independence" of the Federal Reserve Board.

All though the history, as I have brought out, of our Nation, from the very beginning as a national entity, this has been the prime issue confronting the leaders of our Government. In the very beginning, the first 10 years of national existence, that is the first formative years as a nation, under the First and Second Continental Congresses, those Founding Fathers had such a fear of such an office as the executive branch, known as the presidency, that it did not even bother to consider establishing any kind of an office of that nature. The first 10 years of our national existence there was no such thing as the presidency or, the phrase used in the Constitutional Convention, the Chief Magistrate. They did not use the word "presidency." It was "Chief Magistrate."

It was the Continental Congresses. Well, what were the Continental Congresses? They were made up of delegates from the various and sundry Colonies, later to become States. But like every government, whether it was a kingdom or an oligarchy or even a religious institution that had the equivalence of a government, they had to have their financial or fiscal arrangements; in other words, they have to have their banker. But it so happens that that class of human beings all through history is very, very similar and kith and kin and alike all through history. And, therefore, from the very dawn of history, we find records even 7,000 years before the birth of Christ where the human societal structure had to safeguard against those interests. Some called them predatory, some called them omnivorous. I say it is just one of those things that the more ancient of our societies and structured governments, such as England, have long learned to accept.

□ 1440

So that in England, the phrase "professional politician" is a word of honor; it is a badge of honor, because it has long been held in England that that is a special vocation that through attributes and personal inclination and ambition certain individuals in that society are going to yearn for.

Winston Churchill would beam with pride and pull his chest out if you called him a professional politician. Not so in our country. We are younger though. Our Government, as we are now attempting to live under the Constitution, will only be 200 years old in 1989. We have not had our bicentennial yet.

The year 1976 was the bicentennial of the Declaration of Independence, and then in the interim period, we had the Articles of Confederation. We had, preceding to that, the Continental Congresses and the like. But as a structured Government under the first and only instrument of its kind, the Constitution of the United States, we will learn whether or not we will endure under this form of Government until 1989.

Nobody can vouchsafe that any more than any one of us can vouchsafe the next moment of life. Therefore, we have to be cognizant of what the constant and everpresent responsibility to maintain that freedom rests on each generation. The challenges might be different; the responsibilities might be different, but liberty and freedom is never won permanently by any society.

In our case, we are talking about economic freedom, which we do not have. The vast, overwhelming, preponderant members of American society today are not economically free. In our structured society today, political freedom is one great thing, but it means very little if we do not have economic freedom. This was the issue when Thomas Jefferson got up and reviled what he called the bankers of that day, in terms so harsh, that when you read them today, what we say, even in the most critical way of the banking class, is mild.

Why? What motivated him? Because the Continental Congresses had to provide a charter or what was known as the Bank of North America, and the first challenge they had was by those chartered, would-be bankers who attempted to do, and did not get away with it because you had stalwarts like even Hamilton, who was a Centralist, who had a less democratic or pluralistic viewpoint than Thomas Jefferson. He joined with Thomas Jefferson because, Alexander Hamilton, despite his philosophical differences, had a basic sense of responsibility and honor and integrity. They both joined to prevent the control of such things as the allocation of credit resources. Well, that was one thing in that beginning period when the total population of our Nation was about 3 million, where the economy was simple, but where the conditions were such that the main motivating factors behind the zeal and desire for independence were really basically not only political, not only no taxation with representation, but also for economic freedom. This is because the mercantile system, which the colonial powers insisted upon, and which, crudely enough, as I brought out last week, we are confronting now.

America is looked upon as a cow to be milked by the very economic entities that we raised like the phoenix out of ashes after World War II, and where we have not had either the good sense, the good ability to start shoring up our defenses. We are back to that system where we are the consumer. The Colonies, even though they produced the raw goods, were prohibited by the kingdom, the Crown of England from manufacturing, processing. They had to send those raw materials to England where the manufacturing in Leeds and other places, Manchester, would manufacture, elaborate, then ship them back to the Colonies to be purchased by the Colonies.

This is where we are today, with respect to steel, with respect to the other commodities with which we have lost the race of competition. It also involves, inextricably, the ability to maintain American labor standards. What has happened as a result is that every American worker, whether he is union or not, is being pitted in competition with every coolie and peon of the world.

How long? How long can the system endure? But behind all of this is a vast mechanism of the power of credit allocation of the financial, economic, and credit resources of the Nation. This has been the continuing issue as our Nation developed from an isolated, Eastern Shore, Thirteen Colony entity as it pushed westward, and we went into the era of Andrew Jackson who then picked up the cudgel that Jefferson and Hamilton had left, and with the creation of the First and the Second Chartered Bank of the United States, which Andrew Jackson undid by about 1832. You had the same issue because the issue was the same.

You had the depression; the so-called crisis of 1837. Same causes, same reasons as the crisis and depression right at the terminal point of the Civil War. The same issue and the same worry that Abraham Lincoln died with predominantly in his mind. It followed with the enactment of the National Currency Act of 1865, which did many things that were just as oblivious to the general American then as the enactment, year before last on October the 2d, of the so-called shor-

ing up bank institution bill, which was the biggest wholesale revision of the basic 1935 Banking Act since 1935, and yet, there was not one news report that ever described it that way.

The result have been to radically change and homogenize those financial institutions to where now the ruptures are beginning to appear. Behind all of that, the decisions made by those that have now accrued to themselves this vast power, for the first time in the history of our Nation, these selfsame classes now have the power of decision. They decide what the monetary and the fiscal policy of this country will be.

They will decide whether or not we will continue to be flagellated with the constant erosion of our backbone of economic life which is the average small business. With the flagellation of the high interest, extortionate, usurious rates of interest. When did they become legal? In 1865, with the enactment of the National Currency Act of 1865.

Who then reported it that way? Why the Congress did not even have such things as your CONGRESSIONAL RECORD to report the debates. You have to dig them out in independent reports of the debates. Those are extremely interesting and I invite my colleagues who are interested to take time and dig them out. The Library of Congress is a great institution, and it can provide you with them; those records that are still extant, which, incidentally, are not complete, but fragmentary because you did not have what we take for granted today. That is a daily record of the proceedings.

You read that, and you will see, the issue was no different than that which agitated Thomas Jefferson in the 1770's and 1760's and early 17780's. No different from that which motivated the tremendous exertion of leadership by Andrew Jackson, and with which Abraham Lincoln died burdened in his mind with.

No different from the crisis that then resulted in 1907, the so-called depression of 1907, which was the main reason why 6 years later we had the enactment of the Federal Reserve Board Act.

□ 1450

That is the main reason, and what was the big, big issue? The fact that those controlling the credit allocations of the Nation because of the old human passion, greed, were so oblivious to the burgeoning, pushing needs of the Nation as it was growing and expanding. Of course, industry had to grow; of course, commerce had to increase; of course, interchange of business activities had to be enhanced.

But we cannot do that without credit allocation. We cannot do that without credit resources. We cannot foist upon the American people, or any society, the cross, and nail them to the cross, of usury and confiscatory and extortionate rates of interest.

Interest rates are not, as some would like us to believe, the simple reflection of the price of the commodity known as money. Interest rates are the mechanism by virtue of which the wealth of a society is exchanged. It is that simple. This is the issue today. This is why the tales of woe, the litany of woe we hear from the rural, the farm growing area. We heard it here in special orders the week before last, the tale of woe from what I call the Rust Belt, that is, the industrial heartland of our Nation, the steelmaking, where we have over 225,000 unemployed steelworkers right now, the automobile manufacturers, where we have over that number of unemployed automobile workers.

The plight of the family farm is in relevance in a specific way to some of the general causes that I have been attempting to describe. The family farm component or segment, percentagewise, just within a period of less than a decade, has shrank in production of fiber and food in our country from 26 percent, almost 30 percent, to a little over 6 percent. No nation can endure that erosion. It is the same thing in urban areas with respect to the small businessman. It is the same thing with respect to the real small businessman who must have access to credit resources in order to have even such a thing as an inventory. If a businessman, and that goes for a farmer particularly because usually in the rural areas the tradition has been less accessibility to sources of credit than we have in the more centralized urban areas because of the difference in the presence of banking or financial institutional activities in the rural areas.

But there is no way that a small farmer, who must buy equipment, is going to compete with a corporate farm structure where the corporate farm structure, if it has to borrow money, can borrow money at less than the prime interest rate, but that little farmer is going to have to pay more than 5, 6, 7, 8 percent over the prime interest rate.

There is no way. It is like putting a flyweight with a heavyweight in a boxing ring and expect the flyweight to knock out the heavyweight. It is that ridiculous.

But why has that happened? Because our branch of the Government, the first branch under the Constitution, that created the Federal Reserve Board, for example. It was the Congress that created it. When these people talk about independence, as if the Federal Reserve Board was struck from the brow of Job and reigned supreme, like a gargantuan behemoth ranging all over the country, they do not know what they are talking about, because the Congress created it. The Congress is the representative branch of whom? Of the American people. That is the source of power.

The most revolutionary words even today, and certainly they were in 1789, at a time when the world was governed by kings who said their power, their sovereignty, came from God, and you could not go any higher than that, but who reigned supreme at the time when the American upstart said no. In the Preamble of the Constitution, those seven preliminary, initial, revolutionary words said, "We, the people of the United States." Not "We the Congress"; not "I, the President"; not "We, the Judges of the Judiciary"; but "We the people of the United States, in order to form a more perfect Union, assure domestic tranquility," et cetera, et cetera.

That is the source of our power. The American people are sovereign. That is the initial source of sovereignty. But today when you say that they call you a Communist. They say you are a Socialist because a Socialist loves to talk about the People's Republic of China, the People's Republic of this, that, and the other state.

□ 1500

But we said it first: "We, the people of the United States." So that it was never intended that any branch of this Government be dominant. It was deliberately structured to be coequal, independent, and separate. The President is not greater than the Congress; the Congress is not greater than the President or the Court. They are coequal, they are independent, and they are supposed to be separate. In practice, we have been remiss for a few decades, and we are paying the price for it.

What I am saying is that at this point the overweening greed of those interests that finally gained the control they had not been able to get since 1789 is apparent. They finally got it. They had been exercising it for some time, and what I am saying is that they are not subject to election, that is, the sovereignty of the people, since they are not even selected indirectly by the people.

Who selects the Federal Reserve Board? The private commercial banking system. But what is that today?

Oh, yes, technically we have about 14,400 commercial banks—well, maybe a few less now—and by next year it is estimated we will have 9,800 because of the results of these homogenization laws. They are going out every week. In Texas alone, in the last 2 weeks we have had three failures, we have had a couple of S&L's fail, and there are going to be more. But when the structured commercial banking system is in turn controlled by seven or nine at the most of the hugest banking institutions and then they in turn will be

controlling the Federal Reserve Board, as they already have, there is no accountability.

Does the Federal Reserve Board have an inspector general? I have not heard about it. I have sat on the Banking Committee since I came to this Congress 22 years and 4 months ago, and I have yet to see any Federal Reserve Board member or Chairman come to the Congress and give us an accounting of their policies.

We have the so-called Open Market Committee, which was not created until 1923, so certainly it could not have had a congressional intent in the original act of 1913. It is now the ruler. Who is the Open Market Committee? Well, it is the seven regular Board members, plus five of the present representatives of five private banks, principally the New York Bank and others selected from the 12 regions.

Are they going to be looking out for the public interest? If we do not have a businessman or a rancher or a farmer or a plain little old American Citizen or a doctor or physician or professional sitting on that Board, can we expect the banking class to be looking after the general interest of our country? Of course not.

We should have learned after World War I, but we did not.

Those newspaper stories on the front pages day before yesterday about the alarm of Argentina threatening that big, fearful thing called a delinquency or a moratorium are absolutely reminiscent, with the only distinction being the country involved, of what I read as a kid in junior high school in 1929, 1930, 1931, and 1932. It is the same thing. Why? Because those who grasped that power at that time had taken advantage of the course and the conduct of the war, and it is credit, as I said last week, that wins the wars.

Without credit the allies would have lost World War I in the first 4 months, and it was American credit. As I have pointed out and have tried to say, America was the only creditor nation in World War I. In World War II you could equate the same situation, except naturally we see the world configuration changing. With the world continuing to shrink, the world is a different world every year.

What I am saying is that domestically and nationally those forces that shape and make the decisions that will shape the economic liberty or loss of that liberty for the average American are not the forces of decision in the halls of their representative councils and bodies, the Congress. It is not even in their elected executives' offices, but over in those sanctums and inner sanctums that now transcend national accountability. They are transnational.

If we thought after and before World War I that the so-called cartels then were vast, they were little pikers compared to what has developed now internationally with the supernationals. One good example is how those policies that are dictated out of the self-interest of that class have come to infect and endanger our economic well-being which is at the heart of the nature of our freedom and our economic well-being. And this is seen in this way: We have giant mergers and takeovers. They will not produce one job, they will not produce one product. They are wholly speculative in nature, but they consume and suck vast resources of banking credit—$50 billion, $55 billion, $30 billion, or $35 billion of banking credit and resources that had been intended when banks were chartered for public convenience and need.

This is forgotten now, just like those first words in the Constitution, "We the people," are forgotten now. And when those powerful classes have that power, their decisions are that, only if Exxon needs so much in the way of billions to take over Gulf or somebody else, they will have unlimited recourse to an unlimited source of credit at not even prime interest rates but less.

But for $1,500 for a little old plain American citizen who goes to his bank anywhere in America, in my city, this city, Los Angeles, or anywhere else—just a little old businessman who wants $1,500 for commercial purposes—he will not get that unless he is going to pay at this time over 17½ percent interest. There is no way to survive with that usury. It is rampant and unrestrained.

But if it is Exxon or Du Pont and they want to tie up $30 billion, $40 billion, or $50 billion of worth and they are going to have to borrow here and there, they are not going to have to pay even 12-percent interest, or even 11 percent. Why? Because the only safeguard set up by the Congress and the American people has been that system known as the Federal Reserve Board system, and that has been subverted. It has been perverted. It is now in control of no more than a handful of powerful, oligarchic, self-breeding, incestuous groups of men, lords of creation, panjandrums of power, malefactors of great wealth, because they are willing to impale the people on the crucifix and put a crown of steel and gold on the American brow.

□ 1510

That is what we are facing, so we rant and we rave and we are combating what? Powerful great interests where we avail against principalities, spiritual weakness in high places and perhaps talking may do no good. Who says it? But always through our history up to now, our system, if right, will recognize and eventually react.

The test is at this point whether as a matter of fact it is not too late, as it was in 1929, by the time there is even a dim awareness of the vastness of the issue and the fact that when there was time to anticipate and prevent, there was no need or regard for that.

Today I am not smart enough, I am not wise enough to know for sure whether or not anything could be done even if we could miraculously get a unanimity of action, the dispatch of action of a pluralistic body of 535 Americans, such as in the Congress of the United States, and when the bubble busts, which now I think is clearly indicated, cannot be averted, what have we done to erect anticipatory safeguards?

I appeal to my colleagues, no matter how much the tendency to dismiss this voice; after all, I have but one voice to undo the folded line, as the poet said; but I have the security that once conscious of the fact and once these Representatives that are in contact with their people, with their unemployed steelworkers in Pennsylvania, Ohio, and Illinois, and with the others that are in touch that do know what that real issue is, will eventually rise and realize that such things as high interest rates, as Mr. Volcker, the present Chairman of the Federal Reserve Board, as the leading financial powers would have us believe, we cannot do anything about it.

Oh, they used to say 2 or 3 years ago that it was inflation, if you overcame inflation that would take care of it. Now they say it is the deficit and you have to cut this, you have to cut that.

The truth is that interest rates are not an act of God. They would have us believe it is an act of God, that nobody can do anything; but by God, the Congresses did from 1789 to 1865 and certainly something can be done now. I cannot take the time now, because time does not permit and it would be in effect further complicating this discussion and perhaps make it too disparate; but the record will show some of us have been been advancing specific legislative proposals well within the domain and jurisdiction and power of the Congress and well within the defined constitutionale of the obligations for us to do it.

I plead with my fellow Members, those particularly in the committees that have direct jurisdiction, to heed, not wait. We can still at least anticipate and set up preliminary anticipatory safeguards, so that when we do have the crisis, we are ready for it.

The question is, everybody is whistling in the dark, hoping that we can kind of mumble-stumble through until November, and after November we will see.

I do not think, as I said earlier in my own district, that they are taking into account those forces over which we have no control, that impact us from outside, but over which we have give and take relationships, as these steel

balls that impact each other through the action and reaction of physical law.

It is the same thing now. I do not think the world is going to gear itself to our timetable of domestic politics. So the first message given to us in an atmosphere of alarm came day before yesterday; but as I put into the RECORD and any Member that wants to see that can look up the RECORD of last week for Monday and Tuesday and see the statistical comprehensive extent of just the Latin debt, that is just part. You also have the Polish debt. You also have others; but again I say, that behind all these basic policies—the gas pipeline for instance, which incidentally is now completed and delivering gas from Russia to Europe.

Now, the President came out, wanted the allies to boycott this that and the other, and he could not get it.

Well, what happened and what has not been reported is that the gas company that is using the pipeline and is going to sell and distribute that gas in Europe is known as Ruhrgast, based in the Ruhr, but it is principally owned by whom? Exxon and Mobil; but Exxon in turn is controlled by the Chase Manhattan Bank. They are the principal stockholders. Exxon, after all, is the old oil company of Rockefeller, and Mobil is owned by the First City National Bank of New York, Chase Manhattan's twin; so you have all these interlocking powerful forces, which in turn are now interlocked with vast backing resources in Germany, France, and England.

We are seeing a repetition in a slightly modified version to conform to the modern turn of events in the world. Some of the nations that figured in World War I are not even around any more, but we have the same thing. We have failed to learn, whereas I said and repeat, like the old Bourbon kings, we learn nothing and we have forgotten nothing.

FAMILY FARM PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. PENNY) is recognized for 5 minutes.

Mr. PENNY. Mr. Speaker, today I am introducing H.R. 5300, the Family Farm Protection Act of 1984. The family farm system is in trouble in this country—30,000 farms have gone out of business each year since 1970. Today, we see larger and larger farms, more and more corporate farms, and fewer and fewer farm families. This legislation is designed to reverse that trend.

The Family Farm Protection Act would help put land in the hands of the young family farmers who are being priced out of farming today. And it closes a major tax loophole that puts farmland in the hands of corporations and speculators while driving up the price of farmland.

Young people who want to farm today face obstacles that are almost insurmountable. The price of land, equipment, seed, fertilizer, and other materials are so high that young farmers are just not able to begin. In buying land, they compete with large operators, corporate farms, and land developers, all of whom can pay more, thereby pricing land out of a new farmer's reach.

The legislation that I am introducing provides a tax credit to older farmers who sell land to eligible beginning farmers at "farm use value," which prices land lower than the market rate. the seller gets a limited tax credit as an encouragement to sell at a lower price. The beginning farmer gets the land at an affordable price. Obviously, a tax credit costs the Federal Treasury. But this credit has important social value by helping to save our family farm system. We can offset the revenue loss of this credit by closing a tax loophole that is destroying our family farm system.

Accordingly, the second feature of the Family Farm Protection Act limits the amount of nonfarm income that can be sheltered from taxes with losses from a farming operation. Nonfarmers and nonfamily farm corporations in high tax brackets receive great benefits from this tax provision. This tax advantage is one reason professionals and corporations compete with beginning farmers for farmland. The Family Farm Protection Act would help eliminate that competition by restricting to $15,000 this tax break for nonfarmers.

We are facing a choice in this country. We talk about our support for the family farm but we have farm and tax policies in place that are destroying the family farm system. We must begin now to reexamine our policies. The Family Farm Protection Act would begin to reverse the policies that lead to bigger farms and corporate agriculture. Mr. Speaker, we can reverse these policies—we can save our family farm system. I urge prompt consideration of the Family Farm Protection Act.

The major provisions of the legislation follows:

The Family Farm Protection Act creates a tax credit of up to $300,000 for an established farmer who sells farmland to an eligible beginning farmer at a farm value price. The farmer who sells land would receive a tax credit for the difference between the market price of the farmland and the farm value price as determined under the same formula used for determining farm value for Federal estate tax purposes. In return, the beginning farmer who receives the land at the lower farm value price must agree to farm the land for at least 10 years or face a penalty.

The Family Farm Protection Act changes the Internal Revenue Code to prevent nonfarm corporations and outside investors from using losses or expenses from farming to offset profits earned off the farm. The total amount of tax deductions allowed for an individual or corporation cannot exceed an amount equal to the gross income earned from farming plus nonfarm income up to a maximum of $15,000. Taxpayers whose nonfarm income is less than $15,000 could subtract all farm losses.

LOOPHOLE OF THE WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. PEASE) is recognized for 5 minutes.

● Mr. PEASE. Mr. Speaker, I am pleased to be participating in Loophole of the Week discussion. As a member of the Ways and Means Committee, I am particularly concerned about erosion of our tax base and concomitant escalating Federal budget deficits.

It is my hope that next year our committee will hold extensive hearings on reform of the individual and corporate tax with an interest in broadening the tax base and simplifying the code. With these goals in mind, I am submitting a recent article from Forbes magazine on the very sizable tax benefits to be gained from buying and using windmills as a source of energy. While there has been considerable need in the past to create incentives for the development of alternative forms of energy, it is the continuing responsibility of the congressional taxwriting committees to review tax incentives to see if a need still exists for a Federal subsidy. I support Congressman STARK's efforts to speak up on a subject that is very heated and hope that we can in the next year take an impartial and fairminded approach to making the Tax Code more efficient and more equitable.

[From Forbes, Mar. 12, 1984]

THE GREAT WINDMILL TAX DODGE

WHAT DO A RIGHTWING REPUBLICAN AND A LEFTWING DEMOCRAT HAVE IN COMMON? SAVING THE WEALTHY MILLIONS IN TAXES

(By Ellen Paris)

You are driving east from Los Angeles through the windswept San Gorgonio Pass. Five minutes after the Palm Springs exit, you begin to see them: a couple of hundred shiny, fiberglass-and-steel wind turbines, their 14½-foot blades spinning furiously. Their purpose? To generate a little electricity and a lot of tax savings. Subtle promotional minds have left their mark on this barren California terrain.

Probably 4,500 of these windmills have been built throughout California since 1981 at a cost of around $100,000 to $300,000 apiece, or over $400 million in all. Why would people spend that kind of money on

windmills? Because they're efficient? Hardly. Windmill generators produce electricity at a cost including capital investment of 12 cents to 15 cents per kilowatt-hour. Compare that with capital and production costs of about 4 cents a kilowatt-hour for coal, about the same for nuclear at today's construction costs, and 4.5 cents in production costs for oil-fired generators.

Since when has economics been the sole determinant of U.S. investment? The fact is, California and federal laws have made windmills perhaps the juiciest tax shelter in the land.

It started in 1978 when California legislators brought wind power under solar power's tax treatment. That gave windmill investors a 25 percent tax credit. Then, in 1980, Congress piled on top of that a 15 percent special federal energy property investment tax credit to be added to the standard 10 percent investment tax credit.

That means if you build a windmill in California, and are in the top tax bracket you can reduce state and federal taxes by 37.5 percent of the windmill's cost (only half California's 25 percent credit is allowed on federal returns). The state and federal credits, in effect, can reduce the cost of wind power to around 6 to 8 cents per kilowatt-hour, almost competitive with oil.

Clearly, a thing of beauty. And the tax shelter promoters have been quick to capitalize. Take FloWind Partners I, a $14.9 million offering of limited partnerships in a wind park marketed in November by A.G. Becker Paribas and Bateman Eichler, Hill Richards.

Here's how it works: An investor puts up $100,000 for a partnership unit—$41,500 the first two years, the rest in the third and fourth years. FloWind sells its electricity to Pacific Gas & Electric over 30 years (California utilities are required by federal law and state regulation to buy power from windmills) but depreciates its windmills over five years. Thanks mainly to depreciation, each unit's taxable loss is projected to be around $21,000 in the first two years—$10,500 after federal taxes at 50 percent.

Thus far the FloWind I is a so-so shelter. But now factor in those lush investment and energy tax credits, which the partners take in the first two years. These credits are worth around $37,500, remember, on every $100,000 unit. So, for a $100,000 unit, your first two years' investment is nearly repaid by the savings on the tax credit. Add to the credits, operating losses, and by the end of the first two years you are well ahead and the government is well behind.

For the third and ensuing years, of course, the credits are no longer available. But the depreciation still is, so that the tax project's losses run through the fifth year, when the equipment has been fully depreciated. Overall, according to the promoters' projections, FloWind I will earn its partners a projected 25 percent rate of return on their investment from 1983 through 1993. On top of this a FloWind I unit owner also receives a warrant to purchase stock in affiliated FloWind Corp. in the event that the windmill equipment maker should one day go public. It's a tax shelter with an equity kicker.

FloWind I and similar deals exist, of course, at the sufferance of politicians, and the federal energy credits are set to expire at the end of next year. California's run out at the end of 1986. "Without the tax credits [FloWind I] is just a marginal deal," admits Michael Kranzley, the A. G. Becker Paribas vice president who handled the shelter's marketing in California. In fact, the windmill industry would disappear into desert sands without the credits, barring some dramatic decrease in the cost of wind-generated electricity, which doesn't seem likely very soon.

California politicians, from conservative Governor George Deukmejian to Democratic Congressman Fortney (Pete) Stark, are opposed to extending the tax credits. "These aren't wind farms," says Stark, a power in the House Ways & Means Committee. "They're tax farms."

But the tax shelter crowd and their political allies are putting on a big push to save the credits, which cost the Treasury around $500 million a year. Two California assemblymen, leftist Democrat Tom Hayden and right-wing Republican Bob Naylor, recently coauthored a bill with State Senator Gary Hart (not the U.S. Senator from Colorado) that will extend California solar and wind credits through 1986. And U.S. Senator Malcolm Wallop (R-Wyo.) has introduced legislation to extend the federal credits through 1990 and increase them from 15 percent to 20 percent. In the House, Congressman Cecil Heftel (D-Hawaii) is doing the same with H.R. 4078. "This is a tax credit that serves the national purpose," Heftel insists.

There's a good chance such rhetoric will prevail, and opponents are resigned to it. "If you criticize the tax credits, people think you're unpatriotic," says Stark. So the great windmill tax dodge will probably get a second wind.●

REQUEST FOR SPECIAL ORDER

Mr. LUNGREN. Mr. Speaker, I ask unanimous consent that notwithstanding special orders heretofore entered into, I might proceed for 5 minutes at this time on a special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

THE INJUSTICE CONTINUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LUNGREN) is recognized for 5 minutes.

Mr. LUNGREN. Mr. Speaker, I rise today as a participant in the 1984 Congressional Call to Conscience Vigil for Soviet Jews. As many of my colleagues have done, I would like to bring to the attention of this body and indeed to the entire Nation the plight of one of the many Soviet Jews known as refuseniks. They have been labeled as such while desiring to emigrate from the Soviet Union their requests have been repeatedly refused.

Never before in the history of the Soviet Jewry movement has the emigration rate been so low. Last year only 1,314 Soviet Jews were allowed to emigrate. This compares with an emigration high point when 51,320 left in 1979. In fact, emigration was higher in February 1979 alone, at 3,287 than the total over the past 12 months.

For over 1 year now I have maintained correspondence with a Soviet refusenik by the name of Leonid [Ari] Volvovsky. As a graduate of the Gorky Polytechnical Institute's Department of Computers, he earned a Kandidat degree at the U.S.S.R. Academy of Sciences, in Moscow. Before filing for an exit visa to Israel with his family in December 1973, he was employed as a senior engineer, and as a senior research fellow at the Moscow Research Institute of Complex Mechanization and Automation in Oil and Gas. After applying, he was dismissed from his position and forced to work at various odd jobs.

In the spring of 1979, the Volvovsky's moved to Moscow, in order for Ari to find employment and to participate in Moscow's Jewish refusenik circles. In September, upon returning home from vacation, they discovered that their apartment, had been ransacked. Several hundred volumes on Jewish history and culture written in Russian, English, and Hebrew were taken. In addition, eviction papers were served by the landlord notifying Ari to vacate the apartment.

Ari brought the case to civil court. He lost his case, his apartment, and his Moscow residency permit. The Soviet authorities ordered him to relocate to the city of Gorky.

In the spring of 1980, during a visit to Kishinev, Volvovsky was arrested for alleged vagrancy. On the demand of the Kishinev prosecutor, he was detained for 30 days and threatened with trial and imprisonment. The charges were later dropped.

Presently, the Volvovsky family is living together in Gorky. Very few of the town's Jews practice their religion and traditions. Nevertheless, as is evident from his letters Ari is still active in promoting Jewish culture, and continues to teach Hebrew.

The tremendous strain of the past few years have been extremely difficult for the Volvovsky's 13-year-old daughter, Kira. Because of her family's refusenik status, she has been subjected to a considerable amount of tension and harassment. Writing to a friend in the West, Ari wrote that: "* * * for a child in our situation, this is very hard * * * I am worried about her. I do so want her to grow up in Israel, but fate seems to decree otherwise * * * my prayer is that things will not change for the worse."

Mr. Speaker, the situation of Ari and his family reminds us that the unconscionable nature of the Soviet regime not only allows for the human destruction that occurred with the downing of KAL flight No. 007, but also sanctions the not nearly as visible destruction of the human spirit that occurs on a daily basis. The American people must not allow the Soviet standard to become the status quo, but rather the unacceptable exception in a world committed to individual liberty and freedom of conscience.

"All of the trials inflicted on us by the authorities are in vain," writes Ari in his latest letter. "There is no power in the world that can (cause) us to refuse to study our Torah and to live according to its laws and statutes."

Mr. Speaker, Ari Volvovsky is probably not a name for which monuments will be built but perhaps they should be. Ari's example is one of courage and commitment and should humble each of us to reexamine our commitment to the freedoms from which this Nation was conceived.

□ 1520

EXPEDITED FUNDS AVAILABILITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, I have today introduced legislation which would require depository institutions to give customers quick access to their deposits. We want to put an end to the outrageously long periods of delay in clearing and crediting checks to assure that American consumers have quick access to their own funds. The committee has received reports of customers denied access to funds for 2 and 3 weeks with even U.S. Government checks facing delays. These delays—float in the parlance of banking—are profitable to financial institutions and a heavy burden on customers, particularly the elderly, working families and small businesses needing early access to their funds.

My bill would establish four categories of deposits and would set a maximum number of days for clearance of checks for each:

Category I: No more than 1 business day between deposit and availability of funds on checks of $100 or less; checks drawn on a branch of the same institution receiving the deposit; and one-party checks drawn on governmental entities.

Category II: No more than 3 business days on checks drawn on institutions in the same city or local region as the receiving depository.

Category III: No more than 4 days for checks drawn on nonlocal institutions in the same State.

Category IV: Not more than 8 days for checks drawn on out-of-State institutions.

The maximum time limits for clearing checks will remain in effect until the Federal Reserve develops a check-clearing system which will provide next-day access for local checks and a maximum of 3 days for nonlocal checks. The bill mandates that the Federal Reserve develop the faster system within 5 years.

The bill also requires the depository institutions to disclose their check-clearing policies to their customers in writing and by posting notices prominently within the lobbies of the institutions.

I have scheduled hearings on the funds availability issue for Wednesday, April 4. I include the following summary with my statement:

SECTION-BY-SECTION ANALYSIS OF EXPEDITED FUNDS AVAILABILITY ACT

SECTION 1. Prescribes the Act's short title.

SEC. 2. States the findings and purposes of the Act.

SEC. 3. Requires the Federal Reserve to develop a system in no longer than five years from the date of enactment that would cause all checks to be cleared so that funds would be available for withdrawal the next business day after the day of deposit at local institutions, and for nonlocal institutions, not more than three business days would intervene between the day of deposit and the day of availability of the funds for withdrawal. The Federal Reserve should consider, among other things, establishing a uniform endorsement standard, and a system for expedited notice of nonpayment of a check to the receiving depository institution. The Federal Reserve would report within six months, and annually thereafter, on progress toward the goal.

SEC. 4. Establishes specific time limits for funds availability for types of deposits made by check. These limits would be in effect while the system described in Section 3 is being developed. The limits are:

(1) One business day between day of deposit and day of availability for checks of $100 or less; checks drawn on branches of the receiving depository institution; cashier's checks and certified checks; and U.S. Treasury, State and local government checks endorsed only by the person to whom the check is issued;

(2) Not more than three business days between day of deposit and day of availability for checks drawn on local depository institutions (i.e., institutions with an office in the same city, town or village or, if designated by the Federal Reserve, in the same local region of metropolitan area, as the receiving depository institution);

(3) Not more than four business days between day of deposit and day-of-availability for checks drawn on non-local depository institutions in the same State as the receiving depository institution; and

(4) Not more than eight business days between day of deposit and day of availability for checks drawn on depository institutions outside the State of the receiving depository institution.

Deposits made on Saturdays, Sundays, holidays or after business hours are deemed made on the next business day. The Federal Reserve is given regulatory authority to shorten the time periods specified above.

SEC. 5. Provides an exception to the maximum limits in Section 4. Checks drawn on depository institutions outside the United States would be subject to the receiving depository institution's availability policy.

SEC. 6. Preserves the authority of States to enact laws, and of individual depository institutions to prescribe policies, to make funds available more quickly than the time periods prescribed in this Act or in Federal Reserve regulations.

SEC. 7. Requires depository institutions to disclose their funds availability policies in writing to new customers; on deposit slips or by specific notice when deposits are made; in mailings to established customers; and by posting of notices in locations where deposits are taken.

SEC. 8. Authorizes the Federal Reserve to publish optional model disclosure forms and clauses.

SEC. 9. Permits the Federal Reserve to promulgate regulations to carry out the Act.

SEC. 10. Establishes enforcement arrangements under existing law, to be carried out by the federal regulators of depository institutions.

SEC. 11. Provides civil liability penalties for individual and class actions for violations of the Act.

SEC. 12. Prescribes definitions applicable to the Act.

SEC. 13. Establishes effective dates for the Act. The Federal Reserve is to begin working toward its five year goals starting on the date of enactment. The interim maximum time limits prescribed in the Act, the disclosure requirements, and the enforcement provisions take effect 90 days after enactment.

H.R. 5301

A bill to limit the number of days a depository institution may restrict the availability of funds which are deposited by check

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Expedited Funds Availability Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds that—

(1) the writing and depositing of checks is an important element in the efficient operation of the American economy;

(2) many people rely on the quick availability of funds deposited by check in their accounts for the basic necessities of life;

(3) notwithstanding the fact that depository institutions usually receive provisional credit for checks they receive within one to two days after such checks are deposited with them, many depository institutions have imposed inordinate delays on the availability of those funds to depositors;

(4) the incidence of returned checks, which depository institutions often use to justify their delayed funds availability policies, amount to approximately one percent of all checks written in the United States, and substantial portion of these returned checks are paid on second presentment;

(5) with few exceptions, efforts by State governments, Federal agencies, and the financial industry have been unsuccessful in curbing the abuses which have been found in the area of delayed funds availability; and

(6) a coordinated Federal response is the most reasonable way to ensure that depositors throughout the United States are treated fairly in gaining access to funds in their accounts.

(b) It is the purpose of this Act to—

(1) adopt temporary, maximum time limits for the availability of funds deposited by check;

(2) replace those temporary limits with standard availability ceilings within five years after the date of the enactment of this Act, as prescribed in regulations by the Board of Governors of the Federal Reserve System;

(3) require depository institutions to fully disclose their funds availability policies to depositors;

(4) permit States, and individual depository institutions, to adopt funds availability policies which allow depositors to gain access to funds earlier than prescribed by Federal law or regulation; and

(5) prescribe appropriate enforcement mechanisms to ensure compliance with the provisions of this Act.

DEVELOPMENT OF EXPEDITED CHECK CLEARING SYSTEM

SEC. 3. (a)(1) The Board of Governors of the Federal Reserve System shall immediately begin to develop a system to provide that—

(A) funds deposited by checks drawn on a local depository institution shall be available for withdrawal at the start of the business day following the day on which such check was deposited; and

(B) for all other checks, not more than three business days shall intervene between the day on which a check is deposited and the day on which the funds involved are available for withdrawal.

(2) Such system shall be implemented as soon as possible, but in no event later than five years after the date of the enactment of this Act.

(b) In order to achieve the goal specified in subsection (a), the Board shall consider (among other proposals) requiring, by regulation, that—

(1) each depository institution place its endorsement on checks, and other items described in regulations of the Board, in the positions provided for in the endorsement standard (ANSI X 9.3-1981) or in regulations of the Board; and

(2) within one business day after a depository institution on which a check is drawn receives a check for more than $100—

(A) such depository institution shall determine if it will pay such check; and

(B) if such depository institution determines that it will not pay such check, such depository institution shall directly notify the depository institution at which such check was first deposited of such determination.

(c)(1) Not later than 6 months after the date of the enactment of this Act and annually thereafter until the goal specified in subsection (a) is achieved, the Board shall transmit a report to both Houses of the Congress.

(2) Each such report shall specify the actions taken by the Board in order to achieve the goal specified in subsection (a).

EXPEDITED CHECK CLEARING

SEC. 4. (a) In accordance with the provisions of this Act and in order to expedite the check clearing process, in any case in which funds are deposited by check in an account at a depository institution—

(1) except as provided in section 5, not more than one business day shall intervene between the day on which such check is deposited and the day on which such funds are available for withdrawal in the case of—

(A) a check of not more than $100;

(B) a check drawn on any branch of the receiving depository institution, if such branch is located in the same State as the receiving depository institution;

(C) any cashier's check or certified check issued by a depository institution;

(D) a check which is endorsed only by the person to whom it was issued and which is drawn on the Treasury of the United States; or

(E) a check which is endorsed only by the person to whom it was issued and which is drawn on any State or unit of local government of a State;

(2) except as provided in paragraph (1) of this subsection, not more than three business days shall intervene between the day on which such check is deposited and the day on which such funds are available for withdrawal in the case of a check drawn on a local depository institution;

(3) except as provided in paragraph (1) of this subsection, not more than four business days shall intervene between the day on which such check is deposited and the day on which such funds are available for withdrawal in the case of a check drawn on an in-State depository institution; and

(4) except as provided in paragraph (1) of this subsection and section 5 of this Act, not more than eight business days shall intervene between the day on which such check is deposited and the day on which such funds are available for withdrawal in the case of a check drawn on a depository institution which is not located in the same State as the receiving depository institution.

(b) For purposes of this Act—

(1) a check deposited on a Saturday, Sunday, legal holiday, or after the close of business on any business day shall be deemed to have been deposited on the next business day; and

(2) a check deposited at an electronic branch after the close of business of the nearest manned branch of the depository institution involved shall be deemed to have been deposited on the next business day.

(c) The Board of Governors of the Federal Reserve System may, by regulation, shorten the time periods provided for in this section.

EXCEPTIONS

SEC. 5. In any case in which a check is drawn on a depository institution or an office of a depository institution located outside of the United States, the availability of funds shall be governed by the policy of the receiving depository institution.

GENERAL PROVISIONS

SEC. 6. Nothing contained in this Act—

(1) limits the authority of any State to adopt laws which require that funds deposited by check in an account at a depository institution be made available for withdrawal earlier than as provided in this Act or in regulations adopted by the Board of Governors of the Federal Reserve System pursuant to section 4(c);

(2) shall prevent a depository institution, in accordance with the policy of such depository institution, from making funds available for withdrawal in a shorter period of time than as provided in this Act or in regulations adopted by the Board of Governors of the Federal Reserve System pursuant to section 4(c); and

(3) shall affect a depository institution's right—

(A) to accept or reject a check for deposit; or

(B) if a check is accepted for deposit and the depository institution has made provisional settlement with the depositor, to, pursuant to law—

(i) revoke the provisional settlement given by the depository institution;

(ii) charge back the depositor's account; or

(iii) claim a refund of such provisional credit.

DISCLOSURE OF FUNDS AVAILABILITY POLICIES

SEC. 7. (a) Before an account is opened, a depository institution shall provide a written disclosure to the potential customer of the general policy of such depository institution with respect to when a customer may withdraw funds deposited by check into the customer's account.

(b) A depository institution shall either—

(1) furnish its customers with preprinted deposit slips, or envelopes for automatic teller machine deposits, bearing a summary statement of the general policy of such depository institution with respect to when a customer may withdraw funds deposited by check into the customer's account; or

(2) in the case of a particular deposit by check into an account for which funds may not be immediately available for withdrawal, provide specific notice of the time the customer may withdraw such funds.

(c)(1) In the first regularly scheduled mailing to customers occurring more than 30 days after the effective date of this section, each depository institution shall send a written summary to its customers containing the general policy of such depository institution with respect to when a customer may withdraw funds deposited by check into such customer's account.

(2)(A) Each time a depository institution makes a significant change in the general policy of such depository institution with respect to when a customer may withdraw funds deposited by check into such customer's account, such depository institution shall send a written summary to its customers of such changes.

(B) Such written summary shall be sent to such customers in the first regularly scheduled mailing to customers occurring after such changes are made.

(d) Each depository institution shall post in a conspicuous place in each location where deposits are accepted a notice which sets forth the time periods applicable to the availability of funds for checks received for deposit.

MODEL DISCLOSURE FORMS

SEC. 8. (a) The Board may publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this Act and to aid customers by utilizing readily understandable language.

(b) Nothing in this Act shall be construed to require the use of any such model form or clause prescribed by the Board under this section.

REGULATIONS

SEC. 9. The Board of Governors of the Federal Reserve System may promulgate regulations to carry out the provisions of this Act.

ADMINISTRATIVE ENFORCEMENT

SEC. 10. (a) Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board of Governors of the Federal Reserve System; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and section 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union or insured credit union.

(b)(1) For the purpose of the exercise by any agency referred to in subsection (a) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act.

(2) In addition to its powers under any provision of law specifically referred to in subsection (a) of this section, each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred in it by law.

(c) Except to the extent that enforcement of the requirements imposed under that enforcement of the requirements imposed under this Act is specifically committed to some other Government agency under subsection (a) of this section, the Board of Governors of the Federal Reserve System shall enforce such requirements.

(d) The authority of the Board to issue regulations under this Act does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this Act.

CIVIL LIABILITY

SEC. 11. (a) Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this Act or any regulation adopted pursuant to this Act with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the depository institution; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) In determining the amount of award in any class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c)(1) A depository institution may not be held liable in any action brought under this section for a violation of this Act if the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) Examples of a bona fide error include clerical, calculation, computer malfunction and programing, and printing errors.

(d) Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation.

(e) No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board of Governors of the Federal Reserve System, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

DEFINITIONS

SEC. 12. For purposes of this Act—

(1) the term "account" means an account in a depository institution on which the account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawals, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposit accounts, negotiable order of withdrawals draft accounts, savings deposit accounts subject to automatic transfers, share draft accounts, and all savings deposits and share accounts other than time deposits;

(2) the term "Board" means the Board of Governors of the Federal Reserve System;

(3) the term "business day" means any day other than a Saturday, Sunday, or legal holiday;

(4) the term "check" means any check, negotiable or transferrable instrument, payment order of withdrawal, money order, or other similar item used for purposes of making payments or transfers to third parties or others;

(5) the term "depository institution" shall have the same meaning given such term in clauses (1) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act;

(6) the term "in-State depository institution" means any depository institution which is not a local depository institution but which is located in the same State as the receiving depository institution;

(7) the term "local depository institution" means a depository institution—

(A) which has an office in the city, town, or village in which the office of the receiving depository institution is located; or

(B) which, as may be determined by regulations adopted by the Board of Governors of the Federal Reserve System, is located in the same local region or metropolitan area in which the office of the receiving depository institution is located;

(8) the term "receiving depository institution" means the depository institution in which a check is first deposited;

(9) the term "State" means the several States or the District of Columbia; and

(10) the term "United States" means the several States and the District of Columbia.

EFFECTIVE DATE

SEC. 13. (a) The provisions of sections 1, 2, 3, 8, 9, 12, and 13 shall take effect on the date of the enactment of this Act.

(b) The provisions of sections 4, 5, 6, 7, 10, and 11 shall take effect 90 days after the date of the enactment of the Act.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON of Florida. Mr. Speaker, I was unavoidably absent on rollcall No. 60, the vote on the adoption of the rulemaking in order consideration of the bill, H.R. 4841, the Coast Guard authorization. Had I been present, I would have voted "aye."●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. TALLON (at the request of Mr. WRIGHT), for today, on account of tornado damage in the district.

Mr. WHITLEY (at the request of Mr. WRIGHT), for today, on account of tornado damage in the district.

Mr. ROSE (at the request of Mr. WRIGHT), for today, on account of tornado damage in the district.

Mr. BOEHLERT (at the request of Mr. MICHEL), on March 29 to April 6, on account of official business.

Mr. HYDE (at the request of Mr. MICHEL), for March 29 to April 6, on account of official business.

SPECIAL ORDERS GRANTED

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

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

Mr. BOEHLERT, for 5 minutes, today.

Mr. LEACH of Iowa, for 30 minutes, today.

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

Mr. PENNY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. CORRADA, for 60 minutes, April 3.

Mr. ST GERMAIN, for 5 minutes, today.

Mr. NELSON of Florida, for 5 minutes, today.

EXTENSION OF REMARKS

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

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

Mr. GILMAN in three instances.

Mr. PHILIP M. CRANE.

Mr. SCHAEFER.

Mr. TAYLOR.

Mr. WEBER.

Mr. HYDE.

Mr. HAMMERSCHMIDT.
Mr. BEREUTER.
Mr. HUNTER.
Mr. ARCHER.

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

Mr. COLEMAN of Texas.
Mr. UDALL.
Mr. LANTOS.
Mr. HOYER.
Mr. HANCE.
Ms. FERRARO.
Mr. BONIOR of Michigan.
Ms. MIKULSKI.
Mr. LEVINE of California.
Mr. MINETA.
Mr. DOWNEY of New York.
Mr. WON PAT.
Mr. HAWKINS.
Mr. TAUZIN.
Mr. RANGEL in two instances.
Mr. SWIFT.
Mr. BORSKI.

BILL AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, a bill and joint resolutions of the House of the following title:

On March 28, 1984:

H.J. Res. 271. Joint resolution designating February 11, 1984, "National Inventors' Day"; and

H.J. Res. 443. Joint resolution designating the month of June 1984 as "Student Awareness of Drunk Driving Month."

On March 29, 1984:

H.R. 3249. An act to charter the National Academy of Public Administration;

H.J. Res. 432. Joint resolution designating the week of April 8 through 14, 1984, as "Parkinson's Disease Awareness Week"; and

H.J. Res. 493. Joint resolution making an urgent supplemental appropriation for the Department of Health and Human Services for the fiscal year ending September 30, 1984.

ADJOURNMENT

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

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 474 of the 98th Congress, the House stands adjourned until 11 a.m., Friday, March 30, 1984, in memory of the late Honorable EDWIN B. FORSYTHE of New Jersey.

Thereupon (at 3 o'clock and 24 minutes p.m.) pursuant to House Resolution 474, the House adjourned until Friday, March 30, 1984, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

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

3016. A letter from the Executive Associate Director for Budget, Office of Management and Budget, transmitting notification that the appropriation to the Department of Agriculture for the child nutrition programs (excluding State administrative expenses) for fiscal year 1984 has been reapportioned on a basis that indicates the necessity for a supplemental appropriation, pursuant to 31 U.S.C. 1515(b)(2); to the Committee on Appropriations.

3017. A letter from the Director, Defense Security Assistance Agency, transmitting information on the American Institute in Taiwan's proposed letter of offer to the Coordination Council for North American Affairs for defense articles estimated to cost in excess of $50 million (Transmittal No. 84-40), pursuant to 10 U.S.C. 133b (96 Stat. 1288); to the Committee on Armed Services.

3018. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notification of the proposed decision to convert to contractor performance the public works functions at the Naval Research Laboratory, Washington, D.C., pursuant to 10 U.S.C. 2304 nt (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

3019. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notification of the proposed decision to convert to contractor performance the food service function at the Naval Hospital, Beauford, S.C., pursuant to 10 U.S.C. 2304 nt (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

3020. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend title V of the Housing Act of 1949 to permit the sale in "as is" condition of inventory housing held by the Farmers Home Administration, pursuant to 31 U.S.C. 1110; to the Committee on Banking, Finance and Urban Affairs.

3021. A letter from the Chairman and Chief Executive Officer, Consolidated Rail Corporation, transmitting the 1983 annual report on the Corporation's activities and accomplishments, pursuant to Public Law 93-236, section 301(h) (90 Stat. 106); to the Committee on Energy and Commerce.

3022. A letter from the Director, Defense Security Assistance Agency, transmitting information on the American Institute in Taiwan's proposed letter of offer to the Coordination Council for North American Affairs for defense articles and services estimated to cost $87 million (Transmittal No. 84-40), pursuant to AECA, section 36(b) (90 Stat. 741; 93 Stat. 708, 709, 710; 94 Stat. 3134; 95 Stat. 1520); to the Committee on Foreign Affairs.

3023. A letter from the Administrator of Veterans' Affairs, transmitting a report on the Administration's activities under the Freedom of Information Act during 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3024. A letter from the Deputy Assistant Secretary of the Interior, transmitting the 1984 annual report on research and demonstration projects in alternative coal mining technologies, pursuant to Public Law 95-87, section 908(d); to the Committee on Interior and Insular Affairs.

3025. A letter from the Assistant Attorney General (Antitrust Division), Department of Justice, transmitting a report on competition in the coal industry, pursuant to the act of February 25, 1920, chapter 85, section 8B (90 Stat. 1089); to the Committee on Interior and Insular Affairs.

3026. A letter from the Clerk, U.S. Claims Court, transmitting a certified copy of the court's judgment order of March 22, 1984, *American Indians Residing on the Maricopa-AK Chin Reservation* v. *The United States, No. 235*, to the Committee on Interior and Insular Affairs.

3027. A letter from the Secretary of Health and Human Services, transmitting the fiscal year 1983 report on the refugee resettlement program, pursuant to INA, section 413(a) (94 Stat. 115); to the Committee on the Judiciary.

3028. A letter from the Commissioner, Immigration and Naturalization Services, transmitting the 1983 annual report on waivers granted from certain admissibility requirements for refugees, pursuant to INA, section 207(c)(3) (94 Stat. 103); to the Committee on the Judiciary.

3029. A letter from the Assistant Attorney General, Department of Justice, transmitting copies of the Attorney General's report on the activities initiated pursuant to the Civil Rights of Institutionalized Persons Act during fiscal year 1983, pursuant to 42 U.S.C. 1997f; to the Committee on the Judiciary.

3030. A letter from the General Counsel, Department of Transportation, transmitting information on requests made by the Federal Aviation Administration to the Secretary of Transportation and by the Department of Transportation to the Office of Management and Budget for inclusion in the President's fiscal year 1985 budget, pursuant to Public Law 97-248 section 506(f); to the Committee on Public Works and Transportation.

3031. A letter from the Acting Administrator, General Services Administration, transmitting information on prospectuses for alterations, pursuant to Public Law 86-249, section 7(a) (86 Stat. 217); to the Committee on Public Works and Transportation.

3032. A letter from the Secretary of the Interior, transmitting the fiscal year 1983 report on recruitment and training of Indians for positions subject to Indian preference, pursuant to Public Law 96-135, section 2(d); jointly, to the Committees on Interior and Insular Affairs and Post Office and Civil Service.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. SIMON (for himself and Mr. COLEMAN of Missouri):

H.R. 5287. A bill to amend title II of the Higher Education Act of 1965 to permit additional funds to be used to continue awards under certain multiyear grants; to the Committee on Education and Labor.

By Mr. GRADISON:

H.R. 5288. A bill to amend the Federal Financing Bank Act of 1973 to insure the proper budgetary treatment of credit transactions of Federal agencies; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mrs. BYRON:

H.R. 5289. A bill to amend the Internal Revenue Code of 1954 to provide a one-time exclusion from gross income of gain from

the sale of property used in a trade or business by an individual who has attained age 65; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself, Mr. LELAND, Mr. SCHEUER, Mr. BLILEY, Mr. SHARP, Mr. MARKEY, Mr. RICHARDSON, Mr. RITTER, Mr. ACKERMAN, Mr. AKAKA, Mr. BARNES, Mr. BONIOR of Michigan, Mr. CLAY, Mr. CONYERS, Mr. DANIEL, Mr. FOGLIETTA, Mr. FRANK, Mr. FRENZEL, Mrs. HALL of Indiana, Mr. HEFTEL of Hawaii, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LOWRY of Washington, Mr. MILLER of California, Mr. MITCHELL, Mr. NOWAK, Mr. STARK, Mr. VENTO, Mr. WEISS, Mr. WHITEHURST, Mr. WISE, and Mr. WON PAT):

H.R. 5290. A bill to establish a temporary program under which parenteral diacetylmorphine will be made available through qualified pharmacies for the relief of intractable pain due to cancer; to the Committee on Energy and Commerce.

By Mr. COELHO:

H.R. 5291. A bill to provide for the protection and preservation of certain segments of the Tuolumne River and the Merced River and other natural resources associated with the Yosemite National Park, and to provide a procedure to assure congressional consideration of certain actions affecting public lands in the Yosemite National Park; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

By Mr. COLEMAN of Missouri:

H.R. 5292. A bill to amend title IX of the Higher Education Act of 1965 to create a program of graduate assistance in areas of national need, and for other purposes; to the Committee on Education and Labor.

By Mr. LEVITAS:

H.R. 5293. A bill to terminate certain authorities of the executive branch of the Government which are subject to congressional review unless those authorities are approved by an enactment of the Congress; to the Committee on Education and Labor.

H.R. 5294. A bill to terminate certain authority which is subject to congressional review unless that authority is approved by an enactment of the Congress; to the Committee on the District of Columbia.

H.R. 5295. A bill to terminate certain authority of the executive branch of the Government which is subject to congressional review unless that authority is approved by an enactment of the Congress; to the Committee on Energy and Commerce.

H.R. 5296. A bill to terminate certain authority of the executive branch of the Government which is subject to congressional review unless that authority is approved by an enactment of the Congress; jointly, to the Committees on Energy and Commerce, and Public Works and Transportation.

By Mr. MINETA (for himself, Mr. HOWARD, Mr. SNYDER, and Mr. HAMMERSCHMIDT):

H.R. 5297. A bill to amend the Federal Aviation Act of 1958 to terminate certain functions of the Civil Aeronautics Board, to transfer certain functions of the Board to the Secretary of Transportation, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MITCHELL (for himself, Mr. MCDADE, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. LAFALCE, Mr. BEDELL, Mr. NOWAK, Mr. STENHOLM, Mr. MAZZOLI, Mr. MAVROULES, Mr. SAVAGE, Mr. ROEMER, Mr. TORRES, Mr. VANDERGRIFF, Mr. COOPER, Mr. OLIN, Mr. BRITT, Mr. RAY, Mr. HAYES, Mr. CONTE, Mr. BROOMFIELD, Mr. WEBER, Mr. DAUB, Mr. ROTH, Mr. BOEHLERT, and Mr. BILIRAKIS):

H.R. 5298. A bill to provide for a White House Conference on Small Business; to the Committee on Small Business.

By Mr. OTTINGER:

H.R. 5299. A bill to amend the Federal Power Act to establish policy and procedures to guide the Federal Energy Regulatory Commission in the issuance of new licenses to operate existing hydroelectric facilities; to the Committee on Energy and Commerce.

By Mr. PENNY:

H.R. 5300. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax where farm real property is sold at its value as farm property to small or beginning farmers, and to limit the deduction allowable for losses attributable to farming; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 5301. A bill to limit the number of days a depository institution may restrict the availability of funds which are deposited by check; to the Committee on Banking, Finance and Urban Affairs.

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

H.R. 5302. A bill to amend the Internal Revenue Code of 1954 to facilitate home equity conversions through sale leaseback transactions; to the Committee on Ways and Means.

By Mr. STAGGERS:

H.R. 5303. A bill to provide for the acquisition of real property within the boundaries of the New River Gorge National River by an exchange between the United States and the Berwind Corp.; to the Committee on Interior and Insular Affairs.

By Mr. TAUKE:

H.R. 5304. A bill to provide for progressive cost-of-living adjustments in certain Federal entitlement programs providing periodic payments which are not based on need; to the Committee on Government Operations.

By Mr. TAYLOR (for himself and Mr. DOWDY of Mississippi):

H.R. 5305. A bill to protect consumers and franchised automobile dealers from unfair price discrimination in the sale by the manufacturer of new motor vehicles, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. SCHNEIDER:

H.J. Res. 534. Joint resolution to provide for the designation of the week of May 6 through May 12, 1984, as "National Police Athletic League Week"; to the Committee on Post Office and Civil Service.

By Ms. KAPTUR:

H.J. Res. 535. Joint resolution to authorize and request the President to designate September 16, 1984, as "Ethnic American Day"; to the Committee on Post Office and Civil Service.

By Mr. LEVINE of California (for himself, Mr. FOLEY, Mr. GORE, Mr. LEACH of Iowa, Ms. SNOWE, Mr. PRITCHARD, Mr. MINETA, Mr. DWYER of New Jersey, Mr. HOYER, Mr. BEILENSON, Mr. BERMAN, Mr. MARKEY, Mr. MITCHELL, Mr. FRANK, Mr. BARNES, Mrs. BOXER, Mr. JEFFORDS, Mr. FAZIO, Mr. FAUNTROY, Ms. KAPTUR, Mr. MORRISON of Connecticut, Mr. REID, Mr. WALGREN, Mr. HUGHES, Mr. FRENZEL, Mr. WYDEN, Mr. STUDDS, Mr. MOAKLEY, Mr. GREEN, Mr. WAXMAN, Mr. EDWARDS of California, Mr. SPRATT, Mr. SEIBERLING, Mr. BOUCHER, and Mr. BROWN of California):

H.J. Res. 536. Joint resolution relating to cooperative East-West ventures in space as an alternative to a space arms trade; to the Committee on Foreign Affairs.

MEMORIALS

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

352. By the SPEAKER: Memorial of the Legislature of the State of California, relative to increasing the appropriation for title II of the Indian Child Welfare Act of 1978; to the Committee on Interior and Insular Affairs.

353. Also, memorial of the House of Representatives of the State of Indiana, relative to the issuance of a stamp during 1984 or 1985 to commemorate the service of the B-17 bombers and their crews; to the Committee on Post Office and Civil Service.

354. Also, memorial of the Senate of the State of Pennsylvania, relative to recognizing giardia as a water pollutant; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

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

H.R. 1415: Mr. DOWDY of Mississippi, Mr. CLAY, and Mr. FORD of Tennessee.

H.R. 2053: Mr. YOUNG of Florida.

H.R. 2263: Mrs. BYRON.

H.R. 2996: Mr. BURTON of Indiana, Mr. MRAZEK, Mr. PENNY, Mr. FOGLIETTA, Mr. TORRICELLI, Mr. LELAND, Mr. SMITH of Florida, Mr. ROE, Mr. LEWIS of California, Ms. MIKULSKI, Mr. ROWLAND, Mr. LAGOMARSINO, Mr. WEAVER, Mr. LEWIS of Florida, Mr. FRANK, Mr. MITCHELL, Mr. EVANS of Illinois, Mr. VALENTINE, Mr. BROYHILL, Mr. MCEWEN, and Mr. WALGREN.

H.R. 3876: Mr. ROWLAND, Mr. STAGGERS, Mr. DURBIN, Mr. SKELTON, and Mr. EDWARDS of California.

H.R. 4155: Mr. STOKES.

H.R. 4373: Mr. LEVIN of Michigan, Mr. OLIN, Mr. CONYERS, Mr. BEDELL, Mr. WEISS, Mrs. HALL of Indiana, Mr. VENTO, Mr. DIXON, Mr. GORE, Mr. THOMAS of Georgia, and Mr. CARPER.

H.R. 4432: Mr. STOKES, Mr. BERMAN, Mr. SMITH of Florida, Mr. TOWNS, Mr. WILLIAMS of Montana, Mr. THOMAS of Georgia, Mr. HUGHES, and Mr. BEDELL.

H.R. 4500: Mr. EMERSON, Mr. BARTLETT, Mr. ZSCHAU, Mr. SHUMWAY, Mrs. SMITH of Nebraska, Mr. WHITTAKER, and Mr. CORRADA.

H.R. 4621: Mrs. VUCANOVICH and Mr. WHITLEY.

H.R. 4642: Mr. LANTOS, Mr. TORRES, Mr. FEIGHAN, Mr. RICHARDSON, Mr. WEAVER, Mr. LUKEN, Mr. SWIFT, Mr. ANNUNZIO, Mr. COLEMAN of Texas, Mr. STAGGERS, Mr. HAYES, Mr. OWENS, and Mr. HARRISON.

H.R. 4772: Ms. OAKAR and Mr. ADDABBO.

H.R. 4832: Mr. BONIOR of Michigan, Mr. MCHUGH, Mrs. MARTIN of Illinois, and Mr. TOWNS.

H.R. 4895: Mr. TORRES, Mr. SIMON, Mr. OTTINGER, Ms. FIEDLER, Mrs. HALL of Indiana, Mr. FAZIO, and Mr. MINETA.

H.R. 4907: Ms. SNOWE, Mr. PATTERSON, Mr. MCKINNEY, Mr. MCGRATH, and Mr. LUNDINE.

H.R. 4966: Mr. BARNARD, Mrs. HOLT, Ms. KAPTUR, Mr. MACKAY, Ms. MIKULSKI, and Mr. SHUMWAY.

H.R. 4975: Mr. DANNEMEYER.

H.R. 4985: Mr. RINALDO, Mr. DWYER of New Jersey, Mr. MOLLOHAN, Mr. JEFFORDS, Mr. MCGRATH, and Mr. WEBER.

H.R. 4996: Mr. NEAL, Mr. YOUNG of Alaska, Mr. PATTERSON, Mr. HAMILTON, Mr. GOODLING, Mr. PETRI, and Mr. SIKORSKI.

H.R. 5023: Mr. RALPH M. HALL, Mr. KINDNESS, and Mr. VENTO.

H.R. 5038: Mr. DASCHLE, Mr. BEVILL, Mr. BONIOR of Michigan, and Mr. BATES.

H.R. 5065: Mr. STANGELAND, Mr. WALKER, Mr. PATMAN, Mr. SKEEN, Mr. PAUL, Mr. DUNCAN, Mr. DEWINE, Mr. KINDNESS, Mr. ENGLISH, and Mr. ROBERT F. SMITH.

H.R. 5066: Mr. PARRIS, Mr. STOKES, Mr. HYDE, Mr. WHITEHURST, and Mr. DAUB.

H.R. 5084: Mr. JEFFORDS, Mr. SPRATT, and Mr. SHANNON.

H.R. 5110: Mr. BONKER, Mr. HERTEL of Michigan, Mr. MCCAIN, Mr. EMERSON, Mr. AKAKA, Mr. FOGLIETTA, Mr. ECKART, Mr. ADDABBO, Mr. VENTO, Mr. RANGEL, Mr. BARNARD, Ms. OAKAR, Ms. FERRARO, and Mr. SENSENBRENNER.

H.R. 5123: Mr. BEDELL and Mr. STENHOLM.

H.R. 5125: Mr. BORSKI.

H.R. 5158: Mr. BILIRAKIS, Mr. WALGREN, Mr. WEBER, Mr. VOLKMER, and Mr. THOMAS of California.

H.J. Res. 133: Mr. OXLEY and Mr. MCEWEN.

H.J. Res. 247: Mr. BRITT, Mr. BRYANT, Mr. WEAVER, Mr. HOYER, Mr. DURBIN, Mr. HARRISON, Mr. SHANNON, Mr. SMITH of New Jersey, Mr. LUKEN, Mr. MURPHY, Mr. DOWDY of Mississippi, Mr. HANSEN of Idaho, Mr. HAYES, Mr. STANGELAND, Mr. CARPER, Mr. GRAY, Mr. GUARINI, Mr. RICHARDSON, Mr. ORTIZ, Mr. PEPPER, Mr. PANETTA, Mr. SAVAGE, Mr. DONNELLY, Mr. STENHOLM, Mr. MCCLOSKEY, Mr. QUILLEN, Mr. MCDADE, Mr. UDALL, and Mr. MCGRATH.

H.J. Res. 309: Mr. CROCKETT, Mr. EARLY, Mr. GORE, Mr. JEFFORDS, Mr. MCKERNAN, and Ms. OAKAR.

H.J. Res. 344: Mr. BATEMAN, Mr. DICKS, Mr. GEKAS, Mr. HUNTER, Mr. HUGHES, Mr. LUNGREN, Mr. STENHOLM, Mr. WAXMAN, and Mr. WEAVER.

H.J. Res. 407: Mr. SHAW, Mr. BARNARD, Mr. ROBINSON, Mr. PHILIP M. CRANE, Mr. MINISH, Mr. PEPPER, Mr. DELLUMS, Mr. AKAKA, Mr. RINALDO, Mr. RODINO, Ms. OAKAR, Mr. SCHUMER, Mr. SMITH of New Jersey, Mr. SAVAGE, Mr. VANDER JAGT, Mr. ROWLAND, and Mr. MCGRATH.

H.J. Res. 451: Mr. LEVIN of Michigan, Mr. BROYHILL, and Mr. MINISH.

H.J. Res. 499: Mr. LIPINSKI, Mr. JEFFORDS, Mr. BONER of Tennessee, Mr. BRITT, Mr. MADIGAN, Mr. LAGOMARSINO, Mr. ROE, Ms. OAKAR, Mr. FUQUA, Mr. MURPHY, Mr. O'BRIEN, Mr. BERMAN, Mr. CLAY, Mr. BROWN of California, Mr. SIMON, and Mr. MCGRATH.

H.J. Res. 508: Mr. MINETA, Mr. SHUMWAY, and Mr. YOUNG of Florida.

H.J. Res. 527: Mr. DYMALLY.

H. Con. Res. 226: Mr. HARKIN.

H. Con. Res. 260: Mr. MINETA, Mr. BOEHLERT, Mr. RINALDO, Mr. PATTERSON, and Mr. WHITEHURST.

H. Con. Res. 270: Mr. NIELSON of Utah, Mr. DANNEMEYER, Mr. DWYER of New Jersey, Mr. KINDNESS, Mr. MCCANDLESS, Mr. VENTO, Mr. DEWINE, Mr. DANIEL B. CRANE, and Mr. BLILEY.

H. Con. Res. 272: Mr. KEMP.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

337. By the SPEAKER: Petition of the City Council of Arlington, Tex., relative to the Committee on the Judiciary.

338. Also, petition of the Board of Supervisors, County of Los Angeles, Calif., relative to "Anatoly Shcharansky Freedom Day"; to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3870

By Mr. PORTER:

—Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 158. Limitation relating to minimum drinking age

"(a)(1) The Secretary shall withhold from a State's apportionment under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of this title a percentage (as determined under paragraph (2) of this subsection) of the amount required to be apportioned under such section on the first day of a fiscal year if, on such day, the minimum drinking age under the laws of such State for the sale or consumption of alcoholic beverages is less than twenty-one.

"(2) The reduction in a State's apportionment under each of the sections referred to in paragraph (1) shall be twenty percent in the first fiscal year in which the minimum drinking age under the laws of such State for the sale or consumption of alcoholic beverages is less than twenty-one and an additional twenty percent for each fiscal year thereafter in which the minimum drinking age under the laws of such State for the sale or consumption of alcoholic beverages is less than twenty-one.

"(b) The Secretary shall promptly apportion to a State any funds which have been withheld from apportionment under subsection (a) in a fiscal year if during such fiscal year such State makes the minimum drinking age under the laws of such State for the sale or consumption of alcoholic beverages not less than twenty-one. Any amounts which have not been apportioned to a State under this paragraph on or before the last day of the fiscal year in which they are withheld shall be apportioned among the other States in the next fiscal year.".

(b) The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"158. Limitation relating to minimum drinking age.".

SEC. 2. The amendments made by the first section shall take effect with respect to the fourth fiscal year beginning after the date of the enactment of this Act.

SENATE—*Thursday, March 29, 1984*

(Legislative day of Monday, March 26, 1984)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable FRANK H. MURKOWSKI, a Senator from the State of Alaska.

PRAYER

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

Let us pray.

Lord of history, we thank Thee for our most precious resource next to life and health—the gift of time. We thank Thee that Thou hast endowed us all—commoner and king, peasant and president, servant and Senator—with an equal amount, and no one has a corner on it. Forgive our failure as stewards of time in the abuse of this incalculable resource. Give us an appreciation for the relentless nature of time.

Grant us the wisdom to see that the only way to manage time is to use it wisely—that if we do not use it we kill it—that we cannot store up minutes or hours—that the only way to save time is to spend it constructively.

Gracious God, may we also understand that if we are not anchored in eternity, we are the victims of the vicissitudes of time, slaves to the tyranny of the urgent. In the name of Him whose brief time on Earth was eternally significant. 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. THURMOND).

The legislative clerk read the following letter.

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 29, 1984.

To the Senate:

Under the provisions of rule I, section 3 of the Standing Rules of the Senate, I hereby appoint the Honorable FRANK H. MURKOWSKI, a Senator from the State of Alaska, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

Mr. BAKER. I thank the Chair.

STORMY WEATHER

Mr. BAKER. Mr. President, I congratulate the Chair for being here. I am sure there is no meteorological significance to attach to the fact that the distinguished President pro tempore, who usually opens the Senate and is from sunny South Carolina, could not make it in this morning. The Senator from Alaska was here and on time.

The ACTING PRESIDENT pro tempore. The Chair thanks the majority leader.

Mr. BAKER. Mr. President, that is said in jest, of course. The President pro tempore must surely have set a record for being here to open the Senate. I know of no President pro tempore who has been as diligent and dedicated as he has been in attending to his official duties and to seeing that the Senate is opened on time and under his auspices. So the little joke I made about today's weather and the unseasonable snowstorm that is swirling about outside I find irresistible but absolutely insincere.

Mr. President, I also note that I am the only Member on the floor except for the Presiding Officer. I am tempted to pass all sorts of bills, but I have an idea that would not work very well, so I will not.

I do understand the cause for the delay of my friend and counterpart, the distinguished minority leader. I ask unanimous consent that the time for both leaders under the standing order may be reserved for their use at any time during the day today.

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

SCHEDULE FOR TODAY

Mr. BAKER. Mr. President, there is a special order in favor of Senator PROXMIRE this morning. I am sure he did not anticipate that he would be recognized quite this soon. Therefore, I ask unanimous consent that it may be in order to suggest the absence of a quorum, without it being charged against his time.

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

Mr. BAKER. Mr. President, before I suggest the absence of a quorum, I will withhold any further announcement about the program for today or tomorrow until the minority leader has reached the floor and I have had an opportunity to discuss it with him. The weather is inclement—there is a snowstorm swirling outside—and I have an idea that many of our colleagues will be a little late, especially since we have convened at an early hour today. I will explain briefly why we have done that.

We have a supplemental appropriations bill before us. There are 25 amendments that the leadership is aware of on this side. We must do that bill. We must do the bankruptcy bill, and we have to do the reconciliation bill—all within fairly tight time constraints.

The Senate was asked to come in early today so that we could get a running start on the supplemental, especially on the Inouye amendment dealing with Central America.

Once more, Senators should be on notice of the strong likelihood—the near certainty—that we will be in late tonight. The only reason I qualify that at all is because of the weather. Assuming that there are not extraordinary circumstances that will indicate otherwise, we will be in late, if necessary, in order to move this bill along to final passage.

Mr. President, under the order entered a moment ago with respect to a quorum call, I now suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

HOW CAN NUCLEAR WAR BE PREVENTED?

Mr. PROXMIRE. Mr. President, I challenge any Senator to find a question that is nearly as critical for every Senator in this body to answer: How Can Nuclear War Be Prevented? If we cannot find an answer to this question, this great country we have been elect-

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

ed to serve will no longer be free. It will die. It will literally perish from the Earth. For more than 30 years—ever since both superpowers acquired the capacity to destroy the other superpower totally—this terrible threat has confronted us. We have stumbled into a policy of deterrence that has worked for 30 years. But it probably will not work for the next 30 for two reasons. First, the nuclear arms race pushes both sides toward technologies that can collapse deterrence and end the principle and the means by which we have survived the nuclear age as long as we have.

This collapse could take place far more quickly than many have assumed. The highly respected national security expert from the New York Times, Leslie Gelb, has recently written that within the next 10 years, technologies could advance so fast that nuclear deterrence which is presently our prime salvation could evaporate.

The second threat of nuclear war comes from the proliferation, the spread of nuclear weapons. As long as 2 years ago, our military intelligence estimated that by the year 2000—16 short years from now—31 nations will have nuclear arsenals; 31 nations, Mr. President, including both Iran and Libya. If that does not give you nightmares, nothing will. What would inhibit a dictator like Khomeini or Qadhafi from using this final power to destroy, and destroy utterly, whatever opponent he might select. Hand either one of these dictators a nuclear arsenal and no place on Earth would be safe. Using carefully trained terrorists and portable nuclear weapons, they could decapitate either the Soviet Union or the United States—wipe out the entire government of either country. Would our giant nuclear power deter such an act? No. With 31 nations and one or two terrorist groups holding nuclear arsenals, how would we know where to retaliate?

So, Mr. President, the first step in preventing nuclear war must be to stop the onward rush of technologies that could eliminate the deterrence that has kept the peace for the past 30 years. And how do we stop the onward rush of technologies? Many argue that there is no way we can arrest the progress of science, any kind of science. They see progress as inevitable. Many even see it as more than a little bit sacred. Even a technology that could exterminate the entire human race, they feel that somehow we have to proceed—if it eliminates the human race, in the view of some people, it seems to be, so be it. Well, Mr. President, technology, especially nuclear weapons technology, is not sacred, not even a little sacred. And, fortunately, nothing in life is inevitable, except maybe death and taxes. Stopping the onrush of nuclear weapons technology requires a single simple action. It requires the end of nuclear weapons testing. Given the nature of the Soviet Union and other nations that already have nuclear know-how, we would have to end nuclear testing with effective verification agreements. This raises two questions: First, would an end to nuclear weapons testing end the nuclear technology arms race? Second, could we confidently verify an agreement to stop nuclear arms testing?

The answer to both questions is an emphatic yes. The head of one of our two principal nuclear arms testing labs has publicly said that to stop nuclear weapons testing would perform a frontal lobotomy on effective nuclear weapons research. It would end. Every theory has bugs in it. Improving and modernizing nuclear weapons requires constant and repeated testing. Since 1963, we have prohibited testing except underground. Since 1974, both superpowers have abided by an agreement to limit underground nuclear arms testing to 150 kilotons. Underground testing at this power level is ample to permit nuclear arms research to race ahead. Indeed, the two superpowers have made over 1,000 nuclear weapons tests at the 150-kiloton level or below. Experts have assured us we could lower the power threshold to 2 or 3 kilotons or even permit no test explosions. But could we still monitor compliance with the ban? Experts insist that we could. In fact they argue that this kind of verification is the surest kind of compliance technique, surer than compliance with agreements to freeze manufacture or deployment of nuclear weapons. In recent years, the technology of detecting explosions has sharply increased. It might be necessary to permit location of test verification sites within the borders of both superpowers. It may surprise many people to hear that the Soviet Union has agreed to permit us to locate as many as 10 monitoring stations, and perhaps more, within the Soviet Union. They have agreed to that. It would certainly require agreement to permit inspection without notice of any suspicious evidence. And, again, the Soviet Union has agreed to this in principle. But the objective of assuring an end to the technological arms race is so critical that we should seek this agreement just as promptly as possible.

That leaves the other most serious threat of nuclear war the prospect of proliferation of nuclear arms. The specter of 31 countries armed to the teeth with nuclear arsenals should galvanize us into the most vigorous action to stop this proliferation at once, and stop it cold.

That means we cease at once any export of nuclear technology to any country that has failed to agree to international inspection to assure that the country receiving our nuclear technology does not divert it to military purposes. This also requires that we greatly strengthen the capacity and authority of the International Atomic Energy Agency. And above all, it means that we use every bit of political and economic muscle we have to crack down on any country anywhere that provides nuclear materials or equipment to a country that could divert those materials to military purposes.

CHAMPION OF JUSTICE

Mr. PROXMIRE. Mr. President, today I would like to recognize one of the great civil rights leaders of all time. Last week Clarence Mitchell died. He was truly a "Champion of Justice."

Clarence Mitchell fought for many years not only for the rights of blacks, but the equality of humankind. As a lobbyist for the NAACP, he committed his life to working for others—securing civil rights legislation, now historic laws of this great country that Clarence Mitchell so loved.

And he was loved in return. The respect and admiration for Clarence Mitchell was more than evident at his funeral service on March 23 where crowds of people waited outside of the church to pay tribute.

Clarence Mitchell struggled tirelessly to uphold justice and human dignity. He saw the dire need for equality and preservation of all people no matter from what national, ethnic, religious, or racial group they came.

Our efforts as a nation toward securing human rights will persist. An opportunity to affirm the U.S. commitment to the preservation of human life lies in a treaty that was written over 35 years ago. The Genocide Convention awaits this country's ratification.

The United States lack of support for the Genocide Convention weakens the meaning and purpose behind all other human rights principles. This international treaty assures people of their most basic human right—the right to live—the fundamental right out of which all other human rights grow.

Mr. President, I had the privilege of knowing Clarence Mitchell in the years that he lobbied for the NAACP. I have been in this body for 27 years and very often I have talked with Clarence Mitchell. He was a gentle, kind, thoughtful, tolerant human being. He will be missed as a human being as well as a great fighter for human rights.

Clarence Mitchell will not be forgotten. He is an historic leader and represents much of what this country stands for. Let us reaffirm the human rights for which the United States

stands by at long last ratifying the Genocide Convention.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 9:30 a.m. with statements therein limited to 2 minutes each.

SCHOOL PRAYER

Mr. HEFLIN. Mr. President, the Senate has just completed a long and arduous debate on school prayer. Although various surveys state that as many as 80 percent of Americans favor prayer in public schools, the Senate failed to pass legislation to insure them this right.

Many Senators, I believe, who could not support the recently defeated school prayer legislation, are in fact supportive of the concept of school prayer. These Senators sincerely believed that certain problems, such as voluntariness and Government intervention were not addressed by Senate Joint Resolution 73. Many other Senators supported a silent prayer or meditation alternative. We need to write language we can all stand behind—to bring all those who support prayer together in a spirit of cohesion and cooperation.

As my colleagues know, I have long supported and have actively worked on the prayer issue. So today, Mr. President, I am suggesting language to be studied and considered by this great deliberative body. I am by no means wedded to this or any other language, but I hope, as many of my colleagues do, that we can see our way to an agreement to restore the right of our schoolchildren to pray while respecting the rights of those who choose not to participate.

In this spirit, I suggest the following language as a starting draft:

> Nothing in this Constitution shall be construed to prohibit voluntary individual or group prayer, silent or vocal, in public schools or other public institutions. Neither the United States nor any State shall require any person to participate in prayer or meditation, nor shall they compose or encourage any words or form of prayer or meditation to be used in public schools.

Mr. President, it is my hope that we can use this language, or some similar language, to settle our differences and bring about cohesion among all supporters of prayer. The resulting dialog will put us on the road to developing language that we can all be satisfied with and wholeheartedly support.

One issue of concern to all of us, and that includes both those who are for and against prayer, is that children should not be coerced to pray. Adding the word "voluntary," which was not included in Senate Joint Resolution 73, should alleviate many concerns.

As I believe we all agree, prayer should come from the heart and not be forced.

My suggested language also preserves the right of silent prayer or meditation which is currently subject to conflicting court decisions. This discrepancy needs to be addressed for those school systems that wish to set aside time for this practice.

Many Americans and many of my colleagues also expressed concern that neither the words of the prayer nor the form of prayer be composed or even encouraged by the State or Federal Government. The language I am proposing would make this clear. I think that with this language as a starting point, we can draft an amendment that Americans of all faiths can support with pride.

Mr. President, as I have often said, I do not believe that our Founding Fathers meant for the first amendment to prevent our schoolchildren from expressing their faith, regardless of their religious denomination. We have simply gone too far in the direction of infringing upon the free exercise of religion in our zeal to prevent any semblance of the establishment of a national religion. With the many and vastly differing religious convictions and denominations that we have, I do not believe that there is a danger that voluntary school prayer will violate this principle. I would hate to see the school prayer effort fail through a lack of agreement on language, which I am certain can be achieved through reasonable discussion, thought and study.

Thank you, Mr. President.

THE RETIREMENT OF GORDON ENGLEHART

Mr. LUGAR. Mr. President, my distinguished colleague, Senator QUAYLE, and I want to take the opportunity today to honor a great Hoosier who is retiring from his honorable profession.

Although he has been in the employ of an establishment located on the wrong side of the Ohio River, there have been few greater Indiana newspapermen than Gordon Englehart of the Louisville Courier-Journal.

For the past 24 years, Gordon has reported on Indiana from the Courier-Journal's Indianapolis bureau. He has written about the greats, near-greats, and not-so-greats of Indiana politics with a keen understanding of the fortunes, foibles, and follies of our calling.

When I first ran for public office, Gordon was there scrutinizing me. He has continued to do so over the years. He has been sharp, but fair. We have spent many pleasurable hours traveling around the State on various campaign swings. I will miss his company, although I think Gordon will not miss the multitude of chicken dinners.

Hoosiers take their politics seriously, and so has Gordon. One of our great Governors, Ralph Gates, once said that Indiana politics "gets down to the grassroots where it all emanates from." I am sure the good Governor meant that the "it" that was emanating was democracy, although any good Hoosier knows there is a lot more in the roots than just that. Gordon has kept his eagle eye out for everything down there, and his insight and compassion is as deep as the rich black Indiana soil.

Gordon is leaving all that political agriculture for his real career pursuits of fishing and "birding." I am sure he will find them rewarding. My best in the years to come to Gordon and his wife, Martha.

Mr. QUAYLE. Mr. President, I rise to bring to the Senate's attention a momentous event taking place in Indiana this Friday.

On March 30, just 2 days past his 62d birthday, one of Indiana's most distinguished journalists is bringing to a close a 38-year-long career in the noblest of professions. Gordon Englehart is taking early retirement after having served as the Indianapolis bureau chief for the Louisville Courier-Journal for the past 24 years.

Gordon was born in Brazil, Ind., on March 28, 1922. He went to grade school and Western High School in Washington, D.C., where his father was a lawyer with the Justice Department and later in private practice. Gordon then attended Indiana University, graduating in 1942 with an A.B. in journalism. He served 43 months in the U.S. Army, where he rose to the rank of first lieutenant in charge of a rifle platoon in the 9th Infantry Division before he was honorably discharged in August 1946.

In the fall of 1946, Gordon began paying his dues in journalism first as a reporter with the Lima News in Lima, Ohio, and then on the staff of the Dayton Daily News. On June 7, 1950, Gordon Englehart moved to the newspaper he has been with for the past 34 years.

At the Louisville Courier-Journal, Gordon started out as a copy editor and then handled reporting assignments, including a year with the paper's Washington bureau. Back in Louisville, Gordon became the Courier-Journal's night city editor and then its assistant city editor. It was on April 4, 1960, that Gordon began the assignment he is relinquishing Friday, the Indianapolis bureau chief of the Louisville Courier-Journal, the biggest source of news on Indiana's State government and officials for hundreds of thousands of southeastern Indiana residents.

For the past 24 years, Gordon Englehart has covered Indiana politics the way it should be covered. He brought to his work an abiding respect for government and a deep understanding of the nature of public life, but he always told it like it was. At press conferences, Gordon's questions were always pointed and tough, demanding exact answers. Careful not to let the confines of the State capital skew his perspective or judgment, Gordon regularly traveled around the State. When candidates or officeholders took off on stamina-testing trips around the State, making stump speeches, pressing the flesh, touring factories and stopping by small rural Indiana towns, Gordon would be there, recording and making sense of it all for his readers.

For Gordon Englehart is that rare reporter who both gets his facts right and writes his story with a nice turn of phrase. He has the common touch that all great political reporters have; he can talk with all sorts of people, understand their thoughts and feelings and then write it all up so clearly that his readers gain a firsthand impression of each day's news. Even politicians and self-appointed politicos valued Gordon's reports. Unfailingly accurate and informative, Gordon's stories have also been consistently educational, reflecting his expertise in how government works—and should work.

As Gordon retires with the publication of his final column this Sunday, we, his admiring readers, lose a virtually indispensible guide to Indiana politics. To quote Ed Ziegner of the Indianapolis News, Gordon's colleagues consider him "a reporter's reporter, a newspaperman's newspaperman, something not lightly said about someone in our profession. His total integrity, fairness, and honesty, and his enormous skill as both reporter and writer are universally respected and admired by those in journalism and politics."

Gordon's newspaper will miss his authoritative byline. So will his readers, Indiana's politicos, and his fellow reporters. But even as Gordon files his last story as a daily newspaperman, I must say I expect we will continue to hear from him. I cannot imagine that even the richly deserved blessings of retirement Gordon now turns to—the company of his wife Martha and their three children and three grandchildren, more time to fish and read, no more deadline pressures—will keep him away from his craft for long. Whatever he undertakes, I am certain it will be written with the same intelligence, skill, and fairness he has brought to his entire career.

On behalf of my entire family and for the people of Indiana, I am pleased to wish Gordon Englehart a happy, healthy, and hearty retirement.

REAGAN'S DEFENSE STRATEGY: IT'S UNAFFORDABLE

Mr. WEICKER. Mr. President, as Congress begins reviewing the new defense budget, the perennial question arises: How much is enough? The question becomes all the more urgent at a time when budget deficits in the hundreds of billions are weakening our economy.

The Department of Defense is requesting $305 billion in appropriations for fiscal year 1985 and projects a need for a total of $1.8 trillion over the next 5 years, 1985-89. These figures may be reduced slightly as a result of President Reagan's recent budget proposals, but the exact sums involved in these cuts have not yet been determined within the Department.

If approved by Congress, this would constitute an unprecedented peacetime military budget, exceeding in constant dollars peak funding levels attained during the Korean and Vietnam wars, periods when the United States was procuring vast quantities of arms and munitions to support large-scale warfare in Asia.

The massive fiscal year 1985 budget request and new 5-year plan follow four Reagan defense budgets for fiscal years 1981-84, for which Congress has already appropriated nearly $900 billion. Taken together, Reagan defense plans envision appropriations totaling $2.8 trillion.

Such sums defy understanding. They are overwhelming. And here in the Congress, the prevailing view is that they are also excessive. That assessment is reflected in the $32 billion cut from the last two budgets—fiscal year 1983-84—considered.

However, these cuts have not had the desired effect. They seem to have succeeded in irritating the military without being interpreted as a clear signal for reform. The military's response has been to ask for more and more money each year on the grounds that Reagan defense plans, far from excessive, fall considerably short of what is required.

That $2.8 trillion could be considered inadequate in meeting our defense needs is as alarming as it is absurd. It tells me that defense spending is out of control.

Still, the Pentagon has a point. There is a wide gap between current defense strategy and the capabilities of our Armed Forces to carry out that strategy. There is a similarly wide gap between current defense strategy and the resources available to commit to our Nation's defense. In simple terms, the military is saying, correctly, that existing and programed forces—those contemplated in the 5-year defense plan—are not adequate to execute the strategy dictated by our stated national security and foreign policy objectives.

The Defense Department recently attempted to quantify the magnitude of the gap between resources and strategy and arrived at a figure of $750 billion for the period covered by the 5-year plan. The disclosure of this finding caused a furor in the Pentagon. The administration is extremely sensitive about the existence of this gap—so sensitive in fact that when word of it leaked to the press, many senior and military and civilian officials were forced to take lie detector tests, including the Deputy Secretary of Defense and chairman of the Joints Chiefs of Staff, in order to uncover the source of the leak.

Although the true extent of the gap is not known, it is reasonable to assume that it does exist, that it is very large, and that the administration has made little or no progress in closing it. Its very existence belies administration assertions that its defense program will do the job, as long as Congress keeps appropriating the funds for it. On the contrary, it leads to the inescapable conclusion that more money will not solve the problem. If $2.8 trillion is not enough, then the gap cannot be closed and money is not the issue.

When the Reagan administration took office, it did so with a strong mandate for strengthening our defenses. This was a golden opportunity to perform some radical surgery on the defense budget—to overhaul it, eliminating hundreds of marginal programs and producing a budget that would be consistent with more attainable goals—but no one took the time to assess the strategy and objectives. Instead, the administration moved quickly to add billions onto many ongoing programs and even started a few new ones along the way. The result was predictable. The administration's goal of revitalizing our military capabilities is not being realized and will not be so long as the current approach is pursued.

Had the administration paused to evaluate the assumptions underlying the need for more money, the outcome might have been different. As it is, the administration's best thinking on strategy is outlined in a document known as the "Defense Guidance," but the ideas set forth in this document are so out of line with reality as to be virtually useless as a guideline for determining appropriate funding levels for individual programs.

This administration seems to measure military strength in terms of dollars in the budget, and by those standards, it has been very successful. But military capabilities are best determined by the capacity of the force structure—divisions, air wings, ships, et cetera—to fulfill our national security objectives.

Our principal national security objective is to maintain adequate nuclear and conventional forces to deter Soviet aggression globally. The United States has an effective nuclear deterrent today, and with the modernization programs in progress—even exclusive of the MX missile—the effectiveness of our deterrent is assured for the foreseeable future.

Our conventional forces are another matter. Those forces are supposed to be capable of defending four areas of the world of critical interest to the United States—Europe, the Middle East, Southwest Asia, and East Asia and the Pacific. In calculating the forces needed to protect these interests, military planners assume that Soviet aggression would occur in at least two of these regions simultaneously and that a long conventional conflict would ensue between the superpowers.

In order to meet existing national security objectives, we would need to: First, expand the force structure; second, man the force with competent, well-trained personnel; third, equip the force with modern, effective weapons and equipment; and fourth, stockpile the supplies necessary to sustain the force in wartime until the industrial base could begin to meet its needs.

With the exception of some improvement in the quality of personnel joining the Armed Forces and some modest modernization, these conditions are not being met. Our military capabilities are not increasing, and the forces still lack the depth in logistics to sustain high intensity wartime operations. Needed improvements are not in the offing.

Under this administration, there have been numerous plans for expanding the force structure, but in the case of the Air Force, those have been abandoned entirely. The Army is now at its lowest strength in 33 years and is eliminating mechanized maneuver battalions. Both the Army and Navy harbor hopes for expansion in the future. But, it must be asked, at what price?

So the Reagan defense strategy is not only unaffordable. It is also built on sand.

It has fallen victim to a familiarly vicious circle. Current defense strategy provides the proper justification for creating and sustaining programs considered essential to its successful execution. While these programs do indeed exist, they are transparent. They are underfunded for the most part and could never be completed. To make matters worse, these programs are sustained with minimal funding diverted from the operating forces, which in turn leads to contraction of the force structure and in the end makes for a hollow strategy.

Our procurement process illustrates the problem of too many programs and not enough money to support them. The funds in the procurement account are used to support modernization of the forces. That process is continuing but at a pace slower than anticipated. Despite very substantial increases for procurement programs in the last 4 years—about 175 percent, rising from about $40 billion in 1981 to $110 billion in 1985—the Defense Department is finding it necessary to stretch out production programs by reducing the quantities of weapons to be procured. The problem is this. When the calculations are made to determine what level of funding these programs will require in future years, it is assumed that unit costs will decrease over time. The fact is, they almost never do. Therefore, procurement programs are consistently underfunded—perhaps by at least $100 billion over the next 5 years. When money is allocated within the Department, the shortfall for procurement is covered at the expense of operating and readiness programs. Thus, their share of the budget has been declining steadily since 1981, while the proportion given to procurement has been increasing.

This is a deep-seated, longstanding problem of mammoth proportions. Congress has been grappling with it for years but without success. This is because Congress takes the piecemeal approach, trimming a program here, nicking one there, without addressing the root causes of our current defense predicament. By doing this, we merely make matters worse. It is time we run up the white flag and confess we are not equipped to address them, either. Neither should it be our responsibility. Administration strategists are the ones who must address the central weaknesses in national security and defense spending. They can start by thoroughly reviewing the foreign policy and national security objectives upon which our current defense strategy is based. Here it may be necessary, even desirable, for the Congress to have some input. We should make it clear that we stand ready to cooperate.

Then it will be up to the Department of Defense to devise a strategy that is affordable. This does not mean abandoning our commitments around the world. But it will mean abandoning certain planning assumptions used in determining how we will meet those commitments. It may very well mean that we can no longer plan to fight several large-scale conventional wars with the Soviet Union at one time. Any realistic 5-year plan will, contrary to current practice, give greater weight and credibility to the military strength of our allies.

Once the issues surrounding strategy are resolved, the force structure and programs can be tailored to match the scaled down objectives. This will prove to be politically painful and thus difficult to achieve. Research and development and procurement programs—and there are hundreds of them—will have to be reviewed, and those that fail to meet the new criteria must be terminated. When they are subjected to scrutiny, many programs will be found unnecessary and deficient in supporting any strategy. Savings derived from program terminations would be used in future years to adequately fund those programs deemed essential.

Some wonder how I can advocate cuts in the defense budget when there is so much defense industry in the State of Connecticut. Defense programs in Connecticut should be judged on their own merits as programs in other States should be, and if found to be lacking, they should be cut or terminated as needed. Industry, States, and the Nation as a whole would be healthier and stronger if wasteful and unnecessary programs could be rooted out and eliminated—wherever they are, including the State of Connecticut.

I have a list of programs that could be terminated, but in the absence of a viable strategy, such a list is strictly hypothetical. My proposals could yield savings of $100 billion over the next 5 years, but by far the greatest savings would come from not having to pay the operation and support costs for terminated weapons systems. As one dollar of investment in military hardware usually leads to $2 or $3 of support costs, my proposals would eventually save several hundred billion dollars over the next 20 years.

Toward this end, I recommend that the Senate consider holding fiscal year 1985 defense appropriations to the level provided for fiscal year 1984. In my view, that level of funding would provide an adequate framework and the necessary incentive within which the needed reform would begin. If Congress keeps pouring money into the defense budget, that reform will never occur.

In response to mounting pressure to deal more effectively with the deficit, President Reagan has proposed some very modest reductions in the defense budget over the next several years. Those, however, will not go far toward resolving the root problem. Instead of forcing the military to set priorities and to terminate all marginal programs, the proposed cuts will be accommodated within the budget in the usual fashion—by stretching out weapons acquisition programs and by cutting combat readiness and force structure. The approach is wasteful and irresponsible.

Some may doubt the political feasibility of my proposal, but surely the people of this country will not long tolerate Pentagon buying sprees at the expense of excellence in education, affordable housing, and an economy able to compete on world markets. Na-

tional security is not just a defense budget. It is the sum total of many factors, including quality of life and quality of political leadership. And if we in the Congress are to exercise this sort of leadership over defense spending, then the Department of Defense must be forced to develop an affordable military strategy.

ANTITRUST POLICY

Mr. WEICKER. Mr. President, on March 20 the Supreme Court of the United States, in a unanimous decision in Monsanto Co. against Spray Rite Service Corp., refused to consider a change to present law that vertical price fixing agreements are subject to per se treatment. This important decision should hopefully put to an end any efforts by this administration to rewrite the antitrust rule book and return their attention to the important job of enforcement.

A clear signal has been sent by the Court to businesses across this country that all businessmen will be allowed to compete independently. Manufacturers will not be allowed to control retail prices.

Vertical price fixing is an anticompetitive practice that adversely affects small business, results in higher prices for consumers, and protects and promotes inefficiency. Most importantly, vertical price fixing also limits the free exercise of business judgment by independent distributors and effectively eliminates price competition among retailers.

For more than 70 years, the Supreme Court, the Congress, and the executive branch have consistently condemned vertical price fixing as one of the most serious and costly of all antitrust violations. In 1890, Congress with the passage of the Sherman Act made it clearly unlawful for any contract agreement, combination, or conspiracy to establish or maintain minimum resale prices. More recently, in 1975, with the repeal of the fair trade laws, Congress again went on record in opposition to the fixing of prices at the retail level.

The antiturst statutes form an important first line of defense against unfair competition. Enforcement of the antitrust statutes should be based on laws written by Congress rather than the economic philosophy of a particular individual.

In statements before the Senate Small Business Committee, and in interviews with the media, the former Assistant Attorney General, William Baxter, indicated he would not enforce the law, and that vertical price fixing is not always harmful.

Although the Government was not a litigant in Monsanto against Spray Rite, Justice officials on their own initiative filed an amicus brief to attempt to convince the Court to ignore the intent of Congress and past Court interpretation by making some vertical price restraints legal. At no time did the Department of Justice submit a legislative package to Congress to seek such a change.

Justice Brennan, in his concurring opinion in Monsanto against Spray Rite, states:

> As the Court notes, the Solicitor General has filed a brief in this Court as amicus curiae urging us to overrule the Court's decision in *Dr. Miles Medical Co.* v. *John D. Park & Sons Co.*, 220 U.S. 373 (1911). That decision has stood for 73 years, and Congress has certainly been aware of its existence throughout that time. Yet Congress has never enacted legislation to overrule the interpretation of the Sherman Act adopted in that case. Under these circumstances, I see no reason for us to depart from our longstanding interpretation of the Act.

This decision should make clear to the Department of Justice and the Federal Trade Commission that the people of this country expect the ban against vertical price fixing be enforced. This decision is heartening news to this Senator, the Congress, and the small business community, who are committed to free and open competition.

POTASH

Mr. DOMENICI. Mr. President, a few months ago I took the floor of the U.S. Senate to tell my colleagues the state of the American potash industry. I told my friends that the state of the industry was not good.

Just a few weeks ago there was a hearing in New Mexico in which Senators DANFORTH, BINGAMAN, and I explored the difficulties faced by our extractive industries in New Mexico. In part of that hearing, representatives of the potash industry presented testimony on the plight of that industry. Although there is some good news on the horizon, many jobs have been lost in New Mexico communities because of the hard economic times faced by the potash industry.

Carlsbad, N. Mex. is the home of America's potash industry and as a small community by national standards, the troubles of the potash industry have hurt the community dramatically.

As you will recall I stated earlier that the problems of the potash industry were multiple in nature but that the worldwide recession had led to predatory trade practices by some of this Nation's competitors in the fertilizer industry.

As I stated a few months ago, I will continue to support free trade as a national policy but free trade also means fair trade. I would state categorically that fair trade has not been the norm in the potash marketplace.

There is no doubt in my mind that potash workers from the Carlsbad area have been hurt by foreign competition. And there is no doubt in the minds of our Federal Government on this point. In January of this year the Department of Labor made unemployed workers from two mines in Carlsbad eligible for aid that is awarded to workers who can show that foreign competition is responsible for their unemployment. I would point out that the determination of this fact is not automatic but rather comes after a process in which the workers must present evidence to support their claim of adverse foreign impact.

The only question that really remains now is whether or not this foreign competition is using unfair trade practices in attempting to undercut the American potash industry. In my mind that question was settled over 1 year ago but again there are methods and procedures for making that determination.

Today, two American potash companies filed an unfair trade complaint against foreign nations. The countries are the Soviet Union, East Germany, Spain and Israel. Although the suit is highly complicated, the basic charge is that these countries are subsidizing their products in order to gain advantages in the American marketplace and dumping their potash on our market.

I am glad that this suit has been filed and I am hopeful it will be successful in putting an end to the unfair trade practices used by these nations. Unfortunately, today the world economy has changed. Many of today's methods of lipservicing free trade and then subsidizing are not covered by current agreements. This means that our trade laws do not at times provide adequate relief to our damaged industries.

For instance, our American potash companies compete against foreign companies that are owned by governments. Futhermore, in some of these nations the government also operates the transportation system and in some cases also owns the nations' financial system.

This vertical integration not only gives these nations built-in advantages but also allows those countries widespread opportunity to shortcut why they compete against American companies.

Mr. President, I strongly support the efforts these companies are making to save the American potash industry from predatory trade practices. I will continue to work closely with these companies on this lawsuit as well as on other remedies needed to insure that fair trade once again is truly present in the world marketplace.

DEFICIT REDUCTION BY PRESS RELEASE

Mr. HATCH. Mr. President, there has been a lot of self-applause around here the last 2 days for the House Democratic leadership's "pay-as-you-go" 3-year $182 billion deficit-reduction package. I question whether all that applause is deserved.

What does this vaunted plan do? In real dollars, it has $96 billion in defense spending reductions but only 12 billion dollars' worth of domestic spending cut-backs, plus $52 billion in new taxes. I would say that is a lot less balanced then the $40 billion in defense savings, $43 billion in domestic spending savings, and $48 billion in tax loophole closings in even the Republican deficit-reduction package. And, not only is their spending reduction unbalanced, but the House Democratic leadership plan promises we would pay for any further spending growth in any of these areas by even heftier tax hikes—spending growth and tax hikes I am sure we would get.

Thus, Mr. President, I would say the applause for this plan is unwarranted. I doubt its economic assumptions and I question its forthrightness.

I see, reflected in the House Democratic budget, a sense of panic over the large deficits that have been generated by 30 years of a wild spending spree. Nonetheless, it would be inadvisable for us to accept the House Democratic proposals because they are damaging to the economy, damaging to our national security, and do not solve the real, underlying problem with current fiscal policy.

Let me get to the heart of the matter by pointing out that as an indicator of the damage caused by our fiscal policy, Federal spending is the best measure. Federal spending is the key because it is the best measure of the fiscal disincentives imposed on the private sector by the Federal Government. In the end, it makes only a small difference whether we finance spending by raising taxes or borrowing funds, as long as we do not expect to do so forever. Increased taxes discourage work and investment, and, likewise, borrowing discourages both investment and consumption by raising interest rates. Each takes resources out of our economy for use by the Federal Government, often for programs that are of questionable value.

So the size of the deficit simply tells us how Congress and the administration have chosen to fund Federal spending and not how damaging fiscal policy is to the economy.

A better measure of the burden of fiscal policy, as I have said, is the total amount of Federal spending. We ought to measure the number of jobs destroyed, the number of businesses closed, and the amount of income removed from the economy by Federal spending. Yet, this is a side of fiscal policy often overlooked. Recent years, of course, have seen a resurgence of concern about either the negative impact of high tax levels or the damaging effects of deficit spending. Nevertheless, very few concerned commentators in Washington focus their attention on the force that drives both of these variables—Federal spending.

It has been popular to claim, over the last 2 years, that the tax cuts of 1981 are the cause of today's large deficits. One way to lay this impression to rest is to look at Federal revenues and spending as a percentage of national income. Comparing these figures as percentages of national income illustrates the increasing burden of Federal financing. In 1973, revenues were 23.8 percent; in 1983 they had increased to 24.3 percent. In contrast, in 1973, Federal spending amounted to 24.3 percent of national income, but by 1983 it surged to 31.2 percent, a 6-point increase. Clearly deficits are not the result of a lack of revenue. Federal spending is to blame.

It has also been said over the last few months that the $200-billion-a-year deficits will terminate the current economic expansion. While I do believe that Federal policy, particularly monetary policy, could produce this result, there is no reason to expect that the current deficits will produce a termination of the recovery. The economic actors in the financial markets can see as well as I can the proven congressional track record of fiscal irresponsibility. They know, as I do, that despite a certain amount of fiscal conservatism in press releases, there is unlikely to be any real control of Federal spending, especially domestic spending.

Look, for example, at what has happened as a result of implementing that "notable tool of fiscal control," the congressional budget process: Spending has grown at a faster rate than it did before the 1974 act was passed. So I would be surprised if participants in the financial markets, well aware of this congressional track record, have not adjusted their anticipations and actions accordingly. Thus the continuing large deficits introduce no new variable to change the expectations in the financial markets and to terminate the recovery.

Mr. President, do not get me wrong. My objection to these predictions does not mean that I applaud these deficits and the excessive level of Federal spending that produces them. I deplore them. And do not believe for a moment that I underestimate the harm they do to our overall economic prospects. These deficits and the excessive Federal spending are extremely damaging in the long run.

Look also at what the House "pay-as-you-go" plan does to defense. It would limit defense to a 3.5-percent real growth above what was appropriated by Congress last year—and the amount appropriated was already $4 billion less than that promised in the congressional budget resolution. And, the House leadership plan tells us, we can have this 3.5-percent growth only if we raise $52 billion in new taxes over the next 3 years, with any further defense growth having to be paid for by still more taxes. What does this really mean for defense spending and for your taxes?

The President tells us that the absolute minimum defense spending growth necessary to our national security—the minimum necessary to remedy years and years of neglect—is an average of 5-percent real growth over the next 3 years. The House Democratic plan whacks another $56 billion off the amount the President would save, off the President's minimum figure. So, if the House Democrats were to face up to reality and properly fund defense spending, you would have to add that $56 billion to the $52 billion in taxes they already want—all for a grand total of $108 billion in new taxes over 3 years simply to fund an adequate defense!

There is one other, very interesting aspect of the House Democratic leadership deficit-reduction package, an aspect that forces me to label it little more than "fiscal policy by press release." How will their plan be enforced? Is their commitment to deficit-reduction in any way binding? No. It is only publicity.

The House leadership and Budget Committee package, even if it is adopted by the full House, is in no way binding on the House. They are not really committing themselves to anything. They would adopt their package in a budget resolution, which is no more than a blueprint for higher spending and higher tax policies. A budget blueprint has no teeth in it, and we have a proven track-record of Congress ignoring these blueprints in their actual taxing and spending actions.

In contrast to this House procedure, the Senate leadership intends to write directly into law, to be signed by the President, the 3-year spending targets contained in the Republican $150 billion deficit-reduction package. So, at least this Republican package would be deficit-reduction by law. But the House Democratic leadership package would be deficit reduction by blueprint—a blueprint rarely, if ever, followed.

No wonder it is fair to call the Democratic commitment to deficit reduction "fiscal policy by press release." A press release is just about all you will get from them—a press release, and greater domestic spending, and higher taxes, and, you watch, very, very little deficit reduction.

DR. BENJAMIN E. MAYS

Mr. HOLLINGS. Mr. President, yesterday Dr. Benjamin E. Mays died.

The tragedy of life does not lie in not reaching your goals. The tragedy is having no goal to reach. It is not a calamity to die with a dream unfulfilled. It is a calamity to never have dreamed.

Thus he described his own philosophy of life.

Benjamin Mays had dreams. He reached and surpassed goals. And because of those goals and dreams, he leaves behind a vastly better nation than he found, and to those of us who continue to dream, his memory will be an inspiration forever.

The life of Benjamin Mays stands as a monument to human existence, or, at least what human existence should be—learning, understanding, teaching, and learning again. Here was a man who saw life as a never-ending quest for justice and truth. And he not only found truth, he proclaimed it by word and deed for men and women of all races, all religions, and from all walks of life. You could not know Dr. Mays and not learn from him. It was my high honor to have done both.

Born of slave parents in Epworth, S.C., Dr. Mays developed early his love of learning and his faith in the power of education. Even as a boy he understood that education was the road to freedom. He recalled later in life momentarily putting aside his farming chores and going into the woods to pray that he might become an educated man. "I prayed myself into an education," he said. Taught by his sister to read, Benjamin Mays overcame obstacles such as we can barely understand in this day and age to graduate from South Carolina State College and Bates College and go on to win a Ph. D. from the University of Chicago.

He began his teaching career at Morehouse College and taught at South Carolina State College. And during the 1920's and early 1930's, he served with the Tampa Urban League, as national student secretary of the YMCA, and he conducted a pathbreaking study of black churches in the United States.

From 1934 to 1940, Dr. Mays served as the dean of the School of Religion at Howard University in the District of Columbia. In 1940 he commenced his brilliant career as president of Morehouse College in Atlanta.

It was during these years at Morehouse that he served as teacher and inspiration to Dr. Martin Luther King, Jr., and other major figures in the civil rights movement. In point of fact, Dr. King often lovingly described Benjamin Mays as his "spiritual mentor." He was a college president who gave generously of himself to the Morehouse student community, and he took that struggling institution and turned it into one of the strongest colleges in the country.

Perhaps what many students would remember best about him, however, were those weekly sermons that he preached in the chapel at Morehouse for some 27 years. Someone said of him, thinking back on the Mays sermons, "he wanted to invent souls. He wanted to root out the weaknesses and the evasions which were the heritage of 300 years of spiritual and material oppression." His emphasis was always on inspiring the individual to maximum attainment. "No person deserves to be congratulated unless he has done the best he could with the mental equipment he has under the existing circumstances," Mays said.

Dr. Mays retired from the presidency of Morehouse in 1967 and was immediately accorded the title of president emeritus. Subsequently he served as president of the Atlanta Board of Education for 12 years, and the contribution he made in this position to the realization of racial progress and racial harmony is acknowledged by all.

Dr. Mays received scores of honors for his many outstanding contributions to our national life. There were at least 15 honorary degrees in law, divinity, and the humanities from colleges and universities across the Nation, and more than 200 other awards, plaques, and citations. He was invited to serve on the boards of many colleges and the Martin Luther King, Jr., Center for Social Change in Atlanta.

We in South Carolina have a special pride in our native son. One of his more recent honors was his induction in January into the South Carolina Hall of Fame. His birthplace has been designated an historical site, a highway has been named in his honor, and his portrait hangs in the State House of the South Carolina Capital.

All these distinctions and honors measure the accomplishment of one man, yes—but more than that, far more than that, they testify to the spiritual and intellectual leadership he has provided to this century's movement for human progress.

It was my privilege and pleasure last year to introduce Senate Resolution 188 expressing the sense of the Senate that the President award Benjamin E. Mays the Presidential Medal of Freedom in honor of his distinguished career as an educator, civil rights leader, theologian, and for him many contributions to the improvement of American society. I will be working now for the posthumous awarding of this medal.

An experience from a year ago gives a flavor of the man. I was in the congregation at the Third Baptist Church in Southside Chicago when Dr. Mays entered. He was in a wheel chair, but mentally on top of the clouds. And he delivered an amazing sermon. We were, mind you, a lay congregation and here he was talking of philosophers and oracles such as Plato, Socrates, Pascal, even Immanuel Kant. He related them immediately, cogently, and directly to our everyday lives. He spoke, he prayed, he inspired, and from the experiences of his life, every person in that congregation took new courage.

He concluded by saying:

If happiness is to be found, it will be found in pursuing and accomplishing worthwhile things, in noble living, in living more for others than for ourselves, in holding the right attitude toward all mankind. These are the paths that may lead to happiness.

Those are the paths that Benjamin Elijah Mays trod on his eventful 89-year journey through life. He dreamed great dreams, he lived to inspire others, and he accomplished goals equal to those of any man. He was a giant of our century and we will not see his likes soon again.

RETIREMENT TRIBUTE TO BENJAMIN C. MARSHALL

Mr. MOYNIHAN. Mr. President, the phrase "present at the creation," is commonly used to describe a person who has been a participant in an event of historic importance. Sometimes presence is a matter of good fortune—being at the right place at the right time. However, if an individual finds himself repeatedly involved in significant events, it cannot simply be a matter of chance—of dumb luck, but rather a measure of the talent, indeed, excellence of that individual. Such an individual is Col. Benjamin C. Marshall, Sr. (USAF, Ret.), security director of the Senate Select Committee on Intelligence, who will retire on March 31, after a distinguished career of service to our Nation, including 9 years with the U.S. Senate.

Ben started his career in the U.S. Army in 1942 as a private and quickly rose to the rank of first lieutenant. He then volunteered for flight training and was promoted to captain. He flew 36 missions in the European Theatre. And so he was present at the creation of modern air power. Not surprisingly, he joined the U.S. Air Force soon after it was established in 1947.

Captain Marshall was on his way to England with a B-29 wing to backstop the Berlin Air Lift operation when a fateful turn occurred in his career. The newly created Strategic Air Command needed a Provost Marshall at one of its bases. His work in the security field had just begun. Subsequently, he was to protect all manner of sensitive material from nuclear weapons to secret documents.

In 1971 Colonel Marshall retired from the Air Force after 30 years of service for which he received the Air Medal with four clusters and the Air Force Commendation Medal.

But his service to the public was far from over. In 1974, the House Judiciary Committee was conducting a Presidential impeachment inquiry. Ben Marshall was called out of retirement to serve as that committee's security director. It was a sad chapter in our history—not exactly a creation—but nonetheless, necesssary and important. And Ben Marshall was present; indeed, he served the subpoena for the President's tapes and he did so with his characteristic discretion—without fanfare or ceremony.

Subsequently, the Congress was embroiled in another controversy. The Senate committee chaired by Senator Church was investigating intelligence abuses. Not surprisingly, that committee hired Ben Marshall to be its security chief.

It was the Church committee that proposed the establishment of the Select Committee on Intelligence as a permanent body to oversee the activites of our intelligence community. The creation of the Intelligence Committee marked a turning point in relations between the legislative and executive branches. The committee's bipartisan spirit is reflected not only in the committee's structure—as indicated by the fact that I speak as its vice chairman, although a member of the Senate's minority—but also in its deliberations. I think it can be fairly said that the committee's oversight has resulted in a stronger intelligence community. This achievement is in no small part attributable to Ben Marshall. For the committee cannot perform its duties unless the executive branch can be assured that its confidences will be preserved. Thus the committee has a strict system for protecting classified national security information transmitted to it by the intelligence agencies. Suffice it to say that Ben has done a remarkably effective job administering this system. He provided the discipline that a fledgling committee required to make its formative years successful ones—a discipline which, if sometimes martial in its severity, was always tempered by a humorous warmth.

Because of the security requirements inherent in the work of the Intelligence Committee, very few persons can know its nature and quality and only rarely can we publicly acknowledge it. I am happy to have this occasion to do so and I know that the sentiments I have expressed are fully shared by all other members of the Intelligence Committee. We thank you Ben Marshall and wish you well in your retirement.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, has the time for the transaction of routine morning business expired?

The ACTING PRESIDENT pro tempore. The majority leader is correct. Morning business is closed.

URGENT SUPPLEMENTAL FOR FISCAL YEAR 1984, PUBLIC LAW 480 PROGRAM

The ACTING PRESIDENT pro tempore. The Senate will resume consideration of the unfinished business which the clerk will now report.

The legislative clerk read as follows:

Calendar No. 709, a House joint resolution (H.J. Res. 492) making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, for the Department of Agriculture.

The Senate resumed consideration of the House joint resolution.

Mr. BAKER. Mr. President, while the managers on both sides have a chance to assemble and get under way, I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

INOUYE AMENDMENT NO. 2853

Mr. BINGAMAN. Mr. President, I want to begin by commending the Senate, and particularly the Senator from Massachusetts, for finally engaging in what I believe is a crucial debate for the Senate and for the country. We have a very difficult situation, an increasingly difficult situation, in Central America. We have a series of major policy issues that need to be thought about before we get further involved in that situation.

I think this debate, particularly some of the amendments which have been offered, will help to crystallize our thinking on that and hopefully help us to insure that this country pursues a policy that is constructive and that does not lead to further bloodshed in Central America.

Mr. President, I would like to begin not by discussing the particular provisions of the amendment the Senator from Hawaii has offered, to reduce the amount of aid being provided to El Salvador, but to put that issue in a larger context, if I may.

In my view, our overall policy in Central America is misguided for at least three major reasons. In discussing the third of those reasons, I will comment on the proposal with regard to the level of military aid in El Salvador.

The basic problem with our policy in the region, as I see it and as it is evolving and becoming evident to us through events, is that we are putting a tremendous emphasis and reliance upon military measures and military means to achieve our objectives there.

Our policy in that area of the world has not historically allowed for the necessary change to occur, which is inevitably going to occur in many of these Third World countries. We have opted for stability instead of change in most cases, and we have used military measures of various kinds to insure and enforce that stability. I believe we are in real danger of doing that once again in Central America.

The first of the major problems I see with our policy in Central America, and one that I gather will be debated further and voted upon here in the Senate because of the pending amendment by the Senator from Massachusetts, is this country's support of what are referred to in the press so widely as the contras. These are Nicaraguans, primarily, who are engaged in a guerrilla action against the Sandinista government with the express purpose of overthrowing that government.

It is well known and no longer secret or covert in any way that this country is providing the financial support, the arms, the supplies necessary to carry on that activity. I understand that there were initially efforts to keep this subject covert, to keep it a secret war, but last week, Mr. President, I was watching the morning news and I saw Bryant Gumbel on the morning news interviewing the guerrilla leader of the contras in Tegucigalpa. I saw a feature article by a reporter named Harris, where he was taking pictures of the contras and their training and various other activities along the border of Nicaragua and Honduras. So any claim to secrecy or covertness cannot be made at this point.

I am not exactly clear on the size of that operation. My understanding when I was in Central America in December was that there were approximately 10,000 guerrillas being armed in the field by the United States at that time. I have heard figures ranging as high as 18,000 more recently. Possibly, there has been that kind of increase.

The guerrillas are engaged in raids into Nicaragua and are involved in trying through various means to destroy some of the infrastructure in that country—roads, bridges, power lines. They have mined harbors, they have done numerous other things

which they believe will help to destabilize that government and eventually bring it down.

Mr. President, I believe very strongly that this policy is wrong, primarily because it is counterproductive. It is a policy which is having the effect of strengthening the support that the Nicaraguans are giving to the Sandinista government. It is very naturally causing the Nicaraguan people to rally around their own government to resist what they see as largely a foreign invasion. I have heard predictions that there was an imminent uprising by the Nicaraguan people to rally around the contras and overthrow the Sandinista government; but, Mr. President, I have seen no evidence to support that position.

On the contrary, I believe that the popularity or strength of the Sandinistas is being cemented into place by virtue of the action that we are supporting through this contra activity.

Another major concern which we need to worry about in connection with the support of the contras is what happens when we decide or someone decides that this secret war, this contra activity, is no longer a proper course to pursue. What happens to these 10,000 to 18,000 troops who are armed and who are engaged in these activities? Where do they go? Where do they go with those weapons that have been issued to them? This is not a recipe for reducing conflict in Central America. This is not a recipe for reducing violence in Central America. I think the claim that this is necessary in order to interdict arms shipments which go through Nicaragua to El Salvador is becoming a thin justification indeed at this point.

Mr. President, I do not doubt that there were arms going through Nicaragua to El Salvador guerrillas and there may still be a level of arms going through there; I have no information one way or another. But, Mr. President, I think clearly the main purpose of that guerrilla activity today is not the interdiction of arms, it is the overthrow of the Sandinista government.

I believe it is wrong for us to support that; it is wrong for us to try to overthrow a government with which we have diplomatic relations, and whether we do it through direct action by our own troops or whether we do it through aid and assistance to others to accomplish that end is, I think, beginning to cut things fairly thin.

Mr. President, that is a major concern with our policy in Central America, one that I believe this Congress should take a strong stand to stop.

A second and very serious concern that I also believe Congress needs to focus on and, hopefully, come to grips with is what I see as a very major buildup of our military presence in Honduras. We have seen, starting last year, a series of exercises, military exercises or maneuvers as they were described to us, and they were described to us initially as very routine in nature, the type of exercises that our troops engage in throughout the world; no major reason to consult with Congress prior to the beginning of those exercises.

In fact, before the Big Pine exercise began last summer, I believe it is correct and the record will reflect that the Pentagon had a specific briefing on that issue before there was any briefing of the leadership here in Congress. When I asked the Secretary about that in one of our hearings before the Committee on Armed Services, he assured me that the reason there was no briefing of the Congress was that these were routine matters, that there has never been any interest in the Congress on routine military exercises of this kind and he did not see any reason why we would be particularly interested in this series of exercises. So we had Big Pine I.

Then we had Big Pine II last fall, which involved something around 5,000 U.S. troops being landed in Honduras, many of them involved in amphibious landing on the east coast of Honduras to practice what is involved in an amphibious landing. There were extensive facilities constructed in connection with those activities and we now have a permanent or at least a semipermanent stationing of troops in Honduras to support the exercises that are planned. This spring, we are having exercises, I believe beginning this weekend. Then, of course, we have a larger set of exercises this summer, which is the main part of the newly designated Granadero I.

General Gorman testified to us in the Armed Services Committee in open hearing that, of course, he had been asked and the United States had been asked by President Suazo in Honduras to continue and have a Granadero II and a Granadero III and IV and V and VI and on and on, and no decision had yet been made on whether to go forward with that; clearly, we could not make any decision at this time and would have to make decisions as the events unfold.

Mr. President, as I have watched these exercises take place and have toured some of the facilities that have been constructed in connection with them, in December when I was in Honduras, and when I have heard the testimony given with regard to this, it has become clear to me that the exercises are really being used by the military, perhaps for some training but also to accomplish two other fairly nonexplicit goals. Those goals that we are attempting to accomplish and are accomplishing through these exercises, as I see it, are that we are arriving at a point where we permanently station a significant number of U.S. troops in Honduras.

Today we have about 1,900 there. It varies between 700 and 5,000, or it has to date at any rate. But we have a fairly permanent installation of U.S. troops in that country. That is one of the consequences that I believe has not been adequately debated in this Congress. I believe Congress needs to be informed, needs to be consulted about the decision to permanently station U.S. troops of a significant number in a Central American country like Honduras.

The second byproduct of these exercises, which has not been adequately discussed in my view and will be discussed as part of this debate because of the pending amendment by the Senator from Tennessee, is that as part of the exercises we are building a very substantial military infrastructure, not just for the use of the Hondurans but for the use of U.S. troops as well. And again this is being done in my view without adequate discussion, without adequate consideration by the Congress.

With regard to this infrastructure, I would call particular attention to the airbase that we have in Palmerola, which is next to the town of Comayagua. I have been at this airbase. I have talked with the officials there. I have reviewed what they have done, and I have concluded that what we have in Central America at that air base is essentially a co-located operational airbase, very similar to those that we have in Europe and in the United Kingdom. Clearly, this is not something that I believe was explicitly agreed to by the Congress, but we have a situation there where the United States has made major investments to improve that facility, where the Hondurans have made some investments, where there are stationed Honduran troops and where there are stationed U.S. troops. I believe the number of Air Force personnel stationed in Honduras, according to the testimony we received earlier this year, is about 290, or was before this recent set of exercises. The others presumably are largely Army personnel.

But I do not believe the Congress has intended to establish a U.S. airbase in Honduras. The Department of Defense, of course, would argue we do not have a U.S. airbase there; this is a Honduran airbase and we have an agreement that allows us to use it.

That is fine, but I would argue the effect may well be essentially the same. Clearly, the largest presence of troops at that airbase is American. Clearly, the largest investment in that airbase is U.S. dollars. And clearly the major activity in and out of that airbase is U.S. troops, U.S. planes, and U.S. personnel.

In addition to this airbase, we are in the process of constructing somewhere between six and eight additional air-

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strips which are C-130 capable in various parts of Honduras, and the Senator from Tennessee has discussed these in open debate in the Senate. He has an amendment that goes to the question of use of operations and maintenance funds in the Department of Defense budget for construction of permanent and semipermanent facilities in Honduras. I think that debate is long overdue in this body.

Clearly, the argument can be made either way, that we should have a military infrastructure, military facilities, military personnel in the thousands stationed in Honduras or should not. I conclude and argue that we should not. But whether you argue we should or we should not, the process of establishing that should be one which allows a public debate and a debate in Congress over whether it is going to happen.

I believe that we are already very far down the road toward building a significantly military infrastructure in Honduras without this body or without the Congress ever having adequately debated whether that is the policy of this Government or should be the policy of this Government. Whenever I try to probe as to exactly what are the long-range goals we are pursuing with regard to this buildup in military infrastructure, the response is always these are necessary facilities to accomplish the training in which we are engaged.

But, Mr. President, if you visit these facilities and you see the number of facilities, the size of the facilities, the permanence of the facilities, it is hard, indeed, to conclude these are all necessary to accomplish training which is anticipated to be of a short duration, as the Department of Defense argues.

So that is the second major difficulty that I see with our policy in Central America today, the first being the contra activity which I do not believe we should continue to support, the second being the major buildup in our military presence in Honduras, both in personnel and in facilities. I believe that having that military presence cuts off diplomatic options for us. Having a constantly increasing military presence reduces the opportunity for us to reach any kind of agreement for the lessening of tensions in that region. And clearly if we are going to have a two-track policy, one where we talk about our support of the Contadora process, as this administration does at every opportunity, and on the other hand constantly escalating military presence in the region, which goes directly contrary to the goals and the objectives of the Contadora nations, then it needs to be recognized by the American people. I believe it is a major concern we need to be addressing in this debate.

The third concern, and the one that more directly relates to the particular amendment as to the level of aid we should be providing to El Salvador, is that we are going in my view to a very heightened reliance on military resources to deal with the problems of Central America. We had testimony before the Armed Services Committee which I found to be very startling. This was filed testimony in open hearing. General Gorman, who is the commander in chief of Southcom out of Panama, gave us statistics as to the level of our present military support and what that is moving to in the future. I think that is interesting to look at.

First, in the area of military training, the figure that he cites to us in his written testimony is that in 1983, the United States participated and helped in the training of 3,300 Central American soldiers for the various governments that we are allied with in that region. But in 1984, that figure goes from 3,300 to an estimated figure of 25,000 to 29,000 troops we are going to be engaged in training in Central America. That is an eightfold increase in 1 year, and I think that is the kind of statistic this Senate needs to focus on; that is a major increase in our military involvement.

When you look at the military assistance dollars, in 1983 we provided $126 million, according to General Gorman's figures, and in 1984, his estimate is that for Central America as a whole we would provide $373 million in military assistance, a threefold increase in the amount of our military aid in 1 year.

I do believe there is a great tendency in our policymaking apparatus and in human nature in general to go for the quick fix, to go for the solution which promises a quick result and that usually turns out to be the military solution. That is why I believe we have a reputation in Central America, in Latin America, and some other parts of the world of landing the Marines before we explore some of the other diplomatic options which may be available to us. I would argue that we have a great possibility of doing the same kind of thing here.

We will increase military assistance to El Salvador and to Honduras. We have now begun military assistance to Guatemala, after several years of refusal to provide them with assistance. I gather, from testimony we have received, that we would provide assistance to pretty much anybody else down there who opposed the Sandinistas, if they asked for it, and in whatever amounts they asked for it.

I am not one—and I want to make this clear—who believes that we should cut off military assistance to El Salvador. I have been there. I have met with many people in that country, in the government and not in the government, who are very concerned that the fragile situation there not be allowed to disintegrate entirely. With the election results pending and all the rest, I do not favor this Government cutting off military aid to El Salvador.

I think the argument we are engaged in now is a proper one as to the level of that aid. It is a proper exericse to debate what conditions should be attached to that aid. But unless we see a takeover of that government by elements who have views completely contrary to our views of what is appropriate activity for government, I think we need to continue with a program of trying to allow that country to salvage its situation and defend itself against guerrilla activity.

I do not think we should approve additional military assistance very lightly and in a pro forma manner. I believe that the debate we are having today—and the one we had last evening—is a useful activity and one that is necessary if we are going to focus on what is the main ingredient of our plan to deal with Central America.

Is the main ingredient of our plan that Congress is willing to go along with military assistance, or are we going to have a willingness to do some other things and to keep the military assistance at the lowest possible level?

The history of that region would indicate that the stronger the military becomes in those countries, the more problems there are with human rights violations and the more problems there are with necessary reforms being stalled.

I think that for us to continue with an unrelenting buildup of the military in Honduras and El Salvador, absent a strong case being made that that buildup is absolutely essential, is a major mistake. In Honduras, I see the buildup of the military as largely unjustified. The military there is in complete control. I know of no external threat presently facing Honduras. To argue that the Honduran military has to be large enough to defend itself against the Nicaraguan military in the case of an invasion from outside comes close to being absurd.

Clearly, we have treaty obligations with Honduras which require us to come to the aid of that country if it is invaded. We have treaty obligations with Costa Rica that require us to come to the aid of that country if it is invaded. We do not need to reconstruct an arms race or participate actively in an arms race in Central America that allows each of those countries to build a military to the point where internal reforms may be very difficult to achieve in the years ahead.

Mr. President, I believe those are the major issues facing Congress and facing the country with respect to our Central American policy. I commend

the Senator from Massachusetts for raising these issues in his amendments, for focusing our attention on this issues.

I hope that in the course of this discussion in the Senate we can come to some rational decisions about whether we should support contra activity indefinitely in Central America, about whether we should engage in a major military buildup in Honduras, and also come to rational decisions about the level of military aid we should be willing to support in countries like El Salvador and Honduras.

Mr. President, I appreciate the opportunity to participate in this debate. I plan to review the details of each amendment being offered during this discussion. I hope I can support some of those amendments, with the idea of at least calling attention to the fact that the American people do not want a war in Central America and that the American people are not persuaded that there is a military solution to the problems of Central America, and this Senator shares in that skepticism.

AMENDMENT NO. 2855

(Purpose: To prohibit the use of U.S. ground combat troops in El Salvador, Honduras, or Nicaragua)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HECHT). The amendment will be stated.

The bill clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 2855.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the Inouye amendment No. 2853 add the following: "*Provided*, That, no United States personnel, civilian or military, shall be introduced into or over the territory of El Salvador, Honduras, or Nicaragua for the purpose, directly or indirectly, of combat unless:

"(1) Congress has declared war or authorized the presence of such forces in advance by a joint resolution signed by the President of the United States; or

"(2) The President has determined that the presence of such forces is necessary to provide for the immediate evacuation of United States citizens, or to respond to a clear and present danger of military attack on the United States;

in either case described in paragraph (2), the President shall advise and, to the extent possible, consult in advance with the Congress and shall, in any event, notify the Congress of the basis for such determination within 24 hours of the introduction of such forces.

Mr. KENNEDY. Mr. President, earlier in this debate, I offered an amendment prohibiting the use of combat troops in the territory of El Salvador, Nicaragua, and Honduras without the advance approval of Congress. That amendment, which I have now offered, says:

No United States personnel, civilian or military, shall be introduced into or over the territory of El Salvador, Honduras, or Nicaragua for the purpose, directly or indirectly, of combat unless Congress has declared war or authorized the presence of such forces in advance by a joint resolution signed by the President of the United States; or the President has determined that the presence of such forces is necessary to provide for the immediate evacuation of United States citizens, or to respond to a clear and present danger of military attack on the United States.

Then the amendment continues.

Mr. President, the parliamentary situation is that this is an amendment to the Inouye compromise amendment.

I have talked to the Senator from Hawaii and indicated that I would be prepared to offer this amendment as a freestanding amendment, with a time limitation. We could then set aside the amendment of the Senator from Hawaii for a brief period of time and move today to a vote on whether this institution wants to sanction the increasing role of American combatants in El Salvador and over El Salvador. We would be able to get a vote on that later in the day, and then come back to the Inouye amendment.

I am quite prepared to work that out with the leadership in a way which permits the amendment to be discussed on the merits, so it would not become involved with the underlying matter.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. INOUYE. As I indicated to my friend from Massachusetts, I would be perfectly willing to have my amendment temporarily set aside, let us say for a period of 2 hours, during which time the Senator's amendment can be considered as free standing.

Mr. KENNEDY. Fine.

Mr. INOUYE. I am in the process now of trying to convince my colleagues on the other side of the aisle to do this, so if the Senator will just give us a few minutes.

Mr. KENNEDY. Fine. I thank the Senator from Hawaii for his cooperation. Hopefully this can be worked out in the next period of time.

I wish to make a brief comment, though, Mr. President, on an article that I read, as I am sure others did, in the Washington Post this morning. The Washington Post reported the United States is actively participating in the prosecution of the war in El Salvador. According to the report this morning, "U.S. aircraft are providing reconnaissance and communications support for Salvadoran troops during combat operations." The Post goes on to state:

This marks the most direct involvement in El Salvador's civil war so far by a U.S. military mission whose scope and size have steadily expanded in small steps over the past year.

Mr. President, this is precisely the concern that I had when I introduced my amendment. The administration is slowly but surely putting our combat troops in harm's way. The administration is slowly but surely moving U.S. troops into the middle of the warfare in El Salvador.

The United States of America should not go to war unless the people of the United States are consulted. President Reagan should not lead this Nation down the slippery slope—first advisers, then training camps, then military exercises, then reconnaissance flights and now active participation with Salvadoran ground commanders in spotting and locating guerrilla forces and directing Salvadoran military forces into battle.

What next, Mr. President? What next? I will tell you what next. Some guerrilla on the ground with a rocket is going to shoot down one of those U.S. planes and a U.S. pilot is going to be killed or perhaps even taken hostage or captured and President Reagan will take to the stump to declare that the United States has been the victim of an act of war.

We are being led into war. We are entitled to a full explanation. One secret war in Nicaragua is one secret war too many.

Mr. President, I will withhold further discussion on this at the present time.

I yield the floor.

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

The PRESIDING OFFICER. The Clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GOLDWATER. Mr. President, I call to the attention of my friend from Massachusetts, that he last evening asked the question——

Mr. KENNEDY. If I may have the attention of the Senator, we are having a meeting of the Judiciary Committee. It is marking up the McClure-Volkmer Gun Reform Act. I am a principal participant in that discussion. The chairman of the committee, Senator THURMOND, has asked my presence there. I indicated that I objected to meeting after 11 a.m. So I will be back here at 11 a.m. and welcome the opportunity to engage in debate with the Senator from Arizona at that time or any time during the remainder of the day.

But I have notified them, and they are in the process of processing that

legislation, I have some strong views about it.

If we could work out a convenient time for the Senator from Arizona, I would welcome the opportunity to continue our exchange or discussion of last evening. I have to absent myself from the Chamber at this particular time.

Mr. GOLDWATER. All I wanted to do is answer the question that I could not answer yesterday afternoon relative to the Senator's interest in the death squads. It does not require any debate. But if the Senator prefers, I will try to get back later. I also have committee responsibilities.

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

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

Mr. BAKER. Mr. President, at the moment I came into the Chamber I understood it to be said that the Senator from Massachusetts was going to leave to go to the Judiciary Committee to attend to a matter there and the implication of that I suppose is we should not do anything until he gets back.

I asked the Senate to come in at 9 a.m. this morning so we could get an early start on this. Mr. President, I will bend over backward to try to cooperate with the convenience of Senators. But at some point we have to move this bill and at some point it is my intention to try to offer a motion to table this amendment in the second degree.

Mr. President, I am willing to accommodate the Senator from Massachusetts for a reasonable period of time but I am not willing to take off an hour in order to do that.

If the Senator from Massachusetts wants to go to the Judiciary Committee and if he wishes to do it at this time I am willing to make that motion at 10:45 a.m., but I am not prepared to wait indefinitely to get on with the business at hand.

Mr. KENNEDY. Mr. President, I wish to indicate to the majority leader that he should take any steps that he so desires with regard to this amendment. I am not going to ask him to indulge me for the period of time up to 11 a.m. I was pointing that out as a matter of information.

I wish to indicate quite clearly to the majority leader that if he is going to table this matter and he has the votes to do it, so be it. If he does not want to permit the discussion about American combat troops in El Salvador for any more than 15 minutes, so be it. We will have an opportunity to talk about that after the tabling motion.

Mr. BAKER. Mr. President, it is not much of an inducement for me to wait with the Senator threatening a filibuster after the fact. Last evening he threatened a filibuster in any event.

Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, I am voting against tabling this amendment because I am concerned about U.S. involvement in military action, which amounts to war, without a declaration of war by the Congress as required by the Constitution. In hearings before the Foreign Operations Subcommittee of the Appropriations Committee, on March 1, 1984, Secretary of State Shultz testified that the Korean military engagement was a war and the Vietnam military engagement was a war. As such, both were wars which violated the constitutional requirement that our Nation may wage war only with a congressional declaration.

The issue of war, without a congressional declaration, was the subject of a colloquy between the distinguished Senator from Illinois (Mr. PERCY) and this Senator on September 27, 1983, in connection with the pending resolution under the War Powers Act. Senator PERCY agreed that the Korean military engagement was war, the Vietnam military engagement was war and the military engagement in Lebanon, even prior to the October 23 bombing of the marine barracks where some 230 marines lost their lives, was war.

We learned a bitter lesson in Vietnam that the United States cannot engage in war without the backing of the American people. The Constitution wisely gave the Congress the exclusive authority to declare war. The 100 Members of this body and the 435 Members of the House of Representatives have close contact with our constituencies by virtue of our frequent trips to our States or districts, our numerous open-house town meetings, other meetings with constituents and the constant pulse from thousands of letters and telephone calls each week. The President cannot possibly, and does not, have that sense of public will.

Accordingly, the Constitution wisely vests the Congress with the sole authority to declare war since the Congress best has the pulse of the people; and the public support is indispensable to waging war with some substantial likelihood of success. The United States ultimately withdrew from Vietnam because the public did not support that war.

While we may yet be too close to the military action in Lebanon to speak with certainty, it is my sense that the American people were unwilling to support any broadening of U.S. involvement beyond the peacekeeping force of 1,600 men and probably not even that. Our withdrawal from Lebanon was strongly influenced, if not determined, by that public will.

For these reasons, I consider it unwise to deploy U.S. Forces which may amount to war or lead to war without the constitutional congressional authorization. The matters embodied in that amendment do not involve potential emergencies or unforeseen circumstances to take it out of this rule.

Mr. GRASSLEY. Mr. President, this amendment to provide a congressional role in deciding the appropriateness of the use of U.S. troops in combat in El Salvador was not given sufficient time for debate and for that reason I oppose tabling it.

I have consistently expressed my serious concern about the direct use of U.S. troops in combat situations in El Salvador and thus I support strict limitations on American involvement. Such limits would provide Congress a legitimate oversight of American military actions in hostilities abroad. The emphasis of this amendment, as I interpret it, is on the dangers that exist when Congress has not actively been involved in serious decisions to place combat troops in war zones. It differs from other amendments which may be offered on this bill by focusing on the direct combat use of U.S. troops in El Salvador. Without congressional approval, such use could prove both dangerous and destabilizing for El Salvador. This amendment does not effect joint maneuvers with other Central American nations or even deny entry of U.S. advisers or military attaches into El Salvador. Its scope is limited, but it shows a serious concern for the constitutional principles guiding us in the use of troops in war zones.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee to lay on the table the amendment of the Senator from Massachusetts.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Alabama (Mr. DENTON), the Senator from Florida (Mrs. HAWKINS), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. DENTON) and the Senator from

Colorado (Mr. ARMSTRONG) would each vote "yea."

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HART), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

The PRESIDING OFFICER (Mr. MATTINGLY). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 71, nays 20, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—71

Abdnor	Evans	Murkowski
Andrews	Exon	Nickles
Baker	Garn	Nunn
Baucus	Glenn	Packwood
Bentsen	Goldwater	Percy
Biden	Gorton	Pressler
Boren	Hatch	Pryor
Boschwitz	Hecht	Quayle
Bradley	Heflin	Randolph
Bumpers	Helms	Roth
Byrd	Hollings	Rudman
Chafee	Humphrey	Simpson
Chiles	Inouye	Stafford
Cochran	Jepsen	Stennis
Cohen	Johnston	Stevens
D'Amato	Kassebaum	Symms
Danforth	Kasten	Thurmond
DeConcini	Laxalt	Tower
Dixon	Long	Trible
Dole	Lugar	Wallop
Domenici	Mathias	Warner
Durenberger	Mattingly	Wilson
Eagleton	McClure	Zorinsky
East	Mitchell	

NAYS—20

Bingaman	Lautenberg	Riegle
Burdick	Leahy	Sarbanes
Cranston	Levin	Sasser
Dodd	Melcher	Specter
Grassley	Metzenbaum	Tsongas
Hatfield	Pell	Weicker
Kennedy	Proxmire	

NOT VOTING—9

Armstrong	Hart	Huddleston
Denton	Hawkins	Matsunaga
Ford	Heinz	Moynihan

So the motion to lay on the table amendment No. 2855 was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL and Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2856

(Purpose: To prohibit the use of United States ground combat troops in El Salvador, or Nicaragua)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 2856.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the Inouye amendment, add the following: *"Provided*, That "No United States personnel, civilian or military, shall be introduced into or over the territory of El Salvador, or Nicaragua for the purpose, directly or indirectly, of combat unless:

"(1) Congress has declared war or authorized the presence of such forces in advance by a joint resolution signed by the President of the United States; or

"(2) The President has determined that the presence of such forces is necessary to provide for the inmmediate evacuation of United States citizens, or to respond to a clear and present danger of military attack on the United States;

in either case described in paragraph (2), the President shall advise and, to the extent possible, consult in advance with the Congress and shall, in any event, notify the Congress of the basis for such determination within 24 hours of the introduction of such forces.

Mr. KENNEDY. Mr. President, this amendment is identical to the amendment that I sent to the desk just previously except that it does not include Honduras. Like my earlier amendment to Senator INOUYE's amendment, this one requires the advance authorization of Congress before the President is permitted to send U.S. personnel, civilian or military, into combat. You can table the amendment, Mr. President, but you cannot table the issue. I point out that at this time, we have had precious little discussion about U.S. policy in Central American policy. There has been an hour and 45 minutes spent by those who have supported the administration's policy and there have been 45 minutes for those who have expressed opposition to the administration's policy. I want to make it very clear that we are going to have a discussion and a debate on this issue in the U.S. Senate. We can either have that discussion or debate by a series of votes on amendments or we can have a discussion and debate on this issue for a period of time. We could have 3 or 4 hours for a time-certain disposition of this issue and then to move on to other issues and questions.

If the Senate of the United States is going to spend 2½ weeks on the school prayer amendment, 3 days on oil mergers, but only 7 minutes on American combat troops in El Salvador, then I think, quite frankly we are failing as an institution and failing in our responsibilities.

This is the time the Senate of the United States should discuss the issue of American combat troops. That is what this amendment is about: Whether we as an institution want to require the President of the United States to get prior authorization for the introduction of combat troops in El Salvador and Nicaragua. You can say that you oppose that particular position, but the American people, I believe, are going to ask their representatives what their position was on this issue. I find it difficult to understand why the Members of this body are going to be willing to terminate that discussion and debate after only 7 minutes of discussion on the floor of the U.S. Senate.

Let there be no mistake, Mr. President, the Members of this body are going to vote yea or nay on the issue of American combat troops in Central America. We may do it through a procedural issue or question and we shall have perhaps several opportunities to do so, or we can have some kind of agreement for an orderly discussion and time allocation for a debate and a resolution of this particular issue this afternoon.

Mr. KASTEN. Will the Senator yield?

Mr. KENNEDY. I shall yield for a question without losing my right to the floor.

Mr. KASTEN. I think we may be able to work out, at least on this side, some kind of reasonable time agreement. I would like to suggest to the Senator 1 hour equally divided, and we could work from there, and have a time certain. From what I can see, the countries named have just been put in a different order. I am not sure that it is likely the result will be a whole lot different. But we can go forward. I would like to debate the issue and work out a structure here so we can work our way through these amendments and give Senators an opportunity to debate.

I would like to suggest that we are anxious to do exactly what the Senator is saying. I do not think we need to argue about the time.

Mr. KENNEDY. Mr. President, when we came in here this morning, I indicated I was prepared to agree to a time limit on this particular issue so that Members of this body would be notified as to the amount of time on each side. Many of the members of the Committee on Foreign Relations have had no opportunity to participate in this debate because they are, at this very time, in the process of marking up in their committee the authorization for this legislation. I have not objected to the committee processing that legislation, because I think it is important that we get that information.

But I do believe that we need a time for debate and discussion on this. I would be glad to have a 2-hour time limitation on this for each side and agree to a time certain to vote on this particular issue. At the outset, I would indicate that there are a number of Senators such as my colleague, the

Senator from Tennessee, who waited on the floor of the Senate for 3 hours last night to speak and did not have the opportunity and the Senator from Connecticut who waited on the floor for over an hour and did not have a chance to speak. I want to make it very clear that if we are going to table this amendment in 7 minutes, you will have plenty of chance, plenty of chance to have votes. So I suggest we have 2 hours to a side on this amendment. Perhaps we might have a brief quorum call at this period of time to try and work that out, if it is agreeable.

Mr. KASTEN. Will the Senator yield for a question?

Mr. KENNEDY. I yield for a question.

Mr. KASTEN. I guess maybe it is a clarification. Is the Senator saying 2 hours equally divided?

Mr. KENNEDY. No, I am saying 2 hours a side.

Mr. KASTEN. Four hours equally divided?

Mr. KENNEDY. Four hours equally divided.

Mr. KASTEN. I am not sure that we are able to do that, but I appreciate the fact that the Senator is working toward a time agreement and maybe we can work something out.

Mr. EAST addressed the Chair.

Mr. SASSER. Will the Senator yield for a question?

Mr. KENNEDY. Mr. President, as I insisted in retaining my right to the floor in responding to the question, I would be glad to yield to the Senator from Tennessee.

Mr. SASSER. I would ask the Senator from Massachusetts if his amendment would prevent U.S. combat troops being sent into El Salvador?

Mr. KENNEDY. It would require the Congress of the United States—the House of Representatives and the Senate—to authorize the deployment in advance, and the President of the United States to sign such an authorization. The amendment permits the President to send forces if he determines it necessary for the evacuation of American citizens. Basically, this amendment attempts to insure that the Congress of the United States, and the American people through the Congress, will have a say in administration policy in Central America rather than find out about it each day they pick up the newspaper and read about our continuing military escalation which might have as its ultimate result the loss of American lives.

Mr. SASSER. I say to the Senator from Massachusetts that certainly the administration has been less than forthcoming about what U.S. policy is in Central America.

Mr. President, on March 20, 1984, the Senate Subcommittees on Military Construction of the Armed Services Committee and the Appropriations Committee held a joint hearing to take testimony from Defense Department officials concerning the Budget request for military construction for fiscal year 1985.

During that hearing I questioned Assistant Secretary of Defense Lawrence J. Korb concerning the extent of U.S. military activities in Central America. In addition, I submitted a number of questions to the Department of Defense for a written response.

Late yesterday I received the written answers from the Department of Defense to the questions I had posed.

Recently I have raised a number of questions regarding the extent of our military involvement in the Central American region. I have become concerned that the presence of U.S. military forces in the region may actually serve to exacerbate the tensions of the area and certainly run the risk of an accidental involvement of American troops in combat situations.

That is why, Mr. President, that later in the debate on this bill I will be offering an amendment which places some limitations on the construction and use of U.S. military facilities in Honduras. I have especially been concerned with the potential that U.S. combat engineers, who will soon begin construction of a new airport at Jamastran in southern Honduras only a few miles from the Nicaraguan border, could become accidentally involved with hostilities since the area of deployment is a short distance away from an area of increasing tension and actual combat between the Contras and Nicaraguan troops.

In addition, I have raised questions concerning the potential of U.S. military personnel in El Salvador coming under hostile fire.

In early 1981 when the administration sent an additional U.S. military mobile training team to El Salvador a number of questions were raised concerning the application of the War Powers Resolution to El Salvador.

On March 5, 1981, Congressman William S. Broomfield placed in the RECORD a memorandum from the Department of State regarding the applicability of the War Powers Resolution to El Salvador.

Mr. President, let me quote from some of the portions of this memorandum:

> The U.S. personnel in El Salvador are not being introduced into hostilities or a situation where their involvement in hostilities is imminent. These personnel will be stationed either in San Salvador or in certain carefully selected regional military garrisons. Special precautions will be taken to provide constant security for their living and working areas. These personnel will not . . . be placed in situations where combat is likely. If some change in circumstances should occur in the future which raises the prospect of imminent involvement of these personnel in hostilities, we would of course comply with the requirements of the resolution.

Mr. President, the question of U.S. military personnel in El Salvador has been carefully examined by a number of congressional committees. The Senate Foreign Relations Committee, it is my understanding, has reviewed the applicability of the War Powers Resolution and other laws with regard to El Salvador.

Specifically, the Foreign Relations Committee has also held hearings regarding the application of section 21(c) of the Arms Export Control Act as it applies to El Salvador. Section 21(c)(1) prohibits U.S. military personnel performing defense services, such as training, in a foreign country from engaging in any "combatant duties."

During a hearing before the Foreign Relations Committee in 1981, Senator CRANSTON asked the Director of the Defense Security Assistance Agency the following question:

> In your judgment would a guerrilla attack upon U.S. military personnel or the locations where they are stationed bring into play reporting requirements for the War Powers Resolution?

General Graves, who was then Director of DSAA, responded in the following manner:

> I think it would not be the War Powers Resolution, Senator Cranston. But as Mr. Carlucci said in his recent letter to the chairman, if we had an outbreak of significant hostilities we would report in compliance with section 21(c).

Mr. President, I would also like to point out that the conference committee report which accompanied the adoption of section 21(c) issued the following guidelines to determine what activities would be permitted and what activities would be prohibited.

Mr. KASTEN. Mr. President, will the Senator yield at that point?

Mr. SASSER. No; I will not yield. I would like to continue my response.

Among the activities permitted is the following: "To help organize and train ground force units, including training for combat, in support areas."

The conference report notes that among the activities barred is the following: "No trainers, advisers, or other personnel with units engaged in combat."

I should like to note that a memorandum dated February 12, 1981, prepared by the Office of the General Counsel of the Department of Defense, stated that mobile training teams assigned to El Salvador "would be restricted to areas of El Salvador not expected to be the subject of military operations" and "would not deploy to hostile areas to advise."

This representation provided the basis for the Department of Defense to determine at that time that the war powers resolution should not be triggered by the introduction of mobile training teams in El Salvador.

I have taken the time of the Senate this morning to read these rather

cumbersome memoranda and provisions because I believe it is important that we understand the condition under which the administration, itself, has stated that the provisions of the War Powers Act or other laws would be triggered by hostilities in El Salvador.

Mr. President, I want to read to my colleagues the unclassified answers that I received from the Department of Defense——

Mr. EAST. Mr. President,——

Mr. SASSER [continuing]. Concerning the training of El Salvador personnel.

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

Mr. EAST. Mr. President, a parliamentary inquiry.

Mr. KENNEDY. Mr. President, I thought the Senator from Tennessee was going to ask me whether I agreed with his assessment.

The PRESIDING OFFICER. Does the Senator yield?

Mr. KENNEDY. I yield only to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Massachusetts may yield only for a question.

Mr. SASSER. The question I ask my distinguished friend from Massachusetts is this: Is he aware that U.S. military personnel in the country of El Salvador have been subjected to hostile fire, not on one occasion, not on two occasions, but on three occasions, as recently as February of 1984?

Mr. KENNEDY. I want to indicate to the Senator from Tennessee that there have been press reports about American troops being subjected to fire, but I do not believe that the kind of documentation provided by the Senator from Tennessee has been available.

Mr. SASSER. If I may just detail this for the Senator from Massachusetts, these are the questions I propounded to the Department of Defense and these are their answers. This is the first time, to my knowledge, I say to my friend from Massachusetts, that any of us have been advised officially that United States military forces have come under hostile fire in El Salvador.

QUESTION. Are U.S. personnel providing training to Salvadoran personnel at or near La Union?

I say to my friend from Massachusetts that only a few weeks ago, when I was in Honduras, I was advised by our military personnel there, emphatically, that there were no U.S. military personnel at La Union.

ANSWER. Yes.

QUESTION. At or near San Miguel?

ANSWER. Yes.

QUESTION. What are the units presently at each location?

ANSWER. La Union: from the the Army's 3rd Battalion, 7th Special Forces Group and from the Navy's Special Warfare Group 2. San Miguel: from the Army's 3rd Battalion, 7th Special Forces Group.

QUESTION. How many U.S. personnel are at each location?

ANSWER. La Union: 10 Army. San Miguel: 17 Army and 5 Navy.

QUESTION. Are these locations supplied from Honduras?

ANSWER. No.

Mr. EAST. Mr. President, a parliamentary inquiry.

Mr. SASSER. I then asked:

QUESTION. From what location?

ANSWER. From San Salvador.

Mr. EAST. Mr. President——

Mr. KENNEDY. Mr. President, I am trying to listen to the Senator from Tennessee and to respond to his questions.

Mr. EAST. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor. Does he yield for an inquiry?

Mr. KENNEDY. Mr. President, I want to yield to the Senator from Tennessee for a question.

If the Senator from Tennessee will withhold his question for a moment, I believe there is going to be a unanimous-consent request by the floor manager of this measure with regard to a time allocation on this particular amendment. So I ask unanimous consent that I may yield to the Senator from Wisconsin to make a unanimous-consent request, without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. KASTEN. I thank the Senator.

Mr. President, I ask unanimous consent that the time of the Kennedy amendment which is pending be limited to 4 hours, equally divided between the two sides.

Mr. EAST. Mr. President——

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. I am not saying that I will object; but, reserving the right to object, I inquire of the distingushed managers. The thing I find troublesome—and I would want some sort of explanation on this before consenting to this unanimous-consent request—is this: It strikes me that what we are facing here, when we strip it down to the core, is a stalling tactic.

As I understand it, the Senator from Massachusetts has 11 or 12 amendments. If we concede 4 hours apiece, he made it clear yesterday in the debate that he wanted to defer any action on this measure until after the runoff election. I think it is clear that we have broad bipartisan support. He was defeated 71 to 20 on the last vote.

I have always admired his great diligence and his distinction, and I know he does not intend this. There is a patronizing attitude in him that would suggest that the rest of us do not understand the problem, and hence the need for extended debate. The issue of Central America has been going on for some time.

Mr. KENNEDY. Mr. President, I ask for the regular order.

Mr. EAST. I am simply making an inquiry as to whether——

Mr. KENNEDY. Regular order.

The PRESIDING OFFICER. There is a request pending. It must be objected to or not objected to.

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. The Senator from Arizona has objected.

Mr. EAST. I am objecting to a time agreement until I can get some assurance——

Mr. KENNEDY. I believe I have the floor.

The PRESIDING OFFICER. Under the previous order the Senator from Massachusetts has the floor.

The Senator from Massachusetts.

Mr. SASSER. I continue with my questions of the Senator from Massachusetts.

In response, I asked the Department of Defense, I say to my friend from Massachusetts. The question was, "Have any of the helicopters or aircraft providing logistical support to these two locations," that is at San Miguel and La Union "ever come under hostile fire? If so, list the date and details of each instance." The answer was "No."

Then the next question, and I say to my friend from Massachusetts that this is indeed the meat of the coconut, is: "Have the mobile training teams at either location ever come under hostile fire? If so, list the date and details of each instance."

And to my shock and surprise the answer came back from the Department of Defense: "Yes; they have been under hostile fire."

So I say to my friend from Massachusetts the answer was yes, they have come under hostile fire and I read the answer in its totality.

Answer:

Yes. MIT personnel billeted in the military quarters at San Miguel came under hostile fire on two occasions. In November 1983 and again in March 1984 a small group of insurgent forces attacked the camp but did not penetrate the perimeter and there were no injuries to U.S. personnel on either occasion. In February 1984 U.S. MIT personnel at the Salvadoran Naval Base at La Union received sporadic sniper fire; there were no injuries.

So I wish to repeat the answer to the last question. I asked if U.S. military personnel have come under hostile fire in El Salvador? The answer from the Department of Defense is yes. The answer outlined three occasions, one of them as recently as February that U.S. military training personnel have come under hostile fire.

This is a very disturbing revelation. I am relieved that no one was injured in any of these three instances. But the episodes raise a number of questions which I believe must be explored by this Congress.

I have read to my colleagues section 21(c) of the Arms Export Act which bars U.S. trainers from operating with units engaged in combat. The administration witnesses have told committees of the U.S. Senate that a guerrilla attack on U.S. military personnel would result in a report to Congress which is required by section 21(c) of the Arms Export Control Act.

I previously read the statement from the Department of Defense memorandum which has stated that if circumstances change which raise the prospect of imminent involvement of U.S. personnel in hostilities that the requirements of the war powers resolution would be complied with.

Mr. KENNEDY. The question, as I understood it, from the Senator from Tennessee was whether the Senator from Massachusetts had information about American military personnel coming under fire on three occasions. I responded that I had seen some report that some Americans had come under fire, but I was not aware of the details that the Senator from Tennessee has brought to my attention. I am interested in finding out from the Senator from Tennessee what concerns he has about this kind of activity, and what kind of threat he foresees for American military personnel if this pattern is continued.

Mr. SASSER. Clearly if this pattern is continued, I say to my friend from Massachusetts, that American military personnel are being put in danger of grave bodily harm, possibly death resulting from hostile fire.

Mr. KENNEDY. Mr. President, I yield to the Senator from Wisconsin for a unanimous-consent request without losing my right to the floor.

Mr. KASTEN. I thank the Senator for yielding.

Mr. President, I wish once more to try to get a time certain and a time limitation on this amendment. So I ask unanimous consent that the time for the debate on this amendment be limited to 4 hours equally divided, the 4 hours beginning at 11:30 a.m., and the time be equally divided between the two sides.

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

Mr. KASTEN. I thank the Senator.

I yield the floor.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Since the time is now equally divided I am glad to yield for such time as the Senator from Tennessee may like.

Mr. SASSER. I thank my distinguished friend from Massachusetts.

Mr. President, I do not have the details of these three instances of U.S. personnel coming under hostile fire in El Salvador, other than what I have already read to this body today. I do not know if the circumstances surrounding these instances would require compliance with the War Powers Act or the reporting requirements of section 21(c). But I do believe that these questions should be reviewed by the appropriate committees of Congress, and I am today requesting such an investigation by the Senate Committee on Foreign Relations.

I am also requesting today, Mr. President, that the General Accounting Office review the instances of hostile fire and issue a finding concerning the applications of the War Powers Act and/or section 21(c) of the Arms Export Control Act.

I think it is very significant that here in some months after the first of these instances occurred the Department of Defense has finally revealed to Congress that our forces have come under hostile fire in El Salvador.

I think it is also significant, Mr. President, that the first of these instances occurred last November, some 5 or 6 months ago, and to my knowledge neither Congress nor the American people were notified.

In fact, this is the first time that the Department of Defense has even admitted that U.S. mobile training teams are engaged in activities at San Miguel and La Union in the country of El Salvador.

As I said earlier, Mr. President, when I visited Honduras 7 weeks ago I asked officials then of the U.S. Southern Command point blank, and these individuals were in charge of U.S. military advisers in El Salvador, "Do we have training teams in La Union and San Miguel?" And I received an emphatic, "No; there are no such trainers there."

But the answer provided by the Department of Defense late yesterday indicates that we do indeed have U.S. trainers in these locations and they have been there for at least 4 months.

I think this points out the fact that the officials of the Department of Defense and this administration are less than forthright in dealing with Congress and the American people on the whole question of Central American issues.

I suspect, Mr. President, we are simply not being told the whole story. We are not being told everything that we need to know in order to make judgments on administration policy in Central America.

Now, Mr. President, I have not taken the floor today to accuse the administration of failing to comply with laws of the United States, because, frankly, I do not know if these laws have been technically broken. I will leave that question up to the Foreign Relations Committee and to the General Accounting Office.

But what I do know is this: The U.S. military forces have come under hostile fire on the ground in El Salvador on at least three occasions. One instance less than a month ago.

I wanted to call this matter to the attention of my colleagues early in this debate on Central America and early in this debate on El Salvador, because I think we need to be fully aware of what we are dealing with today. We are currently engaged in a region of open hostilities. American troops are involved in areas that place them in imminent danger. Fortunately, in the three instances I have cited there were no injuries. But how long will it be until American troops become victims to hostile fire in El Salvador? Only the future can tell.

I strongly suspect, Mr. President, if we continue to put U.S. military personnel in areas where they will be subject to hostile fire, we are simply asking for the inevitable.

Mr. President, I yield to my friend from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

I first want to commend the Senator from Tennessee for his very important contribution to this debate and for the expression of concern that he has demonstrated time in and time out on this issue. He has taken the time not only to develop a sure grasp and understanding of the whole issue of our failed policy toward El Salvador, but he has also spent time in Honduras. He has spoken with eloquence and accuracy about his understanding of the facts regarding the threats to American military personnel in Central America.

Mr. President, I will just speak at this time for just two or three moments.

Mr. President, I was here at the time of the Gulf of Tonkin resolution. I listened to the debate during that period of time. I remember that there were only two Members of this body, who are no longer with us, who voted in opposition to what ended up providing the opportunity for an American President of my own party to involve this Nation in a war in Vietnam and also Cambodia.

Mr. President, I believe that if the United States is going to prevent American combat troops in Central America, in El Salvador, in Nicaragua, the time to do that is right now. We cannot afford to wait until after there has been some incident in which one of those planes that we read this morning reportedly were flying over El Salvador has been shot down with the loss of American lives. For then there would be a rush to try and

insure the protection, safety, and security of other American forces. We then would be in the conflict with a commitment of American combat troops and the loss of American lives.

Mr. DODD. Will the Senator yield?

Mr. KENNEDY. I will just in 1 minute.

The time to do that is now. We should not be mistaken: the issue and question is whether we ought to grant to this President the authority unilaterally to involve the United States in Central America through introduction of American combat troops, or whether we are going to say before any introduction of American combat troops: "You have to come to the Congress of the United States. You have to come to the Senate of the United States. You have to make your case for American combat troops. The Congress and the Senate of the United States are going to have to say whether they support it or do not support it. We, as their Representatives, are going to be held accountable to our constituents in voting yea or nay."

Now, Mr. President, that is the issue raised by this particular amendment. I reviewed earlier, and I will have a chance to develop more completely in the course of the time that remains, the facts regarding the gradual escalation of the American military presence throughout Central America, particularly the combat presence in and over El Salvador as reported in today's press. This is the time for us to make that judgment and that decision. This is the time that I believe that our constituents are going to review our actions and review our votes. Are we going to give this President a blank check with regard to American lives and the loss of American lives?

It seems to me, Mr. President, if we are serious about retaining our role in helping to fashion and shape that foreign policy, we should support this particular resolution. I would hope that this particular proposal will be supported at this important time.

Mr. DODD. Will the Senator yield?

Mr. KENNEDY. I am glad to yield.

Mr. DODD. Let me commend my colleague from Massachusetts for this amendment. I think there has been a little confusion. I think the last several statements by my colleague have somewhat clarified that confusion.

Mr. KENNEDY. Mr. President, we are on a time limitation. I would be glad to yield and let the Senator from Connecticut have what time he might use to have the floor in his own right.

Mr. DODD. I appreciate that. I have just two short points. One is that what we are talking about here, as I understand it, are ground forces, combat forces. We are not talking about just military personnel, but ground combat forces in the Senator's amendment, is that not correct?

Mr. KENNEDY. It refers to U.S. military forces, both on the ground and over those countries as well.

Mr. DODD. But for combat purposes.

Mr. KENNEDY. Yes; for combat purposes.

Mr. DODD. So the Senator is not just referring here to trainees, trainers, or military advisers or military attachés. What he is referring to explicitly in his amendment, as I understand it, is forces that would be used in combat.

Mr. KENNEDY. The Senator is correct.

Mr. DODD. I think that is an extremely important point. And that was my understanding when the amendment was up, that that was the intention and the purpose. I happen to feel that the vote which occurred at 11 a.m. on March 29 on this particular amendment, since it does particularly refer to combat forces, is very reminiscent of a vote that was cast in this Chamber going back some two decades or more ago when this body had an opportunity to express itself involving another conflict where U.S. combat forces were going to be involved. The Senator, of course, knows even more explicitly than I do about that particular situation. I am talking, of course, about the Gulf of Tonkin resolution.

I would like to just ask the Senator one more question regarding that. Is it the Senator's feeling that this particular vote on the amendment that just occurred, and we will have another opportunity to vote on this again, is reflective or reminiscent of that particular exchange which occurred at the very early stages of our involvement in Southeast Asia?

Mr. KENNEDY. The Senator is absolutely correct. As I mentioned myself, I was here during that debate. During that discussion there were two courageous Members of this body who voted in the negative on that resolution. I cast my vote in favor of it and it was with great regret. Of all the votes that I have cast in this body, that was the one that I regret the most.

I believe, as the Senator from Connecticut has correctly pointed out, that we have an opportunity here and now to speak to a similar issue and question: Whether American combat forces can be introduced into Central America only with the support and with the approval of Congress, after the case has been made by the President of the United States, or whether we are going to permit the present situation possibly to deteriorate into the loss of American lives and the entrance of American combat personnel with all the implications that that has. We face not only the potential loss of life and squandered resources, but also major repercussions on our whole relationship with that part of the world.

The Senator is quite correct that I think this is an amendment of similar dimension, and certainly of similar importance.

Mr. DODD. I thank the Senator. I would ask if he would yield further.

Mr. KENNEDY. I would be glad to.

Mr. DODD. I thank the Senator, first of all, for the clarification of the amendment itself and then for his comments regarding the significance of this particular vote, Mr. President. I think it is important to look at the wording of this amendment and what it suggests. What we are talking about here is the commitment of U.S. forces to a combat role. Again, I emphasize what my distinguished colleague from Massachusetts has just clarified. This is not a prohibition for the United States to send advisers or to send military attachés, or personnel in a noncombat role to the countries identified in his amendment. It says that we should not inject U.S. forces in a combat role, in a combat role, without the approval of the U.S. Congress. What a revolutionary idea. What an outrageous suggestion to suggest that the Congress of the United States ought to be involved in the decision whether or not young U.S. men, and possibly women, should lose their lives in Central America without this body or the other body deciding that that role is fit and proper. What an extraordinary suggestion the Senator from Massachusetts has made in this Chamber.

It is an extraordinary idea that we should actually have to vote, and that we, the elected Representatives of the 50 States and the 435 congressional districts of this country, should actually have to stand up and say that we think we ought to commit combat forces to El Salvador or to Nicaragua. In effect, what we are suggesting by the last vote, and—I presume if the vote is repeated, is that we ought not to play any role in that. If you vote against this amendment or you vote to table this amendment, in effect, what you are saying is that you do not believe as a Member of this body that you ought to be involved in that decision to send young men to die in Central America, or to be wounded.

That is the significance of this. This amendment is only suggesting what the Constitution demands and mandates. The Constitution does not give the Chief Executive of this country the right to send young men to die anywhere in the world without the Congress of the United States approving of it. It is a shared responsibility with separate branches of Government sharing a power, the power that can decide to commit Americans to lose their lives for whatever cause. To suggest that only the Chief Executive, whether it be this President or any other President, should be allowed to

make that decision unilaterally without the approval of this body, would indeed be a dark hour in this Chamber, to see that happen.

What message has been sent in the last hour? It is already on the wires. They know about it already in El Salvador. They already know in the chambers of their defense department, in the chambers of their government and their legislative body that the Senate of the United States, the greatest deliberative body in the world we are told, has just said that this President or any other President can send young men to die in Central America and we do not want to vote on it in the U.S. Congress.

We do not want to stand up and have to face constituencies, and say that we were involved or are responsible. We are ducking it. We are avoiding that very basic, fundamental and maybe it is the most extraordinary, important power that we can exercise in this Chamber. We are going to have another chance on this later this afternoon. I implore my colleagues to think carefully before they cast a ballot, not because of the politics of it, but because of what it symbolizes and means to people all across this country, what it means to people in that part of the world, and what it means to others who look to this Chamber and the other body for at least some respite of sanity and intelligence of logic before we make these kinds of decisions.

Mr. President, this morning I looked back over the years 1961 through 1973—46,163 Americans died in Vietnam; 153,000 were wounded and received hospital care. Many of them are still in institutions. This Congress never voted on it. Fifty thousand young Americans died. You can walk a few blocks from here and read their names. We never voted whether or not they ought to be sent there. Today, March 29, at 11 a.m. in the morning, forgetting what happened only a decade and a half ago, we are about to say once again that we do not have the guts, and we do not have the courage to say whether or not they ought to go. It is a sad day, indeed. It is a sad day, indeed, that a historical body such as this should have no memory. You do not have to reach back a generation or two. Many people in this body went through the agony of those years. Today we find ourselves charging ahead once again.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I wish to ask the Senator from Connecticut, who I think has correctly framed the issue which is before this body at this time, whether he does not believe that we ought also to learn the lessons of Lebanon and Beirut. At least at that period of time we had some brief discussion and some brief debate. The President again was, in effect, given an 18-month blank check.

American troops became involved in a civil war with the corresponding tragic loss of marine lives. That was a tragic mistake in American policy, and a tragic loss of American influence in that part of the world. I wonder as the Senator reminds us of the history, whether the Senator is not troubled by the apparent lack of understanding of history in this body, the institutional history of this body. Under the Constitution, the Congress is given important responsibilities and authority and yet we appear so ready to dispense with that at a time when it is so essential and so necessary that we involve ourselves and the American people in the formulation of policy.

As we address the issue of introducing American combat troops, should we not have learned as well the lessons and the mistakes of giving a blank check to the executive on the whole issue of Lebanon as well?

Mr. DODD. I feel the Senator is absolutely correct. I should have made note of the fact that we do not have to go back a decade and a half. We can go back a few weeks ago. Memories of a decade and a half ago are difficult to conjure up, but just go back, if you will, virtually days ago, when we had a similar opportunity to be involved in that kind of decisionmaking.

What the Senator is suggesting, I think, with this amendment is not how you feel about Central America. I think most of my colleagues know how I feel about it. What this amendment is about is not whether you are for or against U.S. involvement in Central America. We will debate that issue, I hope, over the next several days. What the Senator from Massachusetts has offered in this amendment has nothing really to do with Central America. It has to do with our responsibilities as U.S. Senators and what the Constitution requires of us.

Mr. LEAHY. Will the Senator yield?

Mr. KENNEDY. Mr. President, perhaps the Senator from Connecticut wants to take the floor in his own right. I yield such time as he desires.

The PRESIDING OFFICER (Mr. HUMPHREY). The Senator from Connecticut.

Mr. DODD. I yield to my colleague from Vermont.

Mr. LEAHY. The Senator from Connecticut and the Senator from Massachusetts raise critical and crucial issues here. I raised a question similar to the one just asked by the Senator from Massachusetts in discussions with the Secretary of State back a few weeks ago when he appeared before the Senate Appropriations Committee, where, incidentally, we were discussing the issue which is now on the floor.

I raised the question the Senator from Massachusetts raised because of my own concern that we seem to lack an institutional memory around here.

The thing about the U.S. Senate that always appealed to me as I was growing up, as a student, and as one who used to come here and watch the U.S. Senate in debate when I was in law school, is the sense of history that permeates this body, or did permeate this body.

Now I find more and more that sense of history is missing. We do not remember things of a few days ago. We seem to focus on what is the issue this moment, what is the issue this morning, or what may be the issue this afternoon, with no sense of history to put it in its proper context.

I raised this with Secretary Shultz. He was talking about Lebanon, about the Middle East, and he said, in effect, that the problem with the Middle East and the problem with Lebanon was the way the Congress had tied the hands of the administration, with reference to the War Powers Act.

I must admit, Mr. President, that my Irish temper got a little bit the better of me, and I said, how could he possibly say this? How could he possibly say this, when the Congress of the United States, over the objections, I might say, of my friend from Connecticut and my friend from Massachusetts, had rolled over and played dead as far as the War Powers Act was concerned in Lebanon and had given a blank check to the administration?

Here, the Congress, faced with the first real test of the War Powers Act since Vietnam, said, "We are just going to hide it. We are going to put the War Powers Act under the table. We are not going to let any part of it apply until after the Presidential and congressional elections of 1984, and then we will look at it again."

Let us see what happened. Think back to 1975. I remember it so well because it was my first year in the U.S. Senate. I came down here from Vermont with some very definite ideas on the Vietnam war. In April of that year, I believe it was, we finally voted, by a one-vote margin, in the Armed Services Committee not to authorize any more funds for Vietnam. Things ended very shortly thereafter and we were out.

I remember the tremendous speeches being made on both sides of the aisle in this body and the other body about Vietnam and what more we must do. It was said that maybe we could give more money if the leadership showed more of a sense of democracy, and so on.

Six months after that time it was impossible to find one single person in this city who had been in favor of the war in Vietnam. Six months after it ended, you would think that there had been a unanimous vote in the House and the Senate to cut off funds for the

war in Vietnam. Yet somebody must have voted in both bodies on both sides of the aisle to continue the money for Vietnam.

I make that point because so many of those apparently closet opponents of the war in Vietnam helped give the necessary votes to join with those who were true opponents of the war in Vietnam to pass the War Powers Act.

I think it is a mark of great good fortune that we really did not have a situation where we had to apply the War Powers Act for years afterward.

But last year, the issue did rise in Lebanon. We should have applied the War Powers Act; instead we ducked the issue. Instead, we gave a blank check to the President and the administration to go beyond the congressional elections, beyond the Presidential elections, so that nobody who might be up for election this year could possibly be embarrassed by having to take a position on one of the major foreign policy issues of our day.

I wonder how many of those same people who did not want to take a position on Lebanon would like to go to talk to the families of those brave marines who were killed, needlessly, in Lebanon; how many of them would like to go back and say, "By the Senate keeping quiet, the Middle East today is a safer place," or in any way try to explain the debacle we now have in the Middle East. Years and years of work trying to develop a coherent Middle East policy has gone down the drain. The United States has had to turn tail, has had to leave, having been involved in a disastrous exercise.

I say bring forth the history of Vietnam and the history of Lebanon, because they should be fresh in the minds of everybody in this body. After all, by the Constitution you have to be at least 30 years old to serve in the U.S. Senate, and we ought to be old enough to remember in our own lifetimes what happened.

Now we look at Central America and now we look at El Salvador. We ask ourselves if we could not pay attention to what is really embodied in the War Powers Act, if we could not pay attention to our role in developing foreign policy in Lebanon, for God's sake let us at least pay attention to something that is right on our borders. If there is anybody in this body who can stand up and say that there is indeed a coherent policy in Central America, I would like to have him or her spell it out.

Instead, we have a policy which seems to urge Members of Congress to run for cover. We do not want to be the ones of whom it might be said we lost El Salvador or we lost Central America.

What is to lose? We have sent nearly $1 billion down there. The President has emergency funds which he can spend if indeed he really feels there is an emergency there, something that seems to be overlooked in this debate. If the President really feels it is an emergency, he does have emergency funds.

Exactly a year ago the Senate was presented with a so-called emergency request for additional funds for El Salvador. Last year we were told the army of El Salvador is running out of ammunition and if we did not give them more money, El Salvador would be lost. That was a year ago. Does anybody have a sense of deja vu around here?

On March 23, 1983, the Senate approved an additional $173 million for El Salvador.

There was a lot of uneasiness on both sides of the aisle then. There was not a great deal of enthusiasm for what we were doing. In fact, the chairman of the subcommittee drafted a detailed letter outlining certain conditions on our aid and the concerns of a bipartisan majority of our subcommittee over the administration's policy in El Salvador.

I ask unanimous consent I be allowed to place that letter in the RECORD at this point, Mr. President.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., March 23, 1983.

Hon. GEORGE P. SHULTZ,
Secretary, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: This is with reference to the various reprogramming requests pending before the Committee on Appropriations dealing with increased military ($60 million) and economic ($77.1 million) assistance for El Salvador in fiscal year 1983.

The Committee will not object to these reprogramming requests with the understanding that the administration will agree in writing to the following terms and conditions with reference to these funds and U.S. policy toward El Salvador:

1. A reaffirmation by the President, of the assurances given to the Committee in 1981, that the number of United States military advisors and trainers will not exceed 55 persons;

2. Given the inadequate functioning of the Salvadoran judicial system, the administration will begin a new and immediate effort aimed at addressing the structural defects in this system with special attention to the effective prosecution of those accused in the murders of United States citizens;

3. The administration will begin a new and immediate diplomatic initiative aimed at securing from the Salvadoran military their guarantee of the physical security and integrity of the participants in the justice system, including justices, prosecutors, defense attorneys and witnesses;

4. The administration will take the initiative in cooperation with countries in the region, the OAS, and/or other international organizations, as appropriate, to bring about unconditional discussions between the government of El Salvador and its adversaries on the holding of free, fair and safe elections, and any other subject of concern between the parties.

In addition to the above terms and conditions, the Committee's approval of these reprogrammings is based on the understanding that the administration will seek a political solution in El Salvador. The Committee will expect the administration to pursue vigorously the regional strategy you described at Tuesday's hearing as it relates to support for democracy and the protection of human rights, support for economic development and hope for the future, and support for peaceful solutions. The Committee accepts the need to support the security of the nations of the region and to deter the "revolution without frontiers" in order to give these political, social and economic elements of your strategy a chance to succeed. As you pursue a political solution, the Committee believes a good start in that direction could be an effort to enlist other governments in the region in a common effort, in which those countries, along with the United States, would form a commission to meet as soon as possible for the purposes of seeking the eventual peaceful resolution of the conflict.

The Committee will watch events in El Salvador closely in the coming months. When the fiscal year 1983 supplemental and the fiscal year 1984 appropriations bill come to the floor of the Senate, the Committee will decide in light of developments whether to offer amendments to reduce or eliminate funds for El Salvador. Our judgment on that issue will be determined by the progress, or lack of it, that El Salvador has made in dealing with the terms, conditions, concerns and understandings in this letter. Some of the questions which the Committee will consider in determining what action will be taken on future requests for assistance to El Salvador are as follows:

1. Is unlawful violence attributable to elements within the government being brought under control and are perpetrators being brought to justice under a strengthened judicial system?

2. Have the cases involving the American churchwomen and the American labor leaders been fairly and expeditiously prosecuted?

3. Is there a functioning amnesty program, designed and being implemented in a manner that will restore to the beneficiaries a genuine opportunity to participate in Salvadoran society?

4. Have election procedures been developed that will provide practical guarantees of safety for all who wish to participate in election campaigns and to cast ballots representing their choice?

5. Are the armed forces providing an effective shield, behind which political, social and economic reforms are taking place?

Finally, the Committee wishes to state its absolute commitment to free, fair and safe democratic elections in El Salvador, and expects the administration to continue to press upon the Salvadoran government its own steadfast insistence on free and fair elections.

Sincerely,

Robert W. Kasten, Jr., Chairman, Subcommittee on Foreign Operations; Alfonse M. D'Amato, U.S. Senate; Warren Rudman, U.S. Senate; Arlen Specter, U.S. Senate; Daniel K. Inouye, Ranking Minority Member, Subcommittee on Foreign Operations; J. Bennett Johnston, U.S. Senate; Dennis DeConcini, U.S. Senate.

Mr. DODD. Mr. President, I thank my colleague from Vermont for his comments. They are always salient and to the point.

Mr. President, during the period between 1961 and 1975, the Congress, of course, as we all painfully know, never once authorized our involvement in Vietnam. We appropriated money all the time but never once for 15 years did the Congress of the United States authorize our involvement in Southeast Asia.

I mentioned that 50,000 young Americans died without this body or the other standing up and saying "We approve of this war." We appropriated the funds.

Mr. President, I ask unanimous consent that the statistics during the period January 1, 1961, through December 31, 1973, on the loss of life and injury to American personnel in Vietnam be included in the RECORD.

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

NUMBER OF CASUALTIES INCURRED BY U.S. MILITARY PERSONNEL IN CONNECTION WITH THE CONFLICT IN VIETNAM AS THE RESULT OF ACTIONS BY HOSTILE FORCES

[January 1, 1961–December 31, 1973]

	Total	By calendar year										
		1961–63	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973
(1) Killed	38,418	73	113	1,115	4,122	7,491	12,622	8,106	3,479	1,084	193	20
(2) Wounded or injured:												
(a) Died of wounds	5,168	6	4	103	576	978	1,594	1,166	552	157	26	6
(b) Nonfatal wounds hospital care required	153,311	261	522	3,308	16,526	32,369	46,796	32,940	15,211	4,767	587	24
Hospital care not required	150,343	231	517	2,806	13,567	29,654	46,021	37,276	15,432	4,169	634	36
(3) Missing:												
(a) Died while missing	2,526	40	29	150	307	904	372	136	188	139	80	181
(b) Returned to control	96	4	1	10	19	11	21	7	1	8	14	
(c) Current missing	1,002											1,002
(4) Captured or interned:												
(a) Died while captured or interned	51	1	1	1	3	4	1	6	2	1	1	30
(b) Returned to control	650	7	1	6	3	8	37	17	1	1	3	566
(c) Current captured or interned	58											58
(5) Total deaths (sum of 1, 2a, 3a, and 4a)	46,163	120	147	1,369	5,008	9,377	14,589	9,414	4,221	1,381	300	237

Mr. KENNEDY. On this issue, may I ask the Senator from Connecticut, because he goes back to the period of the Gulf of Tonkin resolution, would he not agree with me that it is probably more a lack of will by this institution in addressing this question of combat forces than anything else?

As the Senator from Connecticut pointed out, we did not authorize the use of American combat forces in Vietnam. We saw the loss of lives, as he has indicated. We did not authorize the use of American combat forces in Beirut, Lebanon. We authorized peacekeeping, not combat. Again we witnessed the loss of lives. We did not authorize the use of combat forces in Grenada, and we saw the loss of lives of American marines. Before the commitment of American forces, are we going to hide under the skirts of this President and give him, effectively, a blank check to commit combat forces? Or shall we insist that before we do repeat history once more, as we have seen over the period of the last 20 years, we have the will to meet the constitutional responsibility and say: "Come to us and make that case before we will see the commitment of American personnel"?

Mr. DODD. I could not agree more with my colleague from Massachusetts. That is the point I have been trying to make with this amendment. I will state it again. This amendment goes beyond, it transcends the issue of how you feel on the politics of Central America. We can put that issue aside for a minute and focus, if you will, on the question of whether or not the U.S. Senate has the courage to say we want to be able to vote on whether or not we are going to commit combat forces.

That is what this issue is. We are going to ultimately get back to Central America, but at this particular point all we are saying is: Should we be involved in authorizing it or not? Are we going to do what we did between 1961 and 1973, and duck it? I have a feeling that many of my colleagues, some on the floor today, if they had the opportunity to vote, would vote to do it because they think it is right. I respect them for it. I must disagree with them on reaching that conclusion, but I admire their courage because they would stand up and say I think we ought to do it. And that is where the debate ought to be.

Unfortunately, too many just do not want to face that kind of issue. They would rather slowly vote for appropriation after appropriation after appropriation and then go back home—and I will write the speech for you—and say, "I did not vote to authorize those troops being down there. I did not send them down there. All I am doing is coming up with the funds to support them now that they are there. It would be a tremendous loss of credibility now that they are there for us to pull them out or to cut off their funds."

That is how the argument goes. Many Senators already have been through it. First there is the attaché. Then there is the military group. Then you have advisers. Now you get the reconnaissance flights coming in. Next will be the gunships to protect the reconnaissance flights.

This is not complicated.

Mr. LEAHY. It has happened before.

Mr. DODD. Then we lose some lives.

Well, we cannot stand that. So then we are going to have to send in some troops to make sure that the people who are shooting down our ships do not shoot them down any longer. And all the way along there is this slow erosion.

This is not the first time. It has happened before. It has happened in the memory of people who serve in this body. Some do not have the courage to say, "If you are going to send them, we want to vote on it."

But the Senator from Massachusetts is not saying in his amendment "Do not send them." There is nothing in this amendment that says you cannot send combat forces to El Salvador or Nicaragua. This amendment says you can do that, perfectly all right to do it, but why can we not vote on it? Why can we not participate in that decision? How are we going to go home and face our constituents and say, "We do not want to vote on it. Do not let me vote on this issue. For God's sake, I do not want to be involved in that. Let the President make up his mind. I am not going to be involved in that."

Just pretend it is not there, in effect. And that is all the Senator is suggesting with this amendment—give us the right to not make the same mistakes that have been made in the last decade and a half, in fact the last months after having gone through the experience in the Middle East. To suggest otherwise, I think, is to make a significant error which many of my colleagues will regret. Unfortunately, when they look at this amendment, they are seeing El Salvador and where they are on that issue. They are not looking beyond and saying whether or not they ought to vote on where in the world we are going to be sending combat forces to die—not advisers, not trainers, not military groups, not at-

tachés, but people who are going in to be shot at, to be wounded and die. We do not want to vote on whether or not they ought to be subjected to that. That is all this amendment is about.

I hope my colleagues, regardless of their feelings on Central America, will understand the significance of this vote and what it means in a very real sense to Central America at this very hour for those who look to this country with some hope.

My colleague from Rhode Island I know has some comments, and I will yield to him.

Mr. PELL. I thank my friend from Connecticut.

With regard to the pending amendment, it seems a sad commentary, indeed, that Congress has to stand guard to make sure the administration does not introduce combat troops into the region unless there is a declaration of war, a need for the evacuation of American citizens, or a response to an attack on the United States.

Our policies are leading us very close to specific military intervention and direct involvement. We see now, as the Senator from Tennessee has pointed out, American advisers have actually been fired upon in El Salvador. Just this morning we read that American aircraft were providing reconnaissance and communications support for Salvadoran troops during combat.

This amendment provides a safeguard in this regard, and I hope that it will pass.

On a more general subject, the whole debate that is now taking place seems to me to be out of order in that it is a circumvention of the authorization process. The request for the $93 million or, as modified by the Senator from Hawaii, $62 million bypasses the committee system. It makes the Foreign Relations Committee redundant, without any purpose.

At this very moment, we are debating in the Foreign Relations Committee the foreign aid bill, and we will be touching on the Central American points this afternoon.

What is the purpose of the committee reporting out a bill if already the initiative has been taken and it is being discussed on the floor? I hope this continuous erosion of the committee system will cease and that matters will take their normal course. There is no great crisis at this time. Wait for the Foreign Relations Committee to act and then accept or reject the committee's recommendations and move on from there.

I thank my colleague for yielding.

Mr. EAST addressed the Chair.

Mr. DODD. I thank my distinguished colleague from Rhode Island for his comments and statements.

I see my friend from Hawaii. I will be delighted to yield to him.

Mr. INOUYE. Mr. President, on my time, will my friend from Connecticut yield for a question?

Mr. DODD. I am delighted to yield.

Mr. INOUYE. Before asking my question, I should like to preface by saying I am certain the Senator recalls I joined him in speaking out and voting against the extension of authority to the President to keep our forces in Lebanon for 18 months. I also spoke up when it was a lonesome time to condemn the President for invading Grenada because I felt it was not a proper exercise of his constitutional powers.

Saying that, I now have this question: By supporting the Kennedy amendment, is the Senator suggesting that the War Powers Act, as it is on the books today, is inadequate for the present circumstances?

Mr. DODD. Yes. Before responding to the Senator's question, let me say to him what I have said privately: How much respect I have for him in the leadership role he has taken a number of times on the subject matter before us—that is, Central America. I am proud of my association with him on those occasions.

In response to his question, I say the following: First of all, before the War Powers Act, there was a document which ws approved in 1789 called the U.S. Constitution. The War Powers Act was only to reaffirm what the Constitution of the United States already provided for. That was the shared powers in committing U.S. forces to a combat situation when their lives would be in jeopardy.

Throughout the 19th century, that was a precedent followed by Presidents regardless of party. Early in the 20th century we began to see an erosion of that.

However, as a result of the experience in Vietnam, where never once did Congress ever authorize that particular conflict or the sending of U.S. troops into that conflict—never once did we approve of it in an authorizing fashion, as I think the situation requires, and we saw a significant loss of American life—as a result of that, Congress thought it should reaffirm what it believed was the proper constitutional requirement of Congress being involved in that decisionmaking.

Hence, the adoption of the War Powers Resolution, the vetoing by the President of that particular measure, and Congress overriding that veto, making it the law of the land.

Since it has become the law, we have seen every President try to duck it, try to get away from it, in effect, and try to get around it so that they would be able to act unilaterally.

Unfortunately, despite the existence of the Constitution, despite the existence of that War Power Resolution, we have learned painfully that the present Chief Executive officer of this country has little regard for that act, as we have come to know.

What the Senator from Massachusetts is suggesting here is something we all have become painfully aware of. Before we go any further in Central America, since there is this question about the constitutionality of the War Powers Act, since it is now quite clear that this President has a low regard for that piece of legislation, should we not in this body, as a hedge against what all of us, I think, believe is an institutional argument, not a political one, be in a position to say, "Before you commit U.S. servicemen and women to a combat situation, we want to approve of it"? Is it wrong for us to insist on that involvement?

The Senator from Massachusetts, I believe, would probably not be offering this amendment had the War Powers Resolution been followed by this President. I believe that then we might all have a sense of security and that we would have a chance, as I believe the Constitution requires, for us to participate in that decision. Since there is such a bad track record of this President not wanting to involve this Congress in that decisionmaking, I think the amendment of the Senator from Massachusetts is absolutely essential before we find ourselves right back again where we were before.

So, in response to my colleague's question, I say that, unfortunately, it appears that the War Powers Resolution does not provide this body, and does not provide this country with the kind of protection we would all like to have, to meet the constitutional requirements that Congress be involved in that kind of decisionmaking.

Mr. INOUYE. If I may seek further clarification: In other words, so far as Nicaragua, Honduras, and El Salvador are concerned, this amendment will be an exception to the War Powers Resolution?

Mr. DODD. No. In effect, what we are saying—those of us who believe the War Powers Resolution is still good law and should be followed—is that because there is a problem with this administration, we will have to reemphasize the point.

Mr. INOUYE. For these three countries?

Mr. DODD. I believe the amendment excludes Honduras. It is just El Salvador and Nicaragua.

Mr. INOUYE. So that these provisions will not apply to other countries?

Mr. DODD. The question at hand before us today involves Central America; and I would suggest that I suppose in the future, where we have a question of imminent hostilities, as I believe we do in Central America today, where we have seen an escalation, in order for this body to protect itself against the excesses of an administration that seems to have a low

regard for our opinion—and, in fact, blames us for what the Senator and I are doing right now—if the Secretary of State's argument with regard to Lebanon prevails in this particular engagement, he is going to then turn around and say, "That Senator from Hawaii and that Senator from Connecticut and that Senator from Massachusetts are responsible because they debated the issue."

That is the low regard they have for this body. They do not want us to debate it, let alone to vote. They do not want you and me to even talk about it, in effect. That was his argument before one of our committees a few weeks ago.

I fear that we have no recourse but to protect ourselves by insisting upon the amendment offered by this distinguished Senator from Massachusetts.

Mr. INOUYE. I thank my distinguished colleague.

Mr. DODD. I thank the distinguished Senator from Hawaii for his comments and questions. We have worked closely before on these issues.

I try to make the point once more than this is not a political debate. It is an institutional argument that we have to insist upon, as Members of this body, if we are going to at least limit the possibility of what we have seen occur in the past.

The Senator from Massachusetts, as I understand it, with his amendment, is not saying, "You cannot under any circumstances send combat forces to Central America, to El Salvador and Nicaragua." He is saying that before the President can do that, he must come to Congress to get approval.

I will state again what I said at the outset: What an outrageous thought, to insist or demand or request that Congress be involved in that decision-making process.

Mr. President, I noted earlier that there is an historical pattern of escalation, where we start with attachés, and then it becomes military groups, then it becomes advisers, then reconnaissance flights, then protection for those flights, and before long, it seems to move up, before we have even had a sense of how far we have become involved.

Mr. President, I have mentioned that there is a succession of events which we have seen, a historical pattern which has developed over the years. I mentioned reconnaissance missions as the fourth step we often see. There is an article in this morning's Washington Post by Edward Cody, in which it is stated that we now know that there are U.S. aircraft providing reconnaissance and communications support for Salvadoran troops during combat operations. I ask unanimous consent that the article be printed in the RECORD.

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

U.S. SPY PLANES AID SALVADORANS DURING COMBAT

(By Edward Cody)

SAN SALVADOR, March 28—U.S. aircraft are providing reconnaissance and communications support for Salvadoran troops during combat operations, according to a senior Salvadoran Army officer involved in the effort.

This marks the most direct involvement in El Salvador's civil war so far by a U.S. military mission whose scope and size have steadily expanded in small steps over the past year.

While the number of U.S. personnel in El Salvador officially classified as military trainers remains limited to an informal ceiling of 55, the number of those not listed as trainers has increased. On any given day, the total of U.S. military personnel in the country usually is more than 100, a figure that increases during periods of heavy training.

In a change in policy since August, the American soldiers now are authorized to carry submachine guns or automatic rifles.

In addition, hundreds of U.S. military personnel, including trainers working exclusively with Salvadorans in Honduras and those who operate the reconnaissance flights into El Salvador, are not listed as assigned to El Salvador. U.S. soldiers or pilots take no direct part in combat, U.S. officials emphasized, and U.S. Ambassador Thomas Pickering dismissed the shifts in personnel and mission as insigificant. But the changes decided by administration officials in recent months, viewed together, seem to have softened a number of restrictions that formerly were placed on U.S. soldiers and their mission here to satisfy congressional critics warning against creeping involvement.

As guerrillas began an attack on the Salvadoran Army garrison in the eastern city of San Miguel March 17, a heavy plane, its propellers clearly audible to this reporter, began lumbering in lazy circles over the clash.

The aircraft, according to a senior Salvadoran military officer there, was part of regular U.S. reconnaissance support for the embattled Army, providing swift information to pinpoint attacking leftist guerrillas forces by using infrared surveillance equipment that "sees" in the dark from its vantage point in the sky. One Salvadoran officer said he gets information during combat on guerrilla locations "instantly," transmitted from planes above.

The plane droning over San Miguel arrived on the scene less than half an hour after the fighting began. It continued to circle overhead during the two-hour clash, concentrating its slow passages north of the walled garrison, the path over which the main rebel force had retreated, Salvadoran officers said the next day.

U.S. aircraft have for some time been flying reconnaissance missions from U.S. Southern Command headquarters in Panama, seeking out guerrilla concentrations and supply routes into El Salvador from havens in Nicaragua. As the flight over San Miguel demonstrated, they now have begun to monitor guerrilla forces during combat as well.

U.S. Embassy officials or military advisers declined to discuss the operations in detail. But one Salvadoran officer in San Miguel said the U.S. planes radio findings to the Salvadoran command in San Salvador, where U.S. advisers are routinely present, and the intelligence is then relayed immediately to field commanders over Salvadoran Army communications.

The U.S. Army last month began basing OV1 Mohawk observation planes at Palmerola airfield in Honduras to fly southward on reconnaissance missions for the Salvadoran Army. Flights by the turboprop observation craft, with two-man U.S. crews, coincided with intensified antirebel attacks by the Salvadoran Army to protect Sunday's presidential election. They are expected to continue at least through the runoff voting in late April or early May.

Although some Panama-based reconnaissance planes have been reported armed with rapid-fire cannons, none of the U.S. planes have been authorized to fire on guerrilla forces thay may detect, U.S. officials said. Donald Hamilton, a U.S. Embassy spokesman, also denied a charge yesterday by Ruben Zamora, a rebel political leader, that U.S. planes have joined Salvadorans in bombing rebel-held areas.

[In Washington, Pentagon officials who asked not to be identified have said the OV1 flights over El Salvador are intended both to monitor insurgent troop movements day-to-day and to provide "real-time" intelligence information to Salvadoran troops to help them direct their artillery and air fire, Washington Post staff writer Fred Hiatt reported.

[In a Feb. 8 announcement on the Army reconnaissance flights, the Pentagon described them as "similar to other missions we fly in various parts of the world." The Pentagon has never officially acknowledged or denied that the flights provide combat support in El Salvador.

[One reliable source said that AC130 gunships were among those that have flown over rebel territory in El Salvador from U.S. bases in Panama. But a senior Pentagon official denied that any armed U.S. flights have taken place.]

Here in El Salvador, the Reagan administration's self-imposed limit of 55 military advisers has been skirted during the past six months by redefining the categories of U.S. military personnel stationed here. The practical effect has been to raise the authorized size of the advisory team without challenging congressional critics by formally abandoning the 55-man limit.

Under the new method of calculating, the administration has authorized the 55 advisers plus another 11 staff members of the military group for a total of 66.

U.S. military personnel here also include 17 permanent and nine temporary staff members in the defense attache's office, up from a permanent staff of six a year ago; 20 marines guarding the embassy and 23 Army medics who have been training Salvadorans since July in addition to the strictly military advisers.

U.S. advisers often stay in brigade headquarters to assist provincial commanders in organizing staff, deploying forces and training recruits. A national training center also has been set up in La Union province in the southeast near the Gulf of Fonseca, where advisers are regularly stationed.

Lt. Col. Jose Adalberto Cruz, head of an Army detachment in embattled Morazan province, was seen Sunday morning, for example, having breakfast with a U.S. Marine officer in headquarters mess at San Francisco Gotera. Col. Joseph Stringham, head of the U.S. military group, recently accompanied Chief of Staff Adolfo Blandon on a

visit to Lt. Col. Domingo Monterrosa in Morazan province during a Salvadoran Army offensive.

Use of two helicopters that have been assigned to the defense attache's office also has broadened the areas where military advisers can visit Salvadoran troops, although U.S. officials said the advisers are still prohibited from knowingly going to combat areas.

Other advisers or staff members remain in the U.S. Embassy doing administrative work, and Air Force advisers spend much of their time at the Ilopango military airport outside the capital.

At election time the number of U.S. advisers in the country stood at 37 plus 10 staff members, reflecting a temporary decrease in training because of intense Salvadoran Army deployment to protect the election, U.S. officials said.

In addition to U.S. advisers here, about 170 U.S. soldiers have been training Salvadoran soldiers at the Regional Military Training Center in Puerto Castilla, Honduras, and 300 U.S. Army pilots, maintenance men and intelligence specialists operate the reconnaissance flights from Palmerola.

Since August, the State Department has dropped a restriction limiting the weapons that military advisers could carry to side arms. Pickering now has authority to permit advisers to carry MP5 submachine guns, a West German-made weapon about the size of the Israeli Army's Uzi, or Colt AR15s, a version of the U.S. Army's M16 assault rifle that has a shortened barrel and collapsible stock.

Mr. DODD. Mr. President, again I want to emphasize that what the Senator is saying is not that we ought not even concur. If we want to send combat troops or planes or other vehicles, that is perfectly permissible. Let us just have the opportunity in this Chamber to cast our votes for or against. I think that is the best way to proceed and to avoid the kinds of situations in which we have seen ourselves.

Mr. President, as I understand it, at this point we are going to take a recess.

The PRESIDING OFFICER. The Senator from Wisconsin.

RECESS UNTIL 2 P.M.

Mr. KASTEN. Mr. President, we have conferred with the majority leader and also with the minority leader. It is my understanding that there has been a request for a Democratic caucus to be held from 12:30 p.m. today until 2 p.m.

Therefore, I ask unanimous consent that the Senate stand in recess from 12:30 p.m. until 2 p.m., and that at 2 p.m. we resume consideration of the present amendment and at that time the time for the Senator from Massachusetts will be 1 hour and the time remaining for the Senator from Wisconsin will be one-half hour which would indicate we would be able hopefully to come to a vote sometime in the neighborhood of 3:30 p.m., on this matter.

There being no objection, the Senate, at 12:31 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DURENBERGER).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Minnesota, suggests the absence of a quorum, the time not to be charged against either side.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Who yields time?

Mr. KENNEDY. Mr. President, I yield such time as the Senator may require.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished Senator from Massachusetts for yielding me time.

Mr. President, I support the pending amendment because, in my view, this amendment essentially reaffirms the constitutional authority of the Congress of the United States to declare war, or to expressly authorize the use of U.S. personnel in situations which may amount to war or may lead to war.

In the course of the 34 years since the military action in Korea, which began on June 1, 1950, we have seen a succession of events where the United States has been involved in wars which have not been declared by Congress and, accordingly, where military actions tantamount to war have been in violation of the U.S. Constitution. That was the situation in Korea; that was the situation in Vietnam; that, arguably, was the situation in other military actions.

When Secretary of State Shultz testified before the Foreign Operations Subcommittee of the Appropriations Committee on March 1, this Senator had the opportunity to ask the Secretary his opinion as to whether the military actions in Korea and Vietnam constituted wars. The Secretary responded that they did, in his opinion.

During the course of consideration by this body of the War Powers Resolution on September 27, 1983, there was a colloquy between the distinguished chairman of the Foreign Relations Committee, the Senator from Illinois (Mr. PERCY), and this Senator about a number of military engagements.

Senator PERCY, who was managing the resolution seeking congressional authorization for military action in Lebanon, agreed in that colloquy that Korea was a war, Vietnam was a war, and Lebanon was a war.

I remind this body that on September 27, we had not yet sufferd the grievous loss of some 230 marines in the attack on the Marine barracks which occurred on October 23, 1983. At the time, there had only been, as I recollect, some five fatalities of U.S. forces and about two dozen casualties.

It is in this context, Mr. President, that I express my concern about the erosion of the congressional authority to declare war, both because it seriously undercuts one of the most important of all constitutional provisions, and also because it places this Nation in a position of real jeopardy when we engage in wars without lawful congressional declaration and without essential public backing.

In my opinion, we learned a bitter lesson in Vietnam: This Nation cannot wage war successfully without public support.

The Constitution wisely gave the power to Congress, exclusively, to declare war because of the very basic fact that the Congress has the surest sense of the will of the American people. That is a fact of life, because the 100 Members of the Senate and the 435 Members of the House of Representatives have very extensive contacts with our constituencies. We return to our States or districts frequently. We hold open house or town meetings. We see many of our constituents in Washington. We receive a flood of letters, some 2,000 a day arriving at the office of this Senator, and we receive numerous telephone calls. I believe we have an accurate feel of the pulse of the people of the United States.

We have a sense of public will that is far more accurate than the President can possibly have. That is why the Constitution, wisely, has authorized Congress to declare war; only the Congress knows the will of the people. Without public support, the act of war cannot realistically be sustained.

While we may still be too close to the events in Lebanon to speak with any real certainty, my sense is that public support was lacking for even the limited military engagement which the United States undertook there as part of the multinational peace force, committing some 1,600 U.S. marines to that action. Certainly, there was no public support for broader military action by the United States. That public view was significantly responsible for the ultimate withdrawal of our marines from Lebanon.

This subject has been the topic of extended discussion within the Appropriations Committee. In the testimony of Secretary of State Shultz on March 1 before the Foreign Operations Subcommittee, there was an extensive dialog between the Secretary of State and this Senator on the issue of possible military action in the Strait of Hormuz.

At that time, there was a real concern the United States might take some action in that area. This Senator

expressed concern to the Secretary of State that such action might be taken without the authorization of the Congress, and might constitute war or involve the United States in what could lead to war.

The War Powers Act was adopted in an effort to have some after-the-fact response by the Congress to military action by the President. In my judgment, the War Powers Act has not been a success. The President of the United States has not conceded the constitutionality of the War Powers Act, and other Presidents have expressed similar views that the War Powers Act is not constitutional. In submitting the action in Lebanon for consideration on a resolution by the Congress of the United States, there was an express reservation by the President, saying in effect the President did not believe the War Powers Act to be constitutional.

This is perhaps the most pressing issue facing the Nation today on the division of power, authority, and responsibility between the Congress and the President.

Also, an exchange occurred in yesterday's hearing before the Subcommittee on the State Department of the Appropriations Committee with Secretary of State Shultz in which, this Senator explored the possibility of having a judicial decision which would determine the constitutionality of the War Powers Act in a nonconfrontational setting. Obviously, it is difficult, perhaps impossible, for the Congress to use its authority to limit expenditures in order to curtail executive military action. Curtailment of expenditures would subject U.S. fighting men to peril if we cut off the supply of funds and therefore, of bullets.

In that context this Senator believes there ought to be formulated a test case before the Supreme Court of the United States which, under our Constitution and doctrine of separation of powers, has the ultimate responsibility to decide constitutional questions involving the respective responsibilities and authorities of the Congress under article I and of the Executive under article II.

There are obvious difficulties from a legal point of view in having such a matter tested. There is an issue of standing, but it can be surmounted by congressional enactment, as the Congress did in the situation in Buckley against Valeo, to grant standing. There is a more complex issue on meeting the constitutional requirement for a "case in controversy." But it is my legal judgment, with some experience in the field, that if the matter were carefully presented to the Supreme Court of the United States by the Executive and the Congress, there would be a resolution of the issue of the constitutionality of the War Powers Act.

As the matters are evolving in the consideration of our allocating funds for Central America—the allocation of funds for Nicaragua, the question of our military bases in Honduras; and the question of allocation of funds for El Salvador—this body will vote in the course of the next few hours on all of those issues. And they are complex and difficult issues.

But when we face up to the amendment proposed by the distinguished Senator from Massachusetts, which is direct and simple in its formulation, it is my judgment that the amendment is preeminently sound. It provides that:

No United States personnel, civilian or military, shall be introduced into or over the territory of El Salvador, or Nicaragua for the purpose, directly or indirectly, of combat unless:

"(1) Congress has declared war or authorized the presence of such forces in advance by a joint resolution signed by the President of the United States; or

"(2) The President has determined that the presence of such forces is necessary to provide for the immediate evacuation of United States citizens, or to respond to a clear and present danger of military attack on the United States;

in either case described in paragraph (2), the President shall advise and, to the extent possible, consult in advance with the Congress and shall, in any event, notify the Congress of the basis for such determination within 24 hours of the introduction of such forces.

It allows latitude to the President to respond to an emergency situation. Perhaps this resolution goes further than the Constitution authorizes in allowing the President to take action which could constitute war in and of itself or could lead to war. But with that provision for emergency action, that exigency has been provided for. And then in the first part calling for congressional declaration of war or authorization, the resolution really restates what is provided in the Constitution. In the context of what has occurred in Korea, Vietnam, and other military actions and the erosion of congressional authority, it is my view that this amendment is sound and ought to be adopted.

Mr. President, the exchanges with Secretary of State Shultz previously referred to are, I believe, of some value and I ask unanimous consent at this time that the record of the proceedings before the Subcommittee on Foreign Operations on March 1, pages 47 through 50 and 84 to 90, be printed in the RECORD.

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

Senator SPECTER. Mr. Secretary, I would submit a number of questions in writing on Central America, but in view of the time limitations I would like to broach a subject on the Mid-East in light of the very substantial amounts of foreign aid requests for that section of the world, focusing particularly on the problems in the Straits of Hormuz at the present time where there have been a number of incidents, and there is a real question about the use of U.S. military force.

The concern that I have is the on-going problem of acts of war which do not follow a declaration of war by the Congress, going back to Korea, Vietnam, Lebanon, and a concern that I have about Congress to act when there is time for the Congress to express itself.

There are many in the Congress who have commented in the War Powers debate over Lebanon that there was disagreement with the President's going into Lebanon, but once there he would be backed, which may be sincere, or it may be a cop out. My own sense is that in an emergency, obviously, the executive has to act, but in the absence of an emergency, on the deployment of a peace-keeping force, my sense is that we were unable to make that stick because of so much division of opinion in the United States.

I would defend Speaker O'Neill's right to criticize the President, but it was an impossibility for Mr. Rumsfeld and others to carry out a policy when the Syrians knew, the President had expressed it on one occasion, that the United States was out of breath, automatically saying that we were about to withdraw. If there had been broader congressional support in advance, I think our policy in Lebanon would have been much more solidly based.

I think the Constitution provides for the congressional action because we have a great many more contracts with the constituency of the country, and we have learned that you can't fight a war in Vietnam or take action in Lebanon without strong public support, which brings me to the concern as to whether or not the Congress ought not now to be acting to define the situation under which a force, which may amount to acts of war, should be used in the Straits of Hormuz.

Wouldn't it be an appropriate exercise of congressional constitutional authority to take up these issues and, perhaps, if the emergency arose, to lock the doors and debate it out, under a limited agreement, and to express ourselves by a vote, instead of taking pot shots after the fact and disagreeing with Administration policy?

Secretary SHULTZ. I think that any subject that the Congress wishes to take up, it should take it up. Sometimes the hearings will have to be held in private session, but I think Congress ought to take up whatever it wants.

My observation is that no matter how much we debate, assert, and so forth, it is not going to avoid pot shots after the fact if things go wrong. It is a privilege that you get by being elected as distinct from appointed. That is a fact of life, I recognize that and accept it.

I think that the situation that is a consequence of the Iran-Iraq war is a matter of great importance, and it is in a sense a kind of irony that we have paid little attention to that. It is seldom that I get asked a question in the hearings about it.

There have been more people killed in that war than anything in recent memory, there are huge numbers of forces—I was going to give you the number, but I guess I won't—that are ranged against each other there now, with potential fallout on our interests and other people's interests as the thing spills over. We have to pay attention to our interests. Obviously, we want to pay attention to them diplomatically. There is

also a role for force. I am sure we can debate that subject.

My own feeling is that the operation of the War Powers Act in Lebanon constitutes an example of how not to do it. I think it was an exercise in getting the executive branch so tied up that it was hard to do sensible things, that probably everybody supported, because of the process of consultation that you have to go through, all of which is public, no matter what room you hold it in, it makes it impossible to execute the policy.

I think the Lebanon example raises serious questions about the present structure of the War Powers Act. I am not in favor of the way it operates at all personally. I don't speak as a lawyer about constitutionality and all of that, I leave that to you. I am just talking about how it affects the policy process.

As for people informing themselves about the problems in the Gulf and the Straits, and what the interests of the United States are, and what kind of plans we have, and so on, I think that that is important. We would welcome an interest in that and opportunities to inform people.

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Senator KASTEN. Senator Specter.

Senator SPECTER. Thank you, Mr. Chairman.

Mr. Secretary, so that the Administration will have some idea of sentiment on this Stinger issue, I agree with Senator Kasten, Senator Inouye, and Senator D'Amato.

Secretary SHULTZ. Yes, sir, I have been getting the message.

Senator SPECTER. I would like to pursue the subject of congressional authority to declare war, and whether there is any real role left, and whether it is practical. I agree with your statement about the War Powers Act not being acceptable, tying the hands of the executive branch, and that is part of the reason that we are searching for something.

As I have been across my state with the open house and town meetings, I have had many people say to me, "Why are we at war in Lebanon without a congressional declaration?" I believe that Lebanon was a war.

Senator Percy and I had an extended colloquy on this subject of the War Powers Resolution. We considered that on September 27 as an amendment to the bill. We were seeking at that time some parameter, some definite means that made some sense. I asked him whether he thought Vietnam was a war, and he said, yes. I asked him if he thought Korea was a war, and he said, yes. I asked him if he thought Lebanon was a war, and he said, yes. At that time there had been five fatalities, and about two dozen casualties, two dozen wounded at that time.

It is a difficult matter, and it may be that, given the exigencies and emergencies, the Congress doesn't have any role any more, and wars come about without a congressional declaration. I think that is very bad, not only because it is a constitutional violation, but because I do not think that we can fight successfully without public support, and the Congress is the best way to feel that public support because we have the opportunity to really see and discuss these matters with the constituency in the broadest space, and that really is the strength of our government.

Leaving out Lebanon and Grenada, Mr. Secretary, is it your view that Korea was a war?

Secretary SHULTZ. Do you mean back in the 1950s?

Senator SPECTER. The Korean conflict back in 1950, et cetera, June 25, 1950, and on?

Secretary SHULTZ. Yes.

Senator SPECTER. And Vietnam as well?

Secretary SHULTZ. Yes.

Senator SPECTER. Where do we go? What does the Congress do? I am considering a Sense of the Senate Resolution that we ought to take up the Straits of Hormuz matter, and I am not saying how we ought to decide it. I am not sure that we ought to consider it at all, because it may be that what we would do would be counterproductive. In trying to write a resolution, it is very difficult to write it down, with some parameter where military force should be used.

For the past several weeks the Straits of Hormuz have been upon us, and we know that it is a problem. The Congress is sitting back, and it is really deferring to the executive branch, and perhaps we should. My own sense is that we should not, we ought to take up the question, and perhaps we ought to decide not to decide it.

Do you see a complication if the Congress—I know that we can consider it. Whatever we decide to consider, we may. Do you see a complication for the President if the Congress were to try to set some parameters on where force should be used, and to what extent?

Secretary SHULTZ. It is a very deep subject, and I think to a degree a changing subject. I am sure that the answer to your question is, yes, it is a complication for the President. It is, of course, always important to know the sentiments of the Congress. We have to basically work together on these vital issues or war and peace. It is a commitment to do that.

I think that the War Powers Act itself, the way it operates, perhaps against the background of Lebanon as a case study, it just shows you what tends to happen. I think that ought to be reviewed by the Congress. I don't think that it was a good performance. While perhaps our view of why is different, I got the impression that Senator Leahy didn't think so either.

Senator LEAHY. I am sorry, Mr. Secretary, I was being distracted and I didn't hear that.

Secretary SHULTZ. I was commenting on the War Powers Act, and its operation in Lebanon. I said that I didn't think that it was a very good performance, and from your comment, even though perhaps our reasons for feeling that might not be the same, you didn't think so either.

I would expect that there are probably a lot of questions around in the Congress about whether or not that particular piece of legislation is the most desirable way to structure the interaction of the executive and legislative branches as we struggle with issues involving force around the world. I think that that is one question to be examined.

The Straits as such is an example of a type of situation. However, I feel that a great deal of the reality that we as Americans are going to face over the next decade is going to be situations where it is clear that there are important, perhaps vital American interests at stake, where the situation is inherently somewhat ambiguous, and the nature of the ambiguity can move in all sorts of directions, and where clearly we could advance American interests if we were able to employ a modicum of force, combined and articulated with diplomatic efforts, and be able to sustain it so that it is credible over a period of time.

I think that it is an open question whether or not we are able to do that. If we aren't able to do that, then we are going to check out on an awful lot of American interests. It is a hard thing to manage, because there are so many different views, and the ability to sustain an effort is affected, and people's perception of our ability to sustain an effort is affected by what people all over the world read in our newspapers. They all read the papers.

I think that it was absolutely astonishing to the Soviet Union and Syria that we didn't exactly strike in moving the Marines offshore. I think there is no question that the Soviets would not have vetoed a resolution to put the U.N. forces in more dispersal if they hadn't felt they needed to trade that off. They got it anyway.

I am not questioning the decision at all, I agreed with it, because by the time we got to where we were, there was no support for having the Marines stay there. So we had to move them, and rearrange the structure of what we were trying to do. But our own debate here just totally took the rug out from under our diplomatic effort.

I think that there is a big, important, deep issue for us to explore that doesn't lend itself to quick answer, or an off-the-top of the head answer. I have been thinking about it. I have people in the Department thinking about it. I am sure that any answer that comes out will not be clear cut, but still we have to examine this kind of an issue because it involves our capability to defend our interests, and the circumstances under which we will commit various levels of force to a situation.

Mr. SPECTER. I thank the Chair. I thank the Senator from Massachusetts for yielding the time and I yield the floor.

H.R. 4072—IMPROVED PROGRAM FOR WHEAT

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I do not know what the time situation is, but a matter has been cleared by the minority leader and it is in the nature of a housekeeping detail. Will the Senator permit me to do that?

Mr. President, I ask the Chair lay before the Senate a message from the House on H.R. 4072, an act to provide for an improved program for wheat.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendments of the Senate to the bill (H.R. 4072) entitled "An Act to provide for an improved program for wheat", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following are appointed as Conferees: Mr. de la Garza, Mr. Foley, Mr. Jones of Tennessee, Mr. Brown of California, Mr Rose, Mr. Harkin, Mr. Panetta, Mr. Huckaby (on all matters, except those relating to section 103 and title II of the Senate amendments and modifications thereof committed to conference), Mr. Whitley, Mr. Evans of Illinois, Mr. Bedell (in lieu of Mr. Huckaby on matters solely relating to section 103 and title II of the

Senate amendments and modifications thereof committed to conference), Mr. Madigan, Mr. Marlenee, Mr. Coleman of Missouri, Mr. Stangeland, Mr. Roberts (on all matters, except those relating to sections 502 and 503 of the Senate amendments and modifications thereof committed to conference), Mr. Jeffords, (in lieu of Mr. Roberts on matters relating solely to sections 502 and 503 of the Senate amendments and modifications thereof committed to conference); and for consideration of title V of the Senate amendments and modifications thereof committed to conference: Mr. Fascell, Mr. Hamilton, Mr. Bonker, Mr. Gejdenson, Mr. Kostmayer, Mr. Roth, and Mr. Bereuter.

Mr. BAKER. Mr. President, I move that the Senate insist on its amendments and agree to the conference requested by the House on the disagreeing votes of the two Houses and the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HELMS, Mr. DOLE, Mr. LUGAR, Mr. COCHRAN, Mr. BOSCHWITZ, Mr. HUDDLESTON, Mr. ZORINSKY, and Mr. PRYOR conferees on the part of the Senate.

Mr. BAKER. Mr. President, I thank the Senator from Massachusetts for yielding.

URGENT SUPPLEMENTAL FOR FISCAL YEAR 1984 PUBLIC LAW 480 PROGRAM

The Senate resumed consideration of the House joint resolution.

The PRESIDING OFFICER. Who yields time?

Mr. EAST. Mr. President, I would simply like to make a parliamentary inquiry.

The PRESIDING OFFICER. Who yields time?

Mr. EAST. The managers of the bill knew I was anxious to speak. If this would be an appropriate time, I would like to do that.

Mr. KASTEN. I would like to yield 10 minutes to the Senator from North Carolina, or 15 minutes. How much time would the Senator like?

Mr. EAST. I would say 15 at the outside.

Mr. KASTEN. I yield to the Senator from North Carolina 15 minutes from our side.

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

Mr. EAST. I thank the distinguished Senator from Wisconsin. I thank the Chair for recognizing me.

The Senator from Massachusetts, who is always diligent and able in his task, and I had an opportunity last evening to discuss this at some length, and I have had the opportunity to hear the discussion continued this morning. In the minutes allotted to me I should like to make an observation or two in light of the discussion which took place this morning, particularly as regards the Senator's comments and also those from the very able Senator from Vermont and also the Senator from Connecticut.

I think it is important to underscore again, as I was doing last evening, the strong bipartisan support for the amendment of the Senator from Hawaii (Mr. INOUYE).

I think this strong bipartisan support is the most encouraging thing we have seen for some time on the Senate floor on this matter of the foreign policy of Central America. I wish to point out that this had been consistent I think with developing a sound American foreign policy in Central America since the beginning of this country. We go back to the Monroe Doctrine of 1823 in which it was declared that the United States would not accept foreign intervention and military presence in the New World. In effect, we have to this point, I regret to say, de facto repudiated the Monroe Doctrine. We are accepting foreign intervention and military presence in the New World: to wit, the Soviet Union via her proxy, Cuba.

Also, I should like to note that in the early part of this century, we had a strong and active foreign policy in Central America of bipartisan character. I point to Theodore Roosevelt as an example and to Woodrow Wilson as an example, from two respective political parties.

Simply bringing it down to date, briefly, I should like to note that President Johnson acted decisively in the Dominican Republic, as President Reagan did in Grenada.

We have seen, then, in the United States, throughout our history, always an effort to develop a strong and effective bipartisan policy to this most critical area, to the well-being not only of our hemisphere but also to the people in these areas and to the United States as a whole.

This policy was continued under the administration of John Kennedy, known as the "Alliance for Progress." It took on a course, going back one brief step, of added form in the "Good Neighbor Policy" of Franklin D. Roosevelt. I know that those are two Presidents whom the Senator from Massachusetts, the Senator from Connecticut, and the Senator from Vermont would applaud.

What we now have is a continued effort to build a viable and meaningful and defined foreign policy in that part of the world. I submit that what the two Senators are offering, through this amendment and others, is really no policy at all. It is basically the old isolationism of the 1930's; we simply wash our hands of what is occurring in Central America. I think we do that at great risk.

Senator LEAHY said we must have a sense of history. I agree. We must have a sense of history. We learned in the 1930's that by abandoning the world to totalitarian predators, we did not avert war; we brought on the greatest war we have known in our history—namely, World War II. There was the feeling back in the 1930's that if we pulled into a fortress America, abandoned the rest of the world, let it go its own way, somehow or other we could escape responsibility. I submit that in the 20th century, as one of the two major powers in the world today, that is a luxury we cannot afford.

What we are really doing if we follow the policy of no policy—which I submit these gentlemen are submitting—a policy of isolationism, I think we repeat the follies of the 1930's.

I think we repeat the follies that Winston Churchill warned about in "The Gathering Storm," in which it was assumed that if you ignored the peril of Hitler, Mussolini, and the Japanese Imperial Army, it would go away. Just ignore it. It did not work. On December 7, 1941, at Pearl Harbor, the United States was abruptly awakened to the fact that the balance of power in the world was tipping against us.

To put this in a little broader perspective, the two great challenges of the 20th Century to democracy as we have known it, in the United States and in the West generally—and this includes the beginning of democracy in Central America, in El Salvador—the two great challenges have been from the fascist Nazi right, the totalitarian right, and then from the totalitarian left. Fortunately, we managed to stop that threat of the totalitarian right, and we do not live under the swastika, and we are grateful for that.

However, I fear that today there is once again recurring in American thinking, reflected in the Senators' thinking—I respect their judgment, integrity, and individual honesty—a recurring of this old philosophy of isolationism.

What it is going to bring about is not peace in our time, but it is going to bring about the greater potential for war in our time, because it is going to encourage Soviet adventurism throughout the world. It will encourage it through Cuba and Central America. It will encourage it through Syrian forces in the Middle East. It will encourage it in Southeast Asia through the use of the Soviet proxy in South Vietnam.

Say what you will, the domino theory is alive and well. One country after another in the soft or underdeveloped parts of the world tend to fall under Communist domination. This is exactly; what Marx, Lenin, and Mao said should be done. Take the undeveloped parts of the world, piece by piece, and ultimately the urban industrial continent of Western Europe and Japan will fall. That is exactly what they are doing.

Alexandr Solzhenitsyn said he did not think we had read the Communist Manifesto, and I think he is correct. I think that, ostrich-like, we are pulling into a policy of isolationism.

As regards the presence of American military forces in a modest advisory role in Central America, and that is what this debate is about, what we are doing is as former Secretary of State Kissinger, in the bipartisan commission report, has indicated—simply trying to provide a shield behind which democracy can be allowed to work and grow and evolve and develop. That is an eminently responsible position. It is a plan, and it is consistent with the plan of the "Good Neighbor Policy," of the Alliance for Progress, and the other evidences of bipartisanship that I have already noted in my earlier remarks.

So I do not agree with their assertion here that we have no plan, that we have learned nothing from history. We do have a plan. We have learned a great deal from history. But if the United States is no longer willing to give moral and logistic support to democratic governments in the world, such as in El Salvador, who are trying to resist totalitarian takeover by the Soviet Union and her proxies, such as Cuba, I think it shows a great moral malaise in this country, and politically I believe it will be disastrous.

I agree with Alexandr Solzhenitsyn, who I believe is a very prophetic voice in this context, when he said the West must remember that at some point the balance of power will tip against us. Maybe it did so psychologically in Vietnam, where we lost the will to resist; and we said that whatever the Soviet Union and her proxies want, be it in Southeast Asia, be it in Central America, be it in Africa, or be it in the Middle East, they shall have. We shall withdraw into fortress America, pull the hatch down, and we shall weather the storm. No, we will not weather the storm.

The great world power which we are, the leader of the free world, of the West, if we abdicate that responsibility, not only do I think it reflects a moral malaise in this country, which is to be regretted, but it reflects as well a deep and profound misunderstanding of the international realities of our time.

So, although the distinguished Senators who have been opposing the Inouye amendment guise it in the name of new vision, new wisdom, better understanding of history, I submit it is they, not we in the overwhelming bipartisan majority, who are the renegades.

In the first vote we had on this it was 71 to 20. That is a strong bipartisan vote. And I note the Kissinger Commission was a strong bipartisan voice, and I note that the distinguished majority leader in the House of Representatives, Democrat JAMES WRIGHT of Texas, is supporting the President's plan here or this plan. If I am not mistaken, and I will happily stand corrected, the most distinguished minority leader of the Senate, as I understand it, is supporting this effort and, of course, we know the distinguished Senator from Hawaii (Mr. INOUYE), is the one who has very skillfully and properly put this together.

So I note again there is a plan. It is developing slowly. It is bipartisan in character. That is healthy, and it is not a desire to repeat the follies of the thirties, the policy of isolationism that brought us more war and more trauma.

So I conclude on this note, Mr. President. I think it is the least we can do in this country to give moral and logistic support to our allies throughout the world, our democratic allies, who are trying to resist totalitarian takeovers.

We ultimately did it in the 1930's against the fascist Nazi threat and we ought to be doing it in the 1980's against the totalitarian threat of the left, to wit, communism, whose principal source of inspiration and adventurism comes from the Soviet Union, comes from Moscow and, in the case of Central America, via Havana, Cuba. Let us admit what is occurring, and I end on that note.

If we allow this to continue, again I repeat, not only do I think it is morally repugnant—at least I find it so—I think it brings us closer to war in due course than we have ever seen before in our time.

As Alexandr Solzhenitsyn put it: "You do not need to fear nuclear war; they are taking you with their bare hands," and they are. And they are doing it in Central America today. What we are trying to do in a bipartisan spirit is build some sort of policy of response, first a military shield, behind which these fledgling democracies such as in El Salvador can grow, evolve, and develop. That is a good plan; it is a sound plan. The military shield, the economic development, and growth. Again it is consistent with the Good Neighbor Policy, with the Alliance for Progress Policy. It is progressive, it is forward looking, and that is why I think we have seen this vote of 71 to 20.

It is they who oppose it who I think are the reactionaries. It is they who live in the past of the 1930's. It is they who have no policy. It is they who in effect when you strip it to the core are offering a policy of isolationism and washing your hands of it.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. EAST. That policy will not work in the 20th century.

I thank you, Mr. President, and I thank the managers of the bill for allowing me a few minutes to speak on what I consider an extremely vital issue, and I hope the Inouye amendment will be supported and those amendments attempting to detract from it will be repudiated.

Thank you, Mr. President.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield such time as the Senator from New Mexico may require.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just make a few points that I think are relevant to the amendment by the Senator from Massachusetts and relevant to this entire discussion of our posture in Central America.

First, in response to the comments of the Senator from North Carolina, let me say that as I understood his first point it was that we are privileged in this country to have had a bipartisan foreign policy which is responsible for our actions to date in Central America for the last several decades.

I do not know if that is the case, Mr. President. I have not made a close study of the history of our foreign policy, but I would say that there have been many major defects in our foreign policy as it relates to Central America in the last several decades, and that if that policy is a product of bipartisan agreement then perhaps it raises questions about the value of bipartisanship on these issues.

Clearly the problems that we now face with the regime in Nicaragua have to be at least partially laid to the fact that for many years and in fact decades we did not see fit to use the influence we had in that country to bring about any of the necessary reforms which that country still is in need of. And when the dictator General Somoza was overthrown in Nicaragua, at that point the United States fell into great disfavor by those who overthrew the dictator as would be natural considering our involvement with him.

I do not know how much good it serves to go back and rehash the facts of our foreign policy in that troubled part of the world, but clearly I think that we need an honest debate of these issues now whether it is bipartisan, partisan, or whatever it is, and I think this is a bipartisan debate. I know there are Members on the majority side entering into this debate in favor of some changes in U.S. policy in Central America, and I consider that to be a very healthy development, Mr. President.

I also wish to address myself to the comments the Senator from North Carolina made about this amendment being a prescription for isolationism.

If that is true, if in fact this amendment which requires congressional approval before the administration commits combat troops to Central America for purposes of combat, if a provision that makes that kind of requirement constitutes isolationism, then I suggest that our own Constitution requires isolationism. I do not believe there is isolationism in this piece of legislation. I do not believe our Constitution requires it. But I do believe that our Constitution and this proposed amendment would insure that the people of this country have an opportunity through their elected representatives to speak out before we commit combat troops to war in any part of the world, and I think that is essential to the proper functioning of our Government.

I also point out that it is not isolationism, in my view, to require that Congress authorize and appropriate funds which are going for military installations that we are building in other parts of the world.

The amendment that is going to be offered by the Senator from Tennessee clearly tries to make the point that Congress does not want funds to be spent, does not want facilities to be built, military facilities which can be used by U.S. troops and foreign troops and are of a permanent nature in various parts of the world, particularly in this particular instance in Honduras, without Congress having authorized and appropriated the funds for that and without that issue having been properly debated in the committees and on the floor of Congress.

I think that that is certainly not a prescription for isolationism, Mr. President. It is merely a recognition of the fact that Congress, as representatives of the people of this country, has the responsibility to see that the foreign policy of this Government is consistent with the best interests of the people of this country.

And I make the further point that I do not consider it isolationism for those of us in Congress to request the expenditure of tax dollars and the appropriating of additional tax dollars to support what has been designated a secret war, or a covert war, or whatever you want to call it, when in fact that is an activity that uses tax dollars. I think if the American people are to focus, if they have the time and the ability to focus, on what their tax dollars are being used for when we provide those funds to the contra activities operating in Nicaragua, that those funds are being used to destroy infrastructure, that those funds are being used to mine harbors, that they are being used to destroy powerlines, to destroy roads and bridges, I think there are many people in this country who will question whether that is a proper use of their tax dollar.

We have great debates coming up here in this next week about whether or not we have too large a deficit in this country, and whether we are spending too much for one program or another program. I would suggest that this is a program we are spending too much on. If we do not have funds to provide adequate education in this country, if we do not have funds to provide adequate nutrition and the other human needs that exist in this country, I really question whether we have adequate funds to be supplying and arming 10,000 to 18,000 guerrillas who are set upon overthrowing a country that we have diplomatic relations with. That is a very questionable use of tax dollars in a fiscal year where we are hearing many people stand up and urge fiscal responsibility, Mr. President.

I think it is certainly not isolationism for those of us in the Congress to question the expenditure of these funds. I have seen long debate on the Senate floor, in the short period that I have been in the Senate, about amounts much smaller than the $21 million which we are in this supplemental being asked to appropriate for the support of the contra activity. I have heard extremely pious statements made on the floor of the Senate about how we cannot afford to waste large sums of money. But I would suggest that this is one expenditure that cannot be justified to the American people.

I think that the American people need to focus on it and their elected representatives need to focus on it. All the news media focuses on it. I cannot pick up a news magazine without seeing an article about this activity. Therefore, I think it is completely appropriate that those of us who are sent to the Congress, with responsibility for spending the tax dollars of this country, focus on it and really see whether we want to go with a continuation, an indefinite continuation, of this policy or not.

So, Mr. President, I think for those reasons I would disagree respectfully with the Senator from North Carolina who suggests that we are urging no policy, that we are urging a policy of isolationism. I, for one, and I think many of my colleagues who are concerned about this issue are urging a policy of constructive participation in the betterment of the lives of the people in Central America. We do not see the policy being pursued by this administration as being constructive in reaching those goals.

I believe that is all I have to say, Mr. President, on the issues raised by the Senator from North Carolina. I yield back the balance of my time.

Mr. KASTEN. Mr. President, I yield 5 minutes to the Senator from California.

Mr. WILSON. Mr. President, I thank the distinguished manager.

Mr. President, I have the language of the proposed amendment before me. It says that the President of the United States shall be restricted in the case of introducing into the territory of El Salvador or Nicaragua armed services personnel, and I now quote, "for the purpose, directly or indirectly, of combat unless" and thereafter certain conditions follows.

It is not clear to me what is meant by the phrase "purpose of combat indirectly."

The amendment also speaks not just of military personnel but civilian personnel. So it raises the question in my mind, Mr. President, whether or not this amendment as drafted would prohibit, without the prior congressional approval required, the present trainers serving in El Salvador, whether it would differentiate between those civilian personnel in Central America as distinguished from those who provide service and maintenance to equipment with other American allies.

I have heard no discussion that dispels any doubt about that. It seems to me the question is raised and not properly answered. Perhaps that is the wish of the proponents.

In the second paragraph stating the second condition, it states that the prohibition will obtain unless "the President has determined that the presence of such forces is necessary to provide for the immediate evacuation of United States citizens, or to respond to a clear and present danger of military attack on the United States."

On the continental United States, Mr. President, or on American property? On American lives, or must the personnel to be protected be already within the continental United States? It is not clear. And also even if we take the phrase "for the immediate evacuation of United States citizens," it calls to mind the fact that recently Members of this Congress have been engaged in debate as to whether or not there was a bona fide threat to the safety of the students, the medical students, in Grenada. Is the President of the United States to wait until Members of Congress are satisfied with respect to that question? It may unhappily be resolved to the peril of those students in that case and in future cases.

I submit, Mr. President, that the language of this amendment as it is drafted would very likely have not allowed the President of the United States to act not just with firmness, but with the kind of timely intervention of the kind that was required in the case of Grenada.

There is already on the books, Mr. President, a War Powers Act which, along with traditional oversight by congressional committees, gives this

Congress more than an adequate voice with respect to the deployment of combat forces of the United States. This, it seems to me, is clearly unconstitutionally far reaching and overreaching by the Congress. But even if it were somehow constitutionally permissible, which it is not, it would be the most unwise kind of restraint to place upon the Commander in Chief of American Armed Forces.

Mr. President, I think that this can only be viewed as a good intention which, frankly, is described sometimes in the law as dangerous intermeddling. It is a mistake, Mr. President, and it should not have our support.

I thank the Senator from Wisconsin and I thank the Chair.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use. I wish my friend from California had been on the floor when the Senator from Pennsylvania, Senator SPECTER, a member of his own party, reviewed very clearly and in detail this amendment and his own interpretation of what it did and what it did not do. His understanding, his reading, his interpretation of this amendment is identical to the interpretation which I place on it and which I think the words, by common usage of the language, convey.

By "Provided that no United States personnel, civilian or military,"—and I am sure the good Senator from California understands we have seen in this body over a period of time situations where civilian personnel are hired by the CIA and used as mercenaries—by this phrase this particular amendment would include that kind of activity so that we do not permit any circumvention of the Constitution of the United States or preclude the U.S. Congress from being involved in a decision on whether combat forces should be used in El Salvador or Nicaragua. "Shall be introduced into or over the territory of El Salvador or Nicaragua for the purpose, directly or indirectly, of combat," I do not know how you can get language much clearer.

It is for combat, "For the purpose, directly or indirectly." All of us have seen why the word "indirectly" has to be used. Then obviously there is the other provision:

(1) The Congress has declared war or authorized the presence—

What this language basically says is we are not going to be involved in a war using combat forces without the explicit approval of the Congress—

in advance by a joint resolution signed by the President of the United States.

That is not a very radical idea; or

(2) The President has determined that the presence of such forces is necessary to provide for——

Mr. WILSON. Will the Senator yield?

Mr. KENNEDY. After I finish the explanation, I will be glad to yield—

the immediate evacuation of United States citizens.

That language is basically boilerplate in terms of war powers legislation, and necessary to insure effective protection of our citizens—

or to respond to a clear and present danger of military attack on the United States.

With regard to possible Soviet missiles in Nicaragua or El Salvador, an assault on an American ship, an assault on an American Embassy, we can spell that out, if the Senator wishes. It seems to me to be quite clear: "Attack on the United States." Then the amendment has the concluding paragraph:

In either case described in paragraph (2), the President shall advise and, to the extent possible, consult in advance with the Congress and shall, in any event, notify the Congress of the basis for such determination within 24 hours of introduction of such forces.

Mr. President, if the Members of this body want to support the administration's policy in Central America, which I do not, they still could certainly support this amendment because they would also want to insure that they have a vote, that they have a voice, that they participate in any policy decision to utilize combat forces. If we do not like the administration's policy, then we would also have that opportunity to express our own reservations. But I am troubled whether the Senator is puzzled by the language. If he is, I want him to know we take no special sense of authorship with regards to what is attempting to be done. If he has other language to achieve what I have outlined here, I would certainly welcome any recommendation or suggestion by the Senator. But if he differs with the overall concept, then I think that is a different issue.

That is why I wanted to take this time to address the remarks of the Senator from California.

I would be glad to yield to the Senator from California on the Senator from California's time, if that is agreeable with the manager of the bill.

The PRESIDING OFFICER. The Senator yields time.

Mr. KENNEDY. I would be glad to respond after using my response on my time, if the question is on the Senator from California's time.

Mr. KASTEN. I would like to yield to the Senator from California the time that he needs for this question period.

Mr. WILSON. I thank the distinguished Senator from Wisconsin.

In fairness to my friend from Massachusetts, I would have to say that he is not only false in the specific language, but also false in the basic concept. I do not wish to delude anyone. Let me just ask whether or not the Senator from Massachusetts thinks that the language that he has proposed to us here includes the present military trainers in El Salvador.

Mr. KENNEDY. It does not.

Mr. WILSON. It would, if we are talking about military personnel.

Mr. KENNEDY. If the Senator wants to believe that it does, but in the course of the introduction of the amendment and in the dialog with the Senator from Connecticut, that was reviewed in great detail. I am glad to make legislative history. I do not think the legislative history indicates it, nor does the language indicate it. They are training. They are not for the purposes of combat.

Mr. WILSON. What about civilian personnel who would be training, let us say, Salvadoran military personnel in medical practices related to combat?

Mr. KENNEDY. It would not.

Mr. WILSON. What about the medical evacuation of U.S. citizens? Who makes that determination?

Mr. KENNEDY. The President of the United States makes it.

Mr. WILSON. You are saying, if we are to take this as the constitutional and legislative history that is to govern this body in the future, that there would be no quarrel prospectively, even if this amendment were passed, with a determination by the President that actions were required in order to protect civilian or military personnel?

Mr. KENNEDY. The Senator is correct. There will always be a political question whether particular American personnel were in danger in a given situation, and we would be able, as individuals, to express our view on that particular issue. But there is nothing in this amendment that would proscribe the President of the United States, should he make the judgment that the lives of American personnel were in danger, from taking such action to protect them. That is wise policy. We may take issue whether they were in fact in danger, but he ultimately has to bear that responsibility and accountability. There is nothing in this amendment which would second-guess it.

Mr. WILSON. I hope that my friend from Massachusetts is correct. I, first of all, do not expect that this amendment will pass. But in the event that it does, I would hope that others on the floor would be guided by these interpretations because there is severe doubt in my own mind. Recent history would indicate that there would be a severe questioning as to the adequacy of justification for intervention. As in the case of Grenada, more recently a Member of this body has stated that the United States has been guilty of unauthorized expenditures in Honduras. This amendment has, I under-

stand, been amended so that it no longer applies to Honduras.

The Senator will find me very reluctant to circumscribe the constitutional powers of the President of the United States as Commander in Chief beyond those circumscriptions that exist in the War Powers Act. So I think it has been worth the time to get clear on the record and make the legislative history as to how narrowly the Senator from Massachusetts intends that this language be construed.

Again, in fairness to the Senator, I would say that I think we have legislation that is already more than adequate. Indeed, it is constitutionally suspect. But for those who are concerned with restraining the unbridled use of Executive power, and specifically the deployment of American Armed Forces, the War Powers Act exists. It exists with quite adequate constraints.

This, it seems to me, even if constitutional, would in fact hamstring the President of the United States unwisely. We would very quickly and very soon come to regret the error of trying to adopt and live with this amendment.

I thank my colleague from Massachusetts for his response.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

I am still troubled how there can possibly be any interpretation that this amendment, or a vote for it, applies to the training of medical personnel, or even to the training of forces in El Salvador. There can be no such interpretation of the words, the language, nor the formulation of the amendment.

In spite of the fact that my good friend from California says that is what it does, all of us in the Senate sometimes are reminded—I do not think that the Senator from California intends to—that we try to say what an amendment does not do, and then differ with it. This amendment is clear. It is plain. The Senator from California has indicated that, even if it were to do the things which I indicated I wanted it to do, he would take issue with it. I would point out quite frankly that I am enormously troubled by the application of the War Powers Act for this particular region of the world. Maybe the Senator from California is not. Maybe he does believe that we ought to be able to introduce combat forces into El Salvador and Nicaragua for a period of 60 days as the War Powers Act permits. I do not. I do not. But perhaps there are those, and that is the way the legislative process works, who will express their view on that particular issue. But I certainly do not support such a proposal for these countries in Central America.

Mr. President, the amendment that I have offered puts a very clear question to the Congress and to the country: Do we want to give this President and this administration the power to send U.S. troops into combat in Central America without the approval of Congress?

I say the answer to that question is no. But even if you believe that the answer to that question is yes, you ought to be able to vote to support this particular amendment.

We know that the President is already fighting a secret war by proxy against the Government of Nicaragua. We know that a CIA plane has been shot down by Nicaragua in peculiar circumstances along the Nicaraguan and Honduran border. We know that in three separate incidents in November, February, and March, U.S. forces have come under hostile fire from guerrillas in El Salvador. We know from the morning paper today that American personnel are flying combat related missions in support of the Government of El Salvador.

The question for every Member of the Congress is clear: The United States is heading toward war in Central America and what are we going to do to stop it?

Yesterday in the Appropriations Committee, Secretary of State George Shultz told that committee that he wanted to challenge the constitutionality of the War Powers Act in the Supreme Court. Why do you suppose he wants to do that? Because Ronald Reagan does not want to be bound even by the War Powers Act if he decides to go to war in El Salvador, Nicaragua, or other countries in Central America.

Congress has been fairly warned. It does not take much imagination to see where the administration's actions are taking us. The American people do not want another Gulf of Tonkin incident in Central America. They do not want another Vietnam, another Lebanon, and another Grenada.

The American people do not want Ronald Reagan to send their sons to fight and die in the El Salvadoran civil war. It is not our country to win or lose. It is not our war to win.

We cannot escape the knowledge of what we will do today will have profound and significant implications for the future of our policy in that part of the world.

Every Senator in this Chamber will cast a vote in the light of our own conscience, in accord with our history. The easy thing to do may be to go along.

We reviewed in the earlier part of this debate this morning how the Congress has gone along time in and time out, whether it has been the Gulf of Tonkin resolution, whether it has been with the blank check for 18 months for American Marines in Lebanon, whether it is with military activities in Granada. Basically, the Senate has gone along.

The easy hope may be to evade responsibility for both our constituents and history itself. But if we do not act and if we play the safe political game of complaining about the administration without constraining it, young Americans may die and the responsibility for that will rest here in this Chamber with this vote on this day.

Twenty years ago this summer, the Senate had the chance to say no to Vietnam. Only two Senators did. Too many of us suppressed our doubts. We can do better now and we must, for we know the consequences of drifting into an unwinnable war. Let us choose peace before it becomes unattainable.

Mr. DODD. Will the Senator yield?

Mr. KENNEDY. How much time remains, Mr. President?

The PRESIDING OFFICER (Mr. EAST). The Senator from Massachusetts has 23 minutes remaining.

Mr. KENNEDY. I yield to the Senator from Connecticut such time as he may desire.

Mr. DODD. I thank my colleague from Massachusetts for yielding.

I want to point out an important distinction which has been raised here. Several of my colleagues have raised the issue of the War Powers Resolution and have suggested that the War Powers Resolution adequately covers the situation that the Senator from Massachusetts, myself, and others are concerned about, and gave rise to this particular amendment which is before us.

I think it is worthwhile for our colleagues to remember you do not have to stretch memory now. We can go back a couple of weeks, or a few days, really, a couple of months ago, when we had that debate and discussion here in the Congress about whether or not the War Powers Resolution should be invoked.

We all recall, of course, that the President did not report to the Congress that he was going to be sending troops into a hostile situation. He did not believe that was the case.

His representatives from the State Department and from the White House came before the various committees of this Congress and they said that Lebanon was not a hostile situation; that the President was under no obligation whatsoever to comply with the War Powers Resolution. That, of course, requires that the President report to the Congress that he is injecting U.S. troops into a hostile situation. He has 60 days in which those troops can remain there. Then the Congress either supports or does not support the continuation of those troops in that particular situation.

Of course, the President must first trigger the War Powers Resolution, in effect. He starts the provisions of that resolution to begin to take place.

Without his triggering that particular legislation, nothing else happens.

My point is this: If the President was unwilling to recognize that Lebanon was a hostile situation, what makes anyone in this Chamber believe for 1 minute that he is going to see Central America as a hostile situation or a hostile environment? Obviously, I do not need to make the point of what occurred only a few days after the President indicated he did not see that inflammatory situation in Lebanon as being hostile, when 270 young Americans lost their lives.

The Senator from Massachusetts and others, including myself, are trying to say this afternoon, when are we going to learn? How many lessons do we need? How many warnings do we have to have before we recognize that it is in our interest, but, more than that, it is our responsibility, as Members of this body, to fulfill our constitutional obligations.

Article 1, section 8, a simple phrase: The power to declare war. It is not complicated. The Founding Fathers did not need paragraphs and reams of paper to express what they intended. It is simple language. The power to delcare war rests in the Congress of the United States.

Today they are arguing over the constitutionality of the Commander in Chief and the ability to make war. What some are suggesting here, despite that debate, that constitutional argument, is that we have no right to be involved at all in anyplace; this is exclusively an executive branch decision. They are taking the Constitution of the United States and virtually moving it 180 degrees.

I am willing to admit there is a constitutional issue, to determine whether the War Powers Resolution is legitimate or not. That is a legitimate debate, I suppose.

To suggest that the Congress has no rights in this area, no responsibilities at all, is to entirely abrogate what the Founding Fathers were suggesting in article 1, section 8 of the Constitution, the power to declare war.

When we sit around here today and have been through what we have been through, why are we unwilling to stand up? Why is anyone afraid? If the President is right in Central America, let us say so. If he wants to send in those troops, we ought to have the intestinal fortitude in this body to stand up and say we back him up. If we do not, we ought to have that right as well. But not to duck and hide, to run around and pretend it is his fault. "It is not mine. I did not vote on it. It is not my responsibility." That is what we are doing, we are just ducking it.

I remember a colleague of ours not long ago standing up in a meeting and saying one of the things he regretted during the Vietnam period was that the Congress never had the chance to stand up and say we ought not to be there, that all it was was an appropriations policy. Even so, there are people on this side of the aisle and on the other side of the aisle who had the courage to support going in.

I do not admire walking around and pretending we do not have to make the decision. But we are ducking the responsibility.

Forget about South America. Forget about whether you agree or disagree with DODD or KENNEDY on this issue. Put that aside. Do you think we have any duties at all in this general issue of making war? We either do or we do not. All the Senator from Massachusetts is suggesting with this amendment is before we get along any further, let us decide in this body whether or not we want to commit combat troops. Do we want to commit combat troops? We are not quibbling about language. We can always make an argument about language. It is pretty clear what this amendment says. We had a colloquy this morning and went over the provisions. I specifically asked the Senator, "Are you talking about combat troops or not?" He said, "Only combat, whether on the ground or in the air, involved in fighting."

What could be clearer than that? The record is clear. It is there. We are not talking about trainers. This amendment does not touch it. Advisers, they are not even included. Military attachés, not the point. We are talking about a combat situation and whether or not this body this afternoon is going to decide we want to be involved.

I will guarantee within weeks or months, when the situation comes where the President makes that kind of decision, you are going to have people scurrying all over this Chamber and all over their districts and States saying, "It wasn't my fault; the President did that. The President did that. I didn't do it." Then the President will be coming back and saying, "Congress is at fault because they debated it," as the Secretary of State suggested the other day. That we are responsible for what happened in Lebanon because we fulfilled a constitutional obligation to even talk about it. God forbid, we should talk about it.

I sometimes feel the people who oppose this kind of legislation and who are the most vitriolic and outspoken about the fear of communism in this hemisphere somehow envy almost their system of government where a handful of fellows sitting around in a Politburo can decide whether or not to commit Soviet kids to war. I suppose they would like it that way.

We have a different system. Our Founding Fathers, when they sat in that Hall in Philadelphia, said their means were their end, in effect. How we did things was very important to them.

They had seen what a king had committed them to, and they said that it was very important how we decide what we want to do. It is not an efficient system. It is not a system designed to expedite things. It is cumbersome. It is laborious. It is time consuming. But that is exactly what they wanted in order to protect ourselves in the future from the kind of unilateral, quick decisions by one branch of Government at the expense of people in the country. That is what they were thinking about.

Mr. LEAHY. Will the Senator yield for a question?

Mr. DODD. I will be glad to yield.

Mr. LEAHY. Really, is it not true that what this amendment says is not that the introduction of American troops is totally precluded in Central America, or anywhere else for that matter, but, rather, if it is we are going to debate it and we are going to vote on it? Is that not it?

Mr. DODD. Exactly. The Senator from Massachusetts can speak for his own amendment. Very clearly, it says that you just have to reach some approval in the Congress of the United States. If Congress decides to agree to it, then you do it. As I have said over and over again, this is not a political battle over where you stand on Central America. It is an institutional battle on whether or not this body or the Congress of the United States is going to be involved in the decision to send Americans into a combat zone, to fight in Central America.

Mr. LEAHY. Can it be also interpreted that if somebody wishes to table this amendment, an argument could certainly be made that they had put themselves in a position where they were never called upon to act one way or the other?

Mr. DODD. There will be no illusions. I think we should make it clear, that the tabling motion would not be on the merits on whether or not you support that. I do not have any illusions. I do not think any person who reads this debate or is familiar with the procedure in this institution would have any illusions what that motion was all about.

Mr. LEAHY. Is it not a fact that really what the Senator from Massachusetts and the Senator from Connecticut are saying is, if we are going to have troops down there, then let us be counted one way or the other—we are either in favor of it or we are not in favor of it? We are either in favor of being able to go into combat or we are in favor of going into combat, is that not it?

Mr. DODD. That is all it is. Just a little courage is all we are asking for. We do not care where Senators stand on the issue at this point. Do they have the intestinal fortitude to decide where they want to be on this issue?

That is all. Let us not get into the appropriations battle. We have done that. That is a hard one for people because it usually means funds to support the troops once they are there. A lot of people do not like to cut off funds for our boys when they are off fighting. That becomes a problem for them.

We ought to make a decision whether or not we think it is wise. That is all the amendment suggests: We agree with the decision to send those troops in, yes or no, when the President wants to do it. That is all this amendment does.

Mr. LEAHY. I say to my friend from Connecticut, I have heard from more people in Vermont who ask me the question, a historical question from before the time when either the Senator from Connecticut or I were here, on Vietnam. "How could that have gone on so long with nobody ever voting on the question of why or who should have been over there?" The Senator from Connecticut and the Senator from Massachusetts raised that issue earlier today.

But also I think every one of us must have heard, in whatever State we are from, after the tragic and, in retrospect, unnecessary death of our Marines in Lebanon, those who asked, "Why did not anybody vote on the question of why they were there in the first place?" Now, of course, they have been drawn out from what has turned out to be a complete debacle. I hope that my colleagues will think very carefully about two points: One, we have the potential for a similar debacle in Central America but, second, whether we are for or against American troops in Central America or whether we are for or against them fighting in Central America, let us at least have the courage to stand on the floor of the Senate when the roll is called and one by one state by our vote exactly where we stand. Let us not duck the issue. Let us vote one by one whether or not we are in favor of American troops being involved in combat in Central America. And let us not put ourselves in a position where 6 months or a year or year and a half, or whatever time from now that that whole policy goes totally to hell in a handbasket of being able to stand up and say, "That is not what I voted for; that is not what I wanted. If there had ever been a vote on that, I would have been courageous enough and had enough foresight to vote to make sure it did not happen."

I absolutely respect the opinion of any Senator in this body, whether they are for or against American troops being involved in combat in Central America, provided that Senator is willing to stand up and vote one way or the other.

Mr. DODD. I thank the Senator for his comments.

Mr. President, how much time remains?

The PRESIDING OFFICER. Eight minutes and 52 seconds remain on the side for which the Senator from Connecticut is speaking.

Mr. DODD. The right side.

Mr. President, I conclude again by commending my colleague from Massachusetts for raising this point. It is really, as I said, an institutional issue rather than a political one. And again I point out to my colleagues something about which I know they are all aware, and that is that progressive steps oftentimes lead us into situations. Before very long things have a way of getting out of hand, before we have had a change to really think about them very much. I think that was the case in Lebanon. I was there in July 1982 when the decision was made to send in the marines. You did not need a Ph. D. in Middle Eastern studies to look around and see that it was going to be the political equivalent of Rubik's cube. With all of the various factions involved, all of them armed to the teeth, to then send in a handful of marines to be stationed at an airport was just nothing but looking for trouble. In this situation where we are talking about our own hemisphere we ought to think carefully, we ought to make sure as a strong nation that before we use force we have thought about it carefully so we do not end up creating more difficulties than we think we are going to solve.

I have said over and over again that I disagree with those who say you should never ever use force. That always ought to be an arrow you keep in your quiver, and you ought to use it selectively. As a great nation, it ought not to be your first option but ought to be one you are prepared to use if it makes sense to do so. If you use that arrow without giving it much thought, if you just charge in without thinking about the implications, you end up in the kind of situation we found ourselves this winter in Lebanon. You look foolish. You lose credibility. You appear not to have the spine to stay where you set foot in the first place.

That is far more damaging to our credibility as a nation. All we are asking by this amendment is to make sure that we have thought it out; that it is something we have determined we want to do; that we feel it is in our interest to do so; that we have no other choice. If we are confronted with that kind of situation, I am confident this body will support it. This Senator would, if I felt there were no other way of dealing with the problems that affected our national security and our interests in this hemisphere.

However, based on previous experience over the last several months, I am not prepared to say that this President or anyone else should be allowed to make or should make those kinds of decisions unilaterally, and have a body such as this exclude itself from the responsibility and the burden of sending young men into combat.

That is what this amendment is all about. It is not a question of where you stand on El Salvador, whether you agree with the present policies or not, what you feel about Nicaragua or Honduras. That is all tangential. The central issue here, with this amendment, is whether or not the President should come to Congress and whether or not Congress ought to be involved and support a Presidential decision to commit combat troops, not trainers, not advisers, not civilian teachers, in El Salvador and Nicaragua.

If we repeat the vote that occurred some 4 hours ago, in which a majority of our colleagues here said, "No, we should not be involved; that is the President's decision," then I think the message to Central America and to the people in this country is that Congress does not have the guts to stand up and say where the country should be headed with its foreign policy. That is the message.

Mr. President, I yield the floor.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. KASTEN. I yield.

Mr. GOLDWATER. Mr. President, I have one brief comment to the Senator from Connecticut.

I participated very heavily in the debate on the War Powers Act, and it was generally agreed by the main author of that act, the Senator from New York, that Congress has the right to declare war but that only the President can send troops to war.

We have had about 202 times, I believe, in the history of our country when the President felt that the troops should be called out. Only five of those times did it involve a declaration of war by Congress, and two of those were in the same war.

So, while we have the power of the purse, which we have never exercised, this body actually has nothing to do with where troops are sent or if they are sent. That is up to the President. We can exercise our only power, that of the purse.

Mr. KASTEN. Mr. President, I yield 4 minutes to the Senator from Hawaii.

Mr. INOUYE. Mr. President, I have sat here listening with some sadness to the words of my colleagues reminding me of the tragedy of Vietnam and, more recently, of Lebanon. From these eloquent statements, one can surmise that my colleagues were suggesting the inadequacy of the War Powers Act and possibly of the Constitution of the United States.

Mr. President, I suggest that there is nothing wrong with the War Powers Act. We must keep in mind that every provision of the War Powers Act is still the law of the land.

It was not the War Powers Act that permitted the President to remain in Lebanon for a year and a half. It was the Congress of the United States. It is not a matter of whether we have the guts to vote for this amendment or to vote against it. But, if Congress had had the guts or the wisdom at that moment to insist upon living up to the provisions of the War Powers Act, the situation might have been different.

Mr. President, I suggest that the War Powers Act as it stands today may be considered a bit more demanding than the amendments suggested by my friend from Massachusetts. I bring to the attention of my friend from Connecticut section 2 of this amendment:

> The President has determined that the presence of such forces is necessary to provide for the immediate evacuation of United States citizens.

If this provision were in effect in Grenada, that is all he would need. He will always determine that the presence of such forces is necessary.

Then it goes on:

> . . . or to respond to a clear and present danger of military attack on the United States.

It could be an attack on the Embassy. It could be an attack on a naval vessel. It could be an attack on a contingent of troops.

I think this amendment would weaken the War Powers Resolution, and on that basis I believe the Senate is justified in voting down this amendment, and I intend to do so.

Mr. KASTEN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Wisconsin has 3 minutes and 12 seconds. The opposing side has 4 minutes and 51 seconds.

Mr. RIEGLE addressed the Chair.

Mr. KENNEDY. Mr. President, I yield the remaining time to the Senator.

Mr. RIEGLE. Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes and forty-seven seconds.

Mr. RIEGLE. I yield myself 2 minutes and reserve the balance.

Mr. President, the thing that concerns me here, and I do not know that it has been illuminated as yet, is that in Central America, as nearly as I am able to determine, step by step we are seeing much the same team of diplomatic and military officials being assembled who were assembled during the Vietnam war.

One of the most visible persons along that line is Henry Kissinger, who, more than anybody else, was the architect of the disastrous policy this country followed in Vietnam for so many sad years, and who was named by President Reagan to head the task force to go down and figure out what had to be done in Central America. I protested that appointment at the time, but I only cite him as the first and most visible and recognizable person of that sort.

Thomas Enders has had a major role in Central America and also had a central role in Southeast Asia.

Alexander Haig would have been another who was involved in the early days of this administration, as he has now written, in terms of helping to lay out a strategy for Central America and who was deeply involved in Vietnam strategy. Mr. Craig Johnstone, Mr. John D. Negroponte are others with similar backgrounds.

I do not as yet have the list of the military people. I am in the process of gaining that list.

I think that what we see happening here is that the people who brought us Vietnam, who brought us the Vietnam war policy, are in the process of bringing us the same kind of policy in Central America. I do not want to see that happen.

It would be another matter if we saw signs that Russian troops were coming into our hemisphere, it seems to me that this would call for a response by ourselves in terms of military action of a different sort. We are not seeing that. We are seeing revolutions carried on in that part of the world, as we see in other parts of the world.

I do not want to see a situation develop here where we blindly plunge into a kind of Americanized war effort in this part of the world such as we saw in Vietnam. When I see the same people with the same attitudes who appear to have learned nothing from the experience in Vietnam——

The PRESIDING OFFICER. The Chair advises the Senator that his 2 minutes have expired.

Mr. RIEGLE. Mr. President, I yield myself 30 additional seconds.

When we see the same persons at work now crafting policies along these lines in Central America, the American people had better take notice and better be forewarned, and I am here today to sound that warning and to say that we should not go plunging down that road again, particularly under the leadership of the people who I think failed us so miserably in not understanding this kind of problem when it occurred the last time in Southeast Asia.

Mr. KASTEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KASTEN. How much time remains?

The PRESIDING OFFICER. On the side of the Senator from Wisconsin, there are 2 minutes and 58 seconds, and on the opposition side there is 1 minute and 43 seconds.

ABSENCE OF THE PRESIDENT PRO TEMPORE DUE TO WEATHER DISASTER IN SOUTH CAROLINA

Mr. BAKER. The distinguished President pro tempore, Senator THURMOND, has asked me to state for the record that he will be absent from the Senate for the balance of this day. Senator THURMOND flew to South Carolina earlier today to visit and offer assistance to the several areas in the State in which serious loss of life, injury, and property damage has occurred within the last 24 hours as a result of a series of tornadoes and other severe weather.

He is making this tour in a cooperative effort with the Governor and other State and local officials to expedite Federal disaster assistance to those areas where it is needed.

I am sure our Senate colleagues will understand the necessity for Senator THURMOND's absence in view of the disaster that has occurred in South Carolina. Senator THURMOND informs me that he expects to return to his duties here in the Senate as soon as possible.

Mr. KASTEN. Mr. President, I hope this amendment is defeated, and I urge its defeat.

The Senator from Hawaii, the ranking minority member of the subcommittee, made a very eloquent and I think strong statement.

We have a War Powers Act. We have the ability right now. We do not need this.

In just a brief response to the Senator from Connecticut, I wish to say that I think in part he is right. Congress has not had the guts to deal with these issues. We have not passed an authorization bill. We have not passed proper appropriations bills. We have not had an up or down vote in either the Senate or the House of Representatives on these issues since 1981, either military or economic aid, to El Salvador.

We have plenty of opportunities for those votes to occur. We have plenty of opportunities to work the regular process through.

I think before we start adding on yet more amendments and instructions, we should work with the process that exists.

This is an emergency appropriations bill. This issue is clearly an authorization issue. It is clearly an issue that is not an emergency.

I hope that this amendment is defeated.

Mr. President, I have no further request for time and I am prepared to yield back the remainder of my time.

Mr. KENNEDY. Mr. President, as I understand, I have 1½ minutes remaining.

The PRESIDING OFFICER. The Senator has 1 minute and 43 seconds remaining.

Mr. KENNEDY. Mr. President, this amendment is very simple. It says there will be no American troops available for combat in or over Nicaragua and El Salvador without the prior approval of Congress of the United

States. In other words—no blank check for this administration to escalate the war in Central America.

There are Members of this body who remember a number of years ago when this body gave a blank check to another administration and another President. There are some 50,000 American graves because of that.

This is the time to make a similar judgment on this issue of the possibilities of an American combat presence and the loss of American lives in Central America. I hope that the Members of the Senate will realize their constitutional duty and support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield back the remainder of the time if there is any that remains.

Mr. KASTEN. I yield back the remainder of my time.

Have the yeas and nays been ordered on the amendment?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Colorado, (Mr. ARMSTRONG) and the Senator from South Carolina, (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. ARMSTRONG) and the Senator from South Carolina (Mr. THURMOND) would each vote "nay."

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HART), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

I further announce that if present and voting, the Senator from Colorado (Mr. HART) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 23, nays 72, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—23

Bingaman	Levin	Randolph
Burdick	Mathias	Riegle
Cranston	Matsunaga	Sarbanes
Dodd	Melcher	Sasser
Hatfield	Metzenbaum	Specter
Kennedy	Mitchell	Tsongas
Lautenberg	Pell	Weicker
Leahy	Proxmire	

NAYS—72

Abdnor	East	Mattingly
Andrews	Evans	McClure
Baker	Exon	Moynihan
Baucus	Garn	Murkowski
Bentsen	Glenn	Nickles
Biden	Goldwater	Nunn
Boren	Gorton	Packwood
Boschwitz	Grassley	Percy
Bradley	Hatch	Pressler
Bumpers	Hawkins	Pryor
Byrd	Hecht	Quayle
Chafee	Heflin	Roth
Chiles	Heinz	Rudman
Cochran	Helms	Simpson
Cohen	Hollings	Stafford
D'Amato	Humphrey	Stennis
Danforth	Inouye	Stevens
DeConcini	Jepsen	Symms
Denton	Johnston	Tower
Dixon	Kassebaum	Trible
Dole	Kasten	Wallop
Domenici	Laxalt	Warner
Durenberger	Long	Wilson
Eagleton	Lugar	Zorinsky

NOT VOTING—5

Armstrong	Hart	Thurmond
Ford	Huddleston	

So Mr. KENNEDY's amendment (No. 2856) was rejected.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SPECTER). The Senator from New York.

Mr. MOYNIHAN. Mr. President, I yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the Senator from New York. I would like to ask the Senator from New York if he would permit us to follow the following procedure: The Senator from Arizona (Mr. DECONCINI) has two amendments which the committee will accept. He has asked for 5 minutes to handle those two amendments and thereby dispose of them, which would accommodate his schedule. I wonder if the Senator from New York would be willing to yield the floor for that purpose so that I can ask for the 5 minutes for the Senator from Arizona, with the understanding that the Senator from New York would be recognized after the disposition of those two amendments.

Mr. MOYNIHAN. I am happy to accommodate the chairman.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senator from Arizona be recognized for 5 minutes to offer two amendments, and then I ask unanimous consent that Chair then recognize the Senator from New York for whatever purpose he wants recognition.

Mr. BAKER. Mr. President, if the Senator from Oregon will yield, I merely want to clarify that that is 5 minutes overall, in the case of votes or other motions. It is 5 minutes all inclusive.

Mr. HATFIELD. Five minutes all inclusive.

Mr. President, included in the unanimous-consent request is to temporarily lay aside the pending amendment.

Mr. KENNEDY. This is just for the two amendments that the chairman referred to?

Mr. HATFIELD. That is correct.

Mr. KENNEDY. I have no objection, Mr. President.

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

Mr. DECONCINI. Mr. President, I thank the distinguished chairman of the Appropriations Committee.

Mr. President, I had intended to bring up a controversial amendment, known as the malt liquor distributors amendment. I have consulted with the majority leader at some length. Following his desire to see this bill proceed, I will accede to not to move on that amendment at this time. I do want to advise the Senate that I intend to bring that up in the next week or two on some vehicle.

AMENDMENT NO. 2857

(Purpose: To statutorily set the salaries of magistrates)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI), for himself and Mr. THURMOND, proposes an amendment numbered 2857.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 5, line 12, after "striking out" insert ", in the first sentence thereof,".

On page 5, strike out lines 17 through 22 and insert in lieu thereof the following:

(2) Notwithstanding any other provision of law, the maximum rates for salaries of full-time and part-time magistrates in effect on the day before the date of enactment of this resolution shall continue in effect until adjusted, or new rates determined, by a law specifically referring to the rates of pay of such magistrates.

On page 5, strike out lines 23 through 24 and insert in lieu thereof the following:

(b) Section 232 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549) is repealed.

On page 6, strike out lines 1 through 3 and insert in lieu thereof the following:

(c) Section 634(c) of title 28, United States Code, is amended by striking out "subsection III" and inserting in lieu thereof "subchapter III".

On page 6, between lines 3 and 4 insert the following:

(d) Secton 225(f)(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(C)) is amended by striking out "and magistrates".

Mr. BAKER. Mr. President, will the Senator yield?

Mr. DECONCINI. I yield.

Mr. BAKER. Mr. President, the Senator mentioned that he had a malt liquor amendment that he wanted to offer and that he and I had discussed that amendment. Indeed, that is the case.

I want to say for the record that I am deeply grateful to the Senator from Arizona in forbearing to offer that amendment at this time. It is an amendment that will require a great deal of time and extensive debate.

I know the Senator from Arizona feels very keenly about it, but I wish to say that I thank him for agreeing to my request that he not press that amendment on this bill.

Mr. DECONCINI. I thank the majority leader.

Mr. President, this amendment deals with the salary of U.S. magistrates.

Section 102 of the bill was added at committee to resolve an urgent problem facing the U.S. magistrates system. Without this provision, the salary of magistrates would drop nearly 25 percent on April 1, from the level they were receiving on March 31. The drop is entirely due to a drafting error in a predecessor act, Public Law 95-595.

Following action at the committee, it came to our attention that the present salary of Federal judges can only be increased by specific legislation to that effect. In the salary continuance provision added at committee we had not also limited future salary increases of magistrates, who are extensions of the Federal judges, in the same manner. It is only good policy to also limit future salary increases of magistrates in the same manner in which Federal judges salaries are increased. The technical amendment I have sent to the desk merely accomplishes this parallelism.

I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2857) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2858

Mr. DECONCINI. Mr. President, I send a second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) for himself, Mrs. HAWKINS, Mr. DOMENICI, Mr. CHILES, Mr. ABDNOR, Mr. COCHRAN, and Mr. MATTINGLY, proposes an amendment numbered 2858.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

DEPARTMENT OF THE TREASURY, U.S. CUSTOMS SERVICE

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For an additional amount for the acquisition (purchase of eight) of high-performance, interceptor/tracker aircraft and other related equipment for drug interdiction purposes, $25,000,000, to remain available until expended: *Provided*, That such aircraft shall be purchased through an open, competitive procurement.

Mr. DECONCINI. Mr. President, at a time when we are going to consider supplemental funding to help a country fight a civil war in Central America, I am proposing an amendment that will help our frontline drug interdiction agency, the Customs Service, fight a war right here at home. Of course, I am talking about our war against the narcotics trafficker who flies thousands of drug missions across the borders every year.

My amendment will provide emergency supplemental funding to allow the Customs Service to purchase eight badly needed, high performance drug interceptor aircraft for use in Customs' battle against the airborne drug smuggler. If this emergency supplemental is adopted, it will allow Customs to virtually double its existing fleet of five King Air trackers and three Citation II interceptors. The purchase would be done through competitive procurement and would allow Customs to finally take a long-overdue step toward beefing up and standardizing its existing fleet of drug interceptor aircraft.

Mr. President, I am sure that my distinguished chairman of the Senate Appropriations Committee is undoubtedly asking himself why the emergency? Why do we need this item now? Let me try to answer those questions before they are asked.

The short answer for the chairman and my colleagues in the Senate is that the crisis facing our drug interdiction agencies is an emergency. They need help now. They need help fast. And we cannot wait any longer to meet the drug trafficker head-on with the most sophisticated, effective aircraft and equipment that this country can muster. But let me go a bit further to explain why I believe it is absolutely essential that we pass this amendment on this particular bill today.

First, 3 days of important hearings on the administration's drug interdiction effort before a key House Government Operations Subcommittee chaired by GLENN ENGLISH of Oklahoma, made the case crystal clear: Customs needs interceptors and it needs them now. Witness after witness, including Deputy Treasury Secretary Tim McNamar; Commissioner of Customs William van Raab; and three of our distinguished colleagues, Senators HAWKINS and CHILES, and Congressman CLAUDE PEPPER, testified that Customs must have additional air resources to do the job. The consensus among the administration witnesses was that interceptors was their No. 1 priority. The administration repeatedly told the subcommittee that Customs must have more interceptor aircraft if it is going to fight fire with fire and wage war against a well-financed drug army with seemingly unlimited aircraft at their disposal. My amendment will give the administration exactly what they want: more interceptors for the Customs air program.

Second, the depressed state of the small aircraft manufacturing industry means that now is a particularly good time to buy these aircraft for Customs. The recession of 1983 has left its mark on the small aircraft industry and they are standing by with sharp pencils for this type of fleet purchase opportunity. Our discussions with the manufacturers indicate that the time has never been better to get the taxpayers a big bang for their hard earned buck on these critical aircraft. Therefore, by moving to purchase these vital drug interceptor aircraft now, rather than wait until late summer or early in fiscal 1985, Customs will be able to drive a hard bargain and buy these planes at bargain basement prices.

Third, Mr. President, as you may know, many Members of Congress and I have been working for nearly 2 years to develop a comprehensive drug interdiction strategy which features the use of excess military aircraft for drug interdiction purposes. The Navy is in the process of turning over six P-3A surveillance aircraft equipped with sophisticated F-15 radar to Customs for use in its drug interdiction program. We have also been successful in prying loose four Blackhawk helicopters to be used by Customs for seize and arrest purposes. Unfortunately, we have been less successful in trying to get excess Army C-12 tracker aircraft over to Customs to supplement its tracker-interceptor fleet. I will continue to pursue the C-12 option with the Pentagon, but in the meantime Customs must have a permanent addition to its interceptor fleet to attack the airborne drug smuggles now—not next year, not in fiscal 1986, but right now. My amendment will allow Customs to do just that. Then if the C-12 option materializes down the road, those military aircraft would provide an outstanding supplement to the Customs fleet.

Finally, Mr. President, let me assure you and my colleagues that I do not view this supplemental as the first of an endless parade of large aircraft buys for the Customs Service. Frankly, I believe that if this amendment is approved, and we are successful in prying loose an additional eight C-12's from the Pentagon next year, Customs would be adequately outfitted to tackle its difficult and dangerous drug interdiction mission and go head-to-head with any airborne trafficker who attempts to penetrate our vulnerable Southern, Southwestern, Western, and Eastern borders. On the other hand, without this amendment, we will be right where we are today: relying on a band-aid air program to try to tackle a well-heeled, well-equipped drug foe.

Mr. President, I know that this amendment has little to do with Public Law 480 assistance. However, I can think of nothing more urgent than to get our No. 1 drug interdiction agency—the U.S. Customs Service—the proper aircraft to be able to launch a full scale attack on the drug smuggler. The time has come to pay the piper. The administration openly supports the purchase of more interceptor aircraft for Customs; the Vice President's drug interdiction office has repeatedly recognized the need for these additional resources; and those of us in the Congress who have worked on the air interdiction program have searched for the right moment to provide the aircraft necessary to do the job at Customs. That time has come and I hope that the Senate will approve this amendment today.

Mr. President, the following Senators are cosponsors of this amendment: Senators HAWKINS, ABDNOR, COCHRAN, CHILES, DOMENICI, and MATTINGLY.

Mr. RANDOLPH. Mr. President, will the Senator yield 30 seconds for a question?

Mr. DECONCINI. I am glad to yield for a question.

Mr. RANDOLPH. Mr. President, I wanted to ask, What is the procurement date for the number of planes that are requested in your well reasoned amendment?

Mr. DECONCINI. Hopefully, by the end of fiscal year 1984, the current fiscal year that we are in.

Mr. RANDOLPH. Mr. President, I think this is highly important. It is an emergency matter and time is of the essence. If my able colleague from Arizona will permit, I would be delighted to be a cosponsor.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the distinguished senior Senator from West Virginia be added as a cosponsor.

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

Mr. ABDNOR. Mr. President, I rise to support the amendment offered by the Senator from Arizona. As chairman of the subcommittee with funding authority for the U.S. Customs Service. I have recently been stunned by the Department of the Treasury's reversal of policy with regard to the Customs air program. My subcommittee, on which the Senator from Arizona serves as ranking member, was intimately involved in the negotiations between the Department of the Treasury and Department of Defense regarding air support for the Customs Service. DOD agreed that aircraft would be provided to the Customs Service to detect, track, and intercept. The only concern DOD had was that the equipment loaned would not be adequately maintained. To assure Defense of our commitment, a new appropriations account totaling $31 million was included in the fiscal year 1984 appropriation to provide operations and maintenance funding for the loaned aircraft.

The drug problem in this country is epidemic. We are fighting a war, Mr. President. Unfortunately the other side is better funded and better equipped. I am committed to winning that war, but to do that I fully believe we must provide the support necessary to men and women of the Departments of the Treasury, Justice, Transportation, and Defense who are performing that difficult task. The Customs air program is an integral part of that effort.

The fiscal year 1985 Treasury request for the air program and other Customs efforts is significantly reduced from fiscal year 1984. It is based on the premise that the Department of Defense is going to pick up the O&M costs. Mr. President, the simple truth is that DOD has no intention of covering operation and maintenance costs. That was never part of the original agreement. In fact the basis of the agreement was that Customs would provide proper maintenance.

Last week, the Deputy Secretary of the Treasury testified before a House subcommittee that it no longer should be in the detection business, but concentrate on tracking and interception. Mr. President, this revelation came as an incredible surprise to me for I received a request on March 13 from the Commissioner of Customs requesting reprograming authority which continued the detection mission by proceeding with the P3A conversion program. I wholeheartedly agreed. Then last week the 180-degree change.

This amendment does that. It provides funding to give the Customs Service the equipment they need to continue the fight. I hope my colleagues will agree with me and support the amendment.

Mr. President, as I close, I want to reemphasize that we are in a war. We are spending an unprecedented amount on the battle, but quite frankly we are losing ground. These days we must watch very closely at the way we spend the money available to us. Not many Members of the body watch it much closer than I do. I do not oppose money well spent. I assure you this will be money well spent.

Mr. HATFIELD. Mr. President, I only want to say in behalf of the managers of the bill that we are willing to accept the amendment, if the Senator would like to move its adoption.

Mr. DECONCINI. I so move, Mr. President.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2858) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I thank the distinguished chairman and also the chairman of the Foreign Operations Subcommittee for permitting me to offer my amendments at this time, as well as the distinguished Senator from Hawaii for setting aside his amendment, and also the distinguished Senator from Massachusetts, and certainly the Senator from New York, who has been waiting around for some time.

The PRESIDING OFFICER. Under the previous order, the Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, in this pending appropriation bill, the Senate is being asked to provide an additional $21 million for paramilitary activity in Nicaragua. The specific language of the report of the Committee on Appropriations is:

> The committee recommends an appropriation of $21 million to continue a program of covert assistance in Central America * * *

In November of last year this body authorized, by voice vote, $24 million for the same program. As I noted then, despite some differences between the House and the Senate over this program there was one fundamental point on which the House and Senate Intelligence Committees agreed. This agreement was reflected in section 109 of the Intelligence Authorization Act for fiscal year 1984 which repeated findings found earlier in the House's authorization bill:

> The Congress finds that by providing military support (including arms, training, and logistical, command and control, and communications facilities) to groups seeking to overthrow the government of El Salvador and other Central American governments, the Government of National Reconstruction of Nicaragua has violated Article 18 of the Charter of the Organization of American States which declares that no state has the right to intervene, directly or indirectly, for

any reason whatsoever, in the internal or external affairs of any other state.

It is the judgment of the Intelligence Committee that Nicaragua's involvement in the affairs of El Salvador and, to a lesser degree, its other neighbors, continues. As such, our duty, or at very least our right, now as it was then, is to respond to these violations of international law and uphold the charter of the OAS.

Specifically, arms and materiel still flow from the Communist bloc through Nicaragua to the insurgents in El Salvador. Yesterday, many of my colleagues will have read the reports in various newspapers about testimony of the Under Secretary of Defense for Policy, Fred C. Iklé, in which he confirmed that approximately half the weapons used by the Salvadoran guerrillas were captured or acquired from the Salvadoran Armed Forces. This is undoubtedly true. It is also true, however, that the other half, or the greater part thereof, come via Nicaragua and further that the intelligence community's latest and best estimate is that a predominant percentage of their ammunition, about 80 percent, still comes via Nicaragua. Estimates about the remaining materiel is similar. What the House Intelligence Committee stated last May is in our judgment still true:

[The insurgency in El Salvador] depends for its lifeblood—arms, ammunition, financing, logistics, and command-and-control facilities—upon outside assistance from Nicaragua and Cuba.

In sum, the Sandinista support for the insurgency in El Salvador has not appreciably lessened; nor, therefore, has their violation of the OAS Charter abated.

As I have attempted to indicate, there is in a certain sense little that is new here. However, I do wish to make some additional comments.

Given the extraordinary patriotism and sacrifice of so many of the men and women who make up our intelligence community, it may at times seem unreasonable and wrong that there continues to be such apprehension about the role of that community and its attendant institutions, especially the Central Intelligence Agency. May I suggest, however, that this apprehension arises in much the way that in early times our forebears feared the idea of a standing army, and were at great lengths to achieve parliamentary control over military expenditure, including the now perhaps antique but once vital procedure of annual military appropriations.

The fact is that a standing intelligence community can be used by a Chief Executive to subvert the will of Congress and of the people. Given that fact, it is our proper business to be concerned, even as we assert our utmost respect and regard for the institutions which pose this threat.

I believe there is a tendency on the part of this administration—as of prior ones—to substitute secret policies and secret actions for public policies and public actions in foreign affairs. The reason is simple. Covert action seemingly circumvents the invariably complex and demanding, and frequently unavailing effort required to achieve a democratic consensus in matters of foreign policy. When such a consensus could be achieved, the resort to covert action instead is a form of avoidance of duty. When such a consensus could not be achieved, covert action subverts the democratic process.

The general question arises for us in the most specific form in the appropriation bill we are considering today.

Last November 3 I was the manager on this side of the aisle for the Intelligence Authorization Act for fiscal year 1984. That act contained funds for the present program of support for several insurgent groups operating in Nicaragua. The legislation was as open in this regard as such legislation could be. In a floor statement, I described the process by which the committee had come to accept a strictly limited set of objectives for that program. An earlier Presidential finding submitted for comment to the committee had been, in our view, much too expansive. It would have constituted undue interference in the internal affairs of Nicaragua, which was the ground on which we were willing to support opposition to such interference by Nicaragua in the affairs of others.

I stated at the time in some detail that sequence:

On September 20, a new Presidential Finding was presented to the Committee by Director Casey and the Secretary of State, George P. Shultz. Its goals were more precise and much more limited than what we had been briefed on in August. In large measure, the new finding reflected the concerns the Committee had raised with Director Casey in that prior meeting. The next day the Committee approved funding for the redefined program.

Not unexpectedly, an account of our decision found its way into the nation's papers the following day [September 22, 1983]. Of particular interest was the discussion of the matter in the New York Times which quoted an Administration official as saying:

We are always being questioned . . . on whether we were going beyond our program of interdicting arms. Now we say, "Yes, we are supporting the rebels until the Nicaraguans stop their subversion in neighboring countries."

The article went on to say that:

The Administration official stressed that this approach should end the argument over whether the Administration was violating its pledge by doing more than just stopping the arms flow. The official also said that there was no thought of the Administration backing the insurgents in trying to overthrow the Sandinista Government.

This was a welcome statement. Thereafter the committee voted moneys for the new finding.

This morning, however, we read an interview with the President given to Mr. Francis X. Clines and Steven R. Weisman of the New York Times in which the President specifically states that our objectives in Nicaragua are precisely those which the select committee rejected. Our present formal policy, the policy for which Congress has appropriated these funds, is not directed to the overthrow of the Government of Nicaragua, or otherwise to interfere unduly in its internal affairs. The President, however, states otherwise:

And I see no dichotomy in our supporting the Government, the democratic government of El Salvador and the Contras here—and we made it plain to Nicaragua—made it very plain that this would stop when they keep their promise and restore the democratic rule and have elections. Now, they've finally been pressured, the pressure's led them to saying they'll have an election.

The President goes on to say that there is nothing to indicate that this election will be other than "the kind of rubber stamp that we see in any totalitarian government." In this I agree. But note: If the government there cannot be changed by elections, how is it to be changed save by violent overthrow? That is a necessary if unintended conclusion to be drawn from the President's statement yesterday.

This is understandable. The President desires a democratic government in Nicaragua. Who does not, save the present rulers of that unhappy nation? But Congress has not authorized a covert action program to bring about any such outcome. To do so would undermine the very legal foundation on which we base the program we have authorized.

Has the President deceived us? I doubt this; it is not his nature, nor that of his associates. Rather, I would suggest that there is an inherent tendency for an administration gradually to adopt the agenda of the foreign instruments of covert action, even when that agenda increasingly diverges from the goals which we, the United States, set out to accomplish. That may be too complex a way to state a simple truth. What the Nicaraguans fighting the Sandinistas want and what we want are different things.

That of course is the frequent personal tragedy associated with covert action, and further argues its sparing use as an instrument of American policy.

But that is a subject of general policy that can wait. What must be stated today is that the President has misstated his own policy. If we vote today, or tomorrow, to approve the additional $21 million recommended by the committee, we do not vote to do what the President says he would like to see done. We vote simply and exclusively for the provisions of the Presidential finding of September 20, 1983.

I am sorry to detain the Senate in this matter, and obviously I am uneasy to bring such matters into yet more public debate. But I take that to be my responsibility, given this extraordinary, wholly unexpected, and deeply troubling turn of events.

In sum, the danger of using covert programs in this fashion is that they run too far ahead of the public consensus over what constitutes threats to our security and the proper policies to respond to those threats. There is a grave risk here that Americans may decide, as they did a little more than a decade ago, that the Government does not reflect their judgment. This is no small matter for a democracy. As I warned a previous President just before his inauguration, "The sense of institutions being legitimate—especially the institutions of government—is the glue that holds society together. When it weakens, things come unstuck."

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the distinguished Senator from Hawaii.

Mr. INOUYE. Mr. President, the Senator's clarifying statement on the legislative intent of the action taken by the Senate Select Committee on Intelligence in authorizing the $21 million is absolutely correct. I think the record of our committee, although classified and secret, will bear this out. So, if I may, I should like to associate myself with the Senator's statement. It is correct, it is precise, and it is one that should be studied very carefully by every Member of this body.

Mr. MOYNIHAN. Mr. President, I thank the distinguished senior Senator from Hawaii, the manager of this measure, for his reassuring remarks, which are exactly my understanding of the matter.

Mr. DURENBERGER. Mr. President, I rise on this occasion to compliment the Senator from New York on his statement and to thank our colleague on the Select Committee on Intelligence, the Senator from Hawaii, for associating himself with these comments. I, too, associate myself with the statements made by the distinguished Senator from New York.

I had not intended to comment at any length on this subject, but the point that the Senator from New York makes about the statement of the President of the United States, which we all read this morning, compels us—at least, it compels me—to rise and share a few thoughts with our colleagues on this subject, because it probably illustrates if not the difficulty of making policy in this area, at least the difficulty for others to understand whatever policy may exist.

I was personally associated with the effort the Senator described, which began last spring and carried through the summer, until September 20, and I was pleased with the outcome. I thought that whether in a bipartisan sense or an institutional sense, we had been quite successful in discharging our responsibilities, as the Senator indicated, for policy in Nicaragua.

Mr. President, the executive branch request for additional funds for its covert activities regarding Nicaragua presents all of us with a difficult choice. It is especially significant, therefore, that the Intelligence Committee voted with no dissents to support a limited, carefully monitored increase in those funds.

The risks inherent in this operation are well known. Support for paramilitary operations could provide the spark that ignites a real war in the region. Paramilitary activities could also bring other countries into the conflict; the reported injury to five Soviet seamen due to a mine in Puerto Sandino harbor reminds us of that risk. An unsuccessful paramilitary campaign may increase, rather than undermine, the legitimacy of the Sandinista regime. And a moderately successful campaign could lead to a situation in which counterrevolutionary forces, with goals of their own, could draw the United States into greater involvement than was intended or was wise.

I am satisfied that the Central Intelligence Agency is doing all that it can to minimize these risks. In particular, the CIA is not trying to overthrow the Government of Nicaragua. And the CIA does bear in mind the need not to provoke a wider conflict that would harm U.S. interests. The Intelligence Committee's action last year, which required the executive branch to reexamine its program and revise its covert action finding, served a useful purpose.

I am also impressed by the extent to which people in Central America, including democratic and left-of-center elements in Costa Rica, fear the aggressive policies of Nicaragua. To its neighbors, the Sandinista regime is not reformist, or even revolutionary. Rather, the Sandinista leaders are the prime supporters of both terrorism and guerrilla violence in Central America. They supply arms and ammunition not only to insurgents in El Salvador, but also to terrorists and guerrillas in Honduras, Guatemala, and Costa Rica. They even harbor Basque terrorists, who repay the favor by undertaking assassination missions in Costa Rica.

Little wonder, then, that the people of Central America urge us to counter these Sandinista efforts, which have been described eloquently by the Senator from New York. And little wonder that the Intelligence Committee is willing to support a carefully controlled covert action program.

It is important to note, moreover, that we are not giving the CIA a completely free hand with these funds. While $7 million in new funds will be made available immediately, the other $14 million will be put in the CIA's reserve for contingencies. They will have to come back to us and explain what they are doing and why the extra funds are needed, before they gain access to that additional money.

Yet it was still difficult to support increased funding for this program. There is no real evidence that the covert action effort, itself, has brought about changes in Sandinista policy. There is no real evidence that it has lessened the flow of Cuban and Nicaraguan arms into El Salvador, although the contras are clearly striking at some targets that are part of the Sandinista support structure for Salvadoran guerrillas.

Most importantly, there is no real evidence that the executive branch yet has a coherent policy to guide either this covert action program or the several overt arms of policy that are employed in Central America.

The executive branch has fine goals: An end to Sandinista support for guerrillas and terrorists; an end to Soviet and Cuban advisers in Nicaragua; scaling down of the tremendous military buildup in Nicaragua; and the preservation of a pluralist political system in Nicaragua, as the Sandinistas originally promised. But the executive branch continues to lack a means of deciding how much emphasis to put on each goal, as one must always do in the real world.

Similarly, the executive branch has an impressive set of measures it has undertaken to influence the situation: Not only covert action, but also military assistance; maneuvers and training; economic aid; and political support both for needed reforms in individual countries and for the Contadora effort of Central American countries to negotiate a solution to their problems. The difficulty is that there seems to be no real coordination of these efforts.

I wish I could assure my colleagues, as long as I speak from this side of the aisle, that covert activities directed at Nicaragua were carefully coordinated with a serious effort to negotiate our differences with that country. I wish I could say that our military assistance efforts in the region were designed also to further the economic and political reforms that we all agree are necessary in several countries. I wish I could say that the executive branch was carefully fine tuning both its actions and its objectives so as to achieve maximum success in the region. But my colleague from New York has demonstrated in his remarks why I cannot make that claim.

The best I can say is that many of us are trying to convince the executive branch to get its act together. In the meantime, we are supporting current initiatives to keep the pressure on Nicaragua and to keep the Central American situation under control.

But I hope, Mr. President, that President Reagan appreciates the depth of our concern. The current policy may have our support, but it does not yet merit our confidence. The President must take control of that policy and give it coherent direction.

There are bound to be further crises down the road—due not to Congress, but to the difficult nature of the problems in Central America. Covert action is not enough. Even covert action plus half a dozen other, uncoordinated measures are not enough.

There must be well crafted policy and consistent direction of U.S. efforts in Central America. That is what leadership is about, and we look to our President to provide it before it is too late.

Mr. MOYNIHAN. Mr. President, may I express my total admiration for and agreement with the statement of the Senator from Minnesota. It is a moderate statement. It is a careful one. It is a plea for coherence and an offer of cooperation.

I think I would not reveal anything not known and public to observe that it was not until April 1983 that the President came to Congress to discuss Central America, by which time the press reports of covert action in that region had been taking place for 14 months; and that it was not until some time after the President spoke that a bipartisan commission was established and came forward with a much more coherent and comprehensive statement of the matter.

We do not want to obstruct, but we have an obligation to say: Do you, Mr. President, have a policy and can we help you formulate one, and do you know where this is getting to?

I hope that we might have some response from the statements which the three of us have made today, and we make them not in an accusatory manner. It is a factual and descriptive one, at least in our view it is. Some of the facts cannot be in doubt, and I hope there will be some response, and I certainly am here as one willing to partake in any such effort, as the Senator from Minnesota has been, but it is alarming to find our message does not seem to have been received.

Mr. DURENBERGER. Mr. President, I thank my colleague a great deal.

I do not intend to belabor this issue any more. I do have another issue I wish to discuss.

Mr. MOYNIHAN. Mr. President, will the Senator yield to me one moment?

Mr. DURENBERGER. I yield.

Mr. MOYNIHAN. Mr. President, in recent days we have heard much about the mines in Nicaragua ports and the concerns that have been expressed about the legality and wisdom of the tactics.

I asked the Honorable Kenneth Dam, Deputy Secretary of State, to provide a legal analysis on the issues of mines and self-defense both in a classified and unclassified form.

In his characteristically cooperative manner he did that. These statements are available in the Intelligence Committee. If any Member of the body wishes to read them, we will, of course, be more than happy to make them available.

I thank the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I had at this point intended to offer an amendment dealing with the subject of conditionality. I do not intend to do so, but I wanted to take a few minutes to express some concerns that I understand are shared in part by quite a number of my colleagues and also in an additional part are being dealt with at this moment in the Foreign Relations Committee.

Mr. President, a growing number of us in Congress have been discussing and debating the question of our policy in Central America for as long as I have been in the Senate. We have considered such questions as emergency foreign assistance for Nicaragua shortly after the Somoza regime was toppled; military and economic assistance for El Salvador as that country struggles with its problems; increased trade and aid benefits for the countries of the Caribbean Basin; the commitment of U.S. troops to training exercises in Honduras. Every day, most of us deal with these and other questions in numerous ways. We deal with them in conversations with our friends and colleagues; in responses to our constituents; in our reading at night, and our staff meetings at day.

But I wonder, Mr. President, just how much effect all our work has really had. Can we really say that we know much more about these complex questions than we did 5 years ago? Can we really say that our debate and our concern has done much to alter events? In my opinion, I do not think we can.

Today, we are considering an emergency supplemental appropriation which contains, among other things, a large sum of money for El Salvador. But it is not clear that we are really debating any kind of national policy. Certainly, we have touched on a wide variety of issues during this debate, ranging from the recent elections to the battlefield situation. But I cannot figure out how we have fitted these things together in any kind of way that gives us a sense of what U.S. policy really is or what we feel U.S. policy should be.

We have heard talk about having to support and live with the President who emerges from the Salvadoran elections, and we have heard talk about how our vote on this bill might be affected by who that President is, but I am disturbed that little attention has been paid to how this relates to the concerns of the American people. What is our policy to be? For how long? At what cost? And how will we handle the various contingencies which might radically affect the situation throughout Central America? As we have learned, events often move faster than our policies, particularly in Central America, but my fear is that we have no sense of what plans we might adopt in the event of changes.

When Central America first became a major item on our agenda, following the revolution against Anastasio Somoza and the emergence of the new regime in Nicaragua, there was a brief time when this body actually looked at long-term policy questions. For instance, throughout the fall of 1979 and the winter of 1980, a number of us stood here on the floor of the Senate and discussed another emergency supplemental appropriation. That time, it involved economic assistance for Nicaragua to help that tragic country get back on its feet after years of looting by the Somoza regime and fighting in the streets.

The debate which we undertook at that time was both wide ranging and forward looking. These days, by contrast, we discuss certification, not policy. We have, in other words, acted more as auditors, seeing if the forms are filled out correctly and if the columns add up to the right numbers, and less as legislators, sharing in the task of enunciating a long-term policy. To be blunt, we have abrogated our proper role for the sake of a periodic box-checking exercise by the President.

By now, Mr. President, the record should be clear. Certification, however laudable its origins, is a flawed device. Why? For several reasons.

First, it does not help to bring about what it seeks: the measure of conditionality which most of us agree is necessary to make our policies in Central America workable and which is not there. What is conditionality? Simply the assurance that funding will continue only to the extent that our policy is successful—a statement that we will feed success, not failure.

There is more to this than simply the desire to fund nice things we like. Conditionality is of necessity bound up in the desire of the United States to insure that its dollars are spent to promote reform, not repression. But that desire follows from the hardheaded recognition that our long-term hopes

for stemming a major blow to U.S. interests in Central America will come to naught unless we encourage countries like El Salvador to foster reform in order to forestall revolution.

If, for instance, the Government of El Salvador does not move to break the back of the death squads, it simply cannot hope for the allegiance of the people which is so vital to denying the initiative to Marxist revolutionaries. Revolutions do not occur in a vacuum; they spring from grievances. They can be stolen by brutal people, as we have seen in the Soviet Union and elsewhere. In El Salvador, there is that risk. And the best way to prevent that risk from becoming reality is to promote policies which end the sources of revolution. We must act, therefore, to condition our assistance on acceptable progress toward the adoption of policies which promote our policy goals. To do otherwise is more than just a waste of time; it is a recipe for disaster.

Conditionality, in other words, is crucial to the success of our policy, a point recognized both by the Kissinger Commission and by the Vice President in his courageous remarks in San Salvador. But how serious have we really been about this in the past?

I fear that we in Congress cannot and do not take the issues involved as seriously as we should so long as we rely on certification rather than on a genuine debate. Certification is at best an index, not a policy. And in the case of Congress, it can serve as a copout, not a condition. Certification is nothing more or less than an invitation to the President to send over a pro forma good news report while the money flows on and on, unimpeded by conditionality or by congressional judgment.

Earlier today, the junior Senator from Connecticut, who I credit, at least in part, for this certification process that was first thrust upon us, made some very astute observations about the role we should play, but which we play so seldom. And I agree with all of those comments. That is why I object to certification.

Certification is the worst of all worlds, for it invites critics of policy to snipe, knowing that they will not have to take responsibility for any real action, and it puts supporters of our policy in the untenable position of having to accept as fact a matter of judgment which is narrow in scope and which is confined only to the latest items to make the reporting requirements list. Perhaps worst of all, the certification process arouses partisanship in our foreign policy, rather than promoting the kind of compact between the executive and Congress which is crucial to sound policy.

So the second reason why I feel certification is a flawed device is that it lets us have it both ways. It permits those of us in Congress to escape the burden of commitment, the responsibility of action, the necessity to choose. It lets us talk, but it permits us to avoid the consequences of that talk.

For instance, some might suggest that we should keep the certification provisions in this bill because they signal our commitment to a policy which is based in some measure on conditionality. But is this really the case? Does this not really mean that the provisions will let us vote for continued aid while criticizing the policy? And is that not just a shorthand device for abrogating our own responsibilities?

If you doubt this, ask whether there are critics of our policy who will vote for this package, hiding behind the cloak of the certification language. If so, then those critics want it both ways. For they can hardly be surprised when the next certification report comes over from the executive announcing that the President has determined that the Government of El Salvador has made satisfactory progress. Will the existing certification provisions alter the reality which should be the baseline for our policy? Or will they just succeed in shifting the focus of our debate from conditions in El Salvador—where the focus belongs—to conditions in our own executive branch? The issue in Central America, Mr. President, is U.S. policy, and we in this body bear a measure of responsibility for that policy. It is not the President's policy alone, and we should not pretend it is simply for the sake of convenience.

So what can we really say about certification? It does not give Congress any capacity for independent analysis and judgment. It does not strengthen the President's hand in dealing with recipient nations, for it is not backed up by any apparent congressional intent or any willingness to adjust funding levels to conditions. It is simply a money machine, rationalized by rhetoric.

In short, Mr. President, while I strongly support the concept of conditionality in our aid program—a concept which was endorsed by the Kissinger Commission itself—I believe that it is time to face up to the fact that certification is not the way to proceed with it.

What I propose, therefore, is putting the question of determination and judgment where it properly belongs—in the hands of individual Members of Congress who must ultimately decide whether to vote for or against aid.

I first raised this idea some weeks ago in a letter to our colleague, Senator PERCY, the chairman of the Foreign Relations Committee. I was concerned that when it came time to take up the question of a policy which is prospective, mature, and regional in scope, we would resort once again to the flawed device of certification. I, therefore, suggested that we append to the Jackson plan a provision to condition our aid on a joint resolution of approval, following debate on a comprehensive report to be written by our experts on the authorizing committees. At this point, Mr. President, I ask unanimous consent that a copy of my letter to Senator PERCY be put in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., February 9, 1984.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR CHUCK: As you know, the Congress will soon confront the issue of Presidential certification of human rights in El Salvador and other countries. The debate over the Kissinger Commission report, the continuing controversy over President Reagan's pocket veto of certification language, and the action by the House yesterday virtually ensure that this will be a highly contentious issue.

In my view, a great deal of the controversy is both unnecessary and counter-productive, for it detracts attention from the main issue: conditionality attached to assistance programs. There is a widely-shared consensus that aid should be conditioned, a point made with equal force by the Kissinger Commission and by the Administration. Unfortunately, the ongoing furor over certification has missed this point, for it has confused an instrument with a goal.

I'd like to suggest a possible solution: Congressional rather than Presidential determinations, under the lead of the Committee on Foreign Relations.

Presidential certification has a number of drawbacks, as both its proponents and its opponents have come to recognize. Perhaps the chief flaw of the process is that it virtually eliminates Congressional judgment from the decision about whether to appropriate assistance. Once an instrument of certification is filed, money is virtually guaranteed. There is little Congressional analysis of the facts presented in the certification document, and even less independent Congressional fact-finding.

Congress has broad investigatory powers, and the Committee has ample staff support from trained experts who can travel to Central America and arrive at their own conclusions. Regular reports from Congressional committees to the membership would go a long way toward restoring the proper role we play in foreign policy—a role defined by broad oversight and goal-setting.

Regular Congressional reports would have at least two other advantages over certification. First, the contents of the report would not need to be determined through explicit specification on the floor of the Senate. In other words, the report could be constructed on the basis of regular consultation with interested members and could address itself to broader questions of context.

Second, the report could to some extent minimize the perils of partisanship. If senators and representatives are to debate the significance of a set of findings, rather than simply the findings themselves, they must

be free to do so with the least possible taint of partisanship. Just as it would be difficult for a Democrat to criticize a Presidential report without being accused of partisanship, so too it would be difficult for a Republican to support a finding without the same problem. This is even more the case in an election year. A report originating from a bipartisan Congressional committee can overcome that problem.

Perhaps most important, however, regular Congressional reports—perhaps on a semi-annual basis—would provide the basis for a genuine debate, something which we have thus far engaged in too seldom. It would be my hope that such reports would provide the basis for regular votes on aid levels. Thus far, we have relied on such hasty vehicles as continuing resolutions to move appropriations, with little opportunity for reflection. If appropriations were linked to Congressionally generated findings about the status of human rights in recipient countries, we could begin to play the role which we have thus far abrogated.

I hope that you will let me know your views, for I would like to share this idea with others if you feel it worthwhile, and to begin working on appropriate legislation.

Sincerely,

DAVE DURENBERGER,
U.S. Senator.

Mr. DURENBERGER. Since then, Senators INOUYE and KASSEBAUM—who had expressed similar concerns—have joined me in drafting a concurrent resolution to put these ideas into effect. Senator HEINZ has joined us as a cosponsor. And, just 2 days ago, I received a letter from Senator MATHIAS outlining a comparable proposal. So I am confident that, over the long term, we will begin both to foster the durable policy that is needed and to play our proper role in monitoring that policy.

But that is the long term. What do we do until the Jackson plan is actually written into law? Do we continue to kid ourselves that certification is the way to proceed? I hope not.

As Senators know, I was prepared to offer an amendment today. After conversations with members of the Foreign Relations Committee, I have learned that the committee is addressing the concerns I and others have raised, so I will not proceed. But I want to outline the procedure under which I feel we should operate.

First, we should seek a period report—not determinations about whether progress is satisfactory, but simply a statement about actual conditions. Second, we should ourselves debate a joint resolution of approval for further funding requests: A debate in which members can decide for themselves whether progress is satisfactory.

I want to clarify and emphasize several points about this concept. First, it would not impede the existing funding request of $61.7 million. Frankly, the existing bill which states that funding may not be obligated or expended until a Presidential report is filed does not impede it either, no matter what the words in the bill may say. It is going to get an automatic checkoff. Only the conditions are different from the last time it went through here. But it has got six or seven boxes that deal with all the mandatory subjects. And I credit the Senator from Wisconsin for putting the boxes together because it was about the only way this bill was going to get to the floor.

But I am satisfied that the appropriation that is before us today is justified. I am satisfied in particular by the insight and the leadership that our colleague from Hawaii has displayed in this whole issue. I am disappointed with the role that our administration, and those in responsible positions in my party, have played in this whole issue. But I think the Senator from Hawaii has shown us not only what some might characterize as a difficult way out of an impossible situation, but he has given to the President and he has given to this Congress an opportunity to once and for all provide a prospective resolution to the whole problem of conditioning aid in Central America today.

I am satisfied that the appropriation is justified. But to those Senators who might feel otherwise, let me say that the existing camouflage of a Presidential certification will not alter the fact that $61.7 million will go to El Salvador. So, to those who say that a prospective resolution would not impede existing funding, only future funding, I say this represents no change in the reality that funding is going to go to El Salvador.

Second, I do not purport to be the authority on just what conditions should be promoted in El Salvador or elsewhere. So the joint resolution called for would not hinge on a simple yes-no answer about whether a given set of goals had been achieved. Instead, it would hinge on a comprehensive report covering every relevant factor, and would put the final question of judgment where it belongs—on each of us here in the Congress. There would be no trigger provision, no magic threshold which must be met to continue funding. Those triggers and thresholds are matters of individual judgments, and they should be determined by each of us acting as members in debate. They should not be determined a priori, by authors of a bill or by the President. Only we in this body can determine whether progress is satisfactory.

Third, Mr. President, this approach would not be an unwarranted or new intrusion in the day to day world of diplomacy and foreign policy. It is often said—correctly—that we cannot afford to have 535 secretaries of state. I agree. But equally, we cannot afford to have our shared powers in foreign policy virtually abandoned because we ourselves are uncomfortable with the necessity to weigh trade-offs, understand nuances, and grapple with the complexity of a challenging situation.

Our past refusal to treat Central America with at least the seriousness that we feel is merited in the Middle East or Europe is causing us to persist in the trap of seeking black and white analyses, to erect checkoff boxes on forms, and to stifle the kind of comprehensive discussion which is vital to a long-term and mature policy. Most of us are more than willing to oversee and act upon a wide variety of issues elsewhere in the world. Just a few days ago, more than 50 of us wrote to the President to comment upon the proposed sale of Stinger missiles to Jordan. Virtually every day, we are called upon to praise or chastise a given policy. It seems that only in this crucial region of the world do we mask our unwillingness to act behind the facade of certification.

Finally, Mr. President—and this follows from the point concerning the constitutional role of Congress in foreign policy—we have an obligation today to the people of America to play a role in the permanent resolution of our relations with Central America.

I am convinced, after watching this President for 3½ years since his election, that he has not yet developed a policy for Central America. Instead, he has four or five policies for that region, and these policies are shaped and reshaped by four or five people claiming expertise and benefiting from access to the oval office.

I will not take words out of the mouth of the Senator from Connecticut because he expressed it so well earlier today. It would be preferable for us to take on issues of policy on the floor rather than debating under the pressures of a lot of weekend visits to El Salvador whether or not $61.7 million is an appropriate policy in El Salvador.

But as I said, I am convinced that the President has not developed a unified and coherent policy for Central America. Instead, he has four or five policies for that region.

I am convinced that the prevalent bent of these policies is ideological, that they are too often based on a belief in the supremacy of political considerations, and that they too often suffer from the premise that might makes right.

It was years ago, Mr. President, that Alexis de Tocqueville wrote: "America is great because she is good. If she ever ceases to be good, she shall cease to be great." Those sentiments were echoed in the Kissinger Commission report, as fine a blueprint for action in Central America as any we have seen in recent years.

We need to move toward a prospective policy for the Americas, Mr. President, one which is based on a firm recognition of our own past as well as the

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present reality of the rest of the hemisphere. Our own heritage, as we have often forgotten, is one of change. We invented revolution. It was our Nation which first demonstrated to the world that people would eventually take matters into their own hands unless government was responsive to their needs.

So with all the enthusiasm over the most recent elections in El Salvador, elections which we all heartily welcome, I beg my colleagues not to confuse the evident need of 4½ million people for dignity and simple justice with the belief that, all of a sudden just because we have had an election, just because we have appropriated $61 million, everything is going to be better. Let us not confuse a milestone with change. Let us not capitalize on the emotional starvation of people who have known only misery and violence but have seldom seen a policy except one which happens to be convenient.

Only when we in this country begin to treat Central America with the seriousness it deserves—and only when we recognize that we ourselves have contributed to conditions through our ignorance and apathy as much as through our action—will we have a hope for undertaking the kind of bold and humane policy outlined by the Kissinger Commission. And we will get nowhere so long as we in this body continue to resort to the convenient camouflage of certification. We must begin to draw our own judgments and live with our own consciences. Otherwise, we will contribute to still another failed policy.

Mr. President, the approach I have outlined needs expansion, and I am gratified that the committee is considering it. The approach should mirror our policy: it should be regional in scope and comprehensive. The approach is not designed to block policy, or to impede future funding, or current funding for that matter. The idea, instead, is to foster the means by which Congress can begin to do what it claims to want to do—study, assess, and pass upon the wisdom of our policy. Without that kind of commitment, we will not have a policy at all.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I wish to commend and recognize the work of my dear friend from Minnesota for his leadership in trying to bring about a resolution of the Central American problem and, more specifically, the matter of conditionality. It has been my privilege to work with him and his colleagues in drafting what we consider will be not only appropriate but meaningful language. I am certain that will make some change in how we deal with our friends to our south. Once again, I wish to commend my colleague for his statement. It was courageous. It was correct, and it is worthy of consideration of this body. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I would like to respond very briefly to the statement of the Senator from Minnesota. First of all, I thank him for the discussion and also for deciding not to offer his amendment at this time. As the Senator stated, we do have conditionality language in this emergency appropriation bill. The conditionality language which we have adopted is language which tracks directly from the Kissinger Commission. I, too, am disappointed that the administration has not been willing to embrace and work with the conditionality language of the Kissinger Commission. Also the administration has not been forthcoming in terms of working with the Congress and with other interested people outside of Congress as we wrestle with this overall group of problems.

We are going to have an authorization bill which the Senator from Minnesota correctly said is being debated right now in committee. In addition, we will have the 1984 regular supplemental and the 1985 appropriations bills. I am hopeful and I am optimistic that in the appropriations process and the authorization process we are going to be faced with a number of the questions that the Senator from Minnesota has dealt with today. I also believe that it is likely that a number of suggestions and elements of his amendment may very well be included in the language of either the authorization or the appropriations bills.

I look forward to working with the Senator from Minnesota, along with the Senator from Kansas and the Senator from Hawaii, as we wrestle our way through this very complex and difficult area. I thank and congratulate the Senator from Minnesota on his statement.

Mr. President, we have been here since 9:30 this morning. We spent a couple of hours on this issue yesterday afternoon. I see that the Senator from Connecticut might want to make a statement. I simply want to say to the Senate that the Senator from Hawaii and the Senator from Wisconsin are anxious to vote on this issue as quickly as possible.

May I suggest a unanimous-consent request that we vote on the Inouye amendment at some time certain. I may talk to the Senator from Connecticut and others in the next few minutes. If we can work our way toward some kind of an effort to at least vote on the Inouye number, the $62 million, and then, if there are further efforts at conditionality or further efforts on a partial holdback, as the Senator from Pennsylvania may be proposing to hold back a proportion of the amount, those kind of amendments would be more appropriate once we have adopted the Inouye amendment and go on the record for that figure, or have, in fact, not adopted the Inouye amendment. It would be my hope that we could establish the dollar figure within the next couple of hours and then continue the debate on conditions and/or other kinds of amendments that would have to do with the overall funding.

We have spent several hours today basically playing international lawyer and Secretary of State on the floor of the Senate. I think that now we ought to see if we cannot start to vote on some of the specifics. This is, after all, not an authorization bill. It is an appropriation bill. We should not be debating the authorization questions. They are being debated right now properly in the authorizing committee. Normally it is the authors who are picking on those who appropriate for adding authorizing language. Here we have a number of areas in which the authors are in fact the ones coming forward to tack authorization language onto an appropriations measure and, in fact, it is an emergency appropriations measure.

I am hopeful that we are going to be able to vote on the Inouye amendment relatively soon. I understand the Senator from Massachusetts may have an amendment to reduce that amount to $21 million. If that is the case, it would be appropriate to vote on that amendment as well so we can get at least the dollars in place before we go back into this overall policy debate.

I am not now going to ask for a unanimous consent or time agreement, or make a unanimous-consent or time-agreement request but I am hopeful that in the next few minutes we might be able to work out a way to get two or three votes on the dollars tonight. At least we can get those questions behind us and then go on to some of the questions on terms and conditions, et cetera, tomorrow, if it turns out there is still a half a chance. I spoke to the leadership on this side. We are willing to work late in the evening. This is the night in which we are scheduled to work late in the evening. There is a possibility that once we get the dollar figures voted on we may be able to deal with some of these policy questions later this evening.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. First, let me ask the distinguished chairman of the subcommittee this question. While some may consider this planned this afternoon, we have heard the terms "Secretary of State" and "international lawyers" used. Some of us are thinking also of the expenditure of in excess of $1 bil-

lion in U.S. taxpayers' money, and the death of four churchwomen 4 years ago, on which there has been no progress to speak of, the death of two labor advisers, of which we know nothing at all. Is that a plan? We are deeply concerned over the present policy or the absence of it.

The distinguished Senator from Minnesota has pointed out that while we may rush along on all of this, part of the problem has been over the past 3 or 4 years that is all we have done, rush along, without giving much thought to this. While some may be planning this afternoon, those of us who are discussing this issue, do not think it is a plan. Neither do the people of El Salvador losing their lives think of it as a plan.

The distinguished Senator from Minnesota raised the question of certification, saying that I was part of the enactment of that legislation.

I introduced the resolution back in the early part of 1981. It was finally adopted on the floor of the Senate in the fall of 1982. Let me make a couple of points, if I can, about the certification process, what the authors of it originally would have liked, if we were able to achieve it politically within this institution, what it has done and what it has not done.

At the very outset, I think on the day I introduced the certification bill in early 1981, going back 3 years ago, I pointed out at that time that one of the things that had been missing in this body and others back two decades ago was the opportunity to debate an issue, to debate policy, where we heading. Too often the debate occurred when some incident happened. The klieg lights were turned on and the cameras were rolling and all of a sudden we had a lot of instant policymakers trying to discuss these things in some sort of coolness, where I had the feeling we could have gotten better results both within this institution and the other side of Pennsylvania Avenue. So the intention of the certification bill, first and foremost, was to provide an opportunity for debate which is, in a sense, the essence of this body, an opportunity to discuss what was happening in a major foreign policy conflict in the world, where we were deeply involved. That was the first reason.

Second, I would have very much liked at the time to have Congress actually do the certifying. In fact, that was the original intention. But, frankly, it was not possible to get anything like that through the Congress. The only way we were going to get anything done at all was to give the President the opportunity to certify and then send to the Congress his report.

Because the first reason was so compelling; because we lacked the support, politically, to actually achieve the latter; we accepted the Presidential certification route. For a good 2 years we had an opportunity, at least, to be kept informed on a regular basis on what was happening in Central America, and particularly El Salvador.

We insisted in that certification process that we wanted to see some improvement on such significant issues as internationally recognized human rights, control over the security forces we were funding, a judicial system that would be independent and also responsible for prosecuting the murder of four American women who lost their lives brutally and two labor advisers. We wanted to see some sort of progress or at least an effort made to try to see if there was not a way to resolve the overall conflict in some sort of political fashion.

I admit it is cumbersome, laborious; some people can accuse it of being nit picking, to list some of those points, but at the time there was little else we could do to at least inject ourselves some way into the decisionmaking process on what was happening in Central America.

History had been such that over the years when there had been other such conflicts the Congress was never kept informed unless someone released a document, unless someone leaked something some place, or unless there was some major crisis which the news media focused attention on. Then everybody became a policymaker.

We tried, with certification, to encourage and to engage in that debate. That was the purpose of it.

I said at the time on a couple of occasions it did not seem we were making much progress. In fact, I referred at one point to it having become a sham because it did not seem to me in my frustration, that we were moving or making much progress on it.

So while I will accept the responsibility for certification, it is like trying to prove a negative. I do know what would have happened or would not have happened without it, in some sense. The numbers were not great. We saw a lot of noncombatants lose their lives. But I will never forget the day when the chairman of the Foreign Relations Committee, Senator PERCY, pointed a finger at some of the witnesses who were there arguing against certification. We had discovered only a few hours before that the very peasants who were trying to improve themselves through the land reform program had been thrown off the property which they had been given, and that the entire program seemed to be going down the drain. The chairman of the Foreign Relations Committee, because land reform was one of those nitpicking provisions, pointed a finger and said:

> If you do not get the land reform program working, if you do not make an effort at it, in the next 48 hours, not one red cent.

Miracles of miracles, all of a sudden within 24 or 48 hours those poor people who had been dismissed from their property were brought back.

It made a difference. Maybe it was not the most significant thing in the world. But for some of those people who were hoping to improve the quality of their lives, but it was the United States being good, and I think being great as well.

I regret in some way that my distinguished colleague from Minnesota has not offered his amendment, and I respect his decision not to, because I think it is the way we do have to go, as it is a better way to deal with the problem in a broader sense. It does give us an opportunity to fulfill our constitutional responsibilities to be involved in this, not to be doing it too often so that we do not end up all the time debating it.

I would like to see some more reporting requirements in it. Not every 20 days or 60 days, but with some frequency so we could have some sense of how that policy was proceeding.

My fear is that if we do not do anything at all, if we leave it in the broad sense and allow the executive branch to just proceed along the course it has been going, we are going to find ourselves in an ever-deepening situation.

So I applaud my colleague for his thoughts on this issue. I thought I would take the opportunity, since he mentioned certification. It is not pride of authorship, but I think it did achieve some purposes which were worthwhile, even though, as he pointed out, it did have its burdensome aspects. I hope that the rest of this evening we might have a chance to discuss some of those policy questions. We spend a lot of money and there is a lot at stake in what is going on in this part of the world. But we have taken a lot more time in this Chamber to debate a lot less significant things.

It is not just the interest of this particular Member of this body. There are a number of others who are deeply concerned about where we are headed. I think it is quite obvious across this country that people are a bit nervous about what our policies are going to be and what is going to happen in El Salvador and Nicaragua; whether in fact there is a likelihood of U.S. combat forces being called to go to that part of the world, and what the implications of that may be.

So I think it is important that we discuss these things and discuss them so that we might be able to explore the background and the history, so that we might have a better understanding of why these problems exist today, where they came from, what the history is, what we might do to try to at least stem the tide in the future so we do not see these situations again.

I think to engage in that kind of an exercise in this body is to do just what this body was always intended to serve: the opportunity to debate, discuss, and explore these issues.

This is not a fast food chain. This is not a place where you just push things through in order to get them done so we can settle on a number someplace. There is a lot more involved here than just a number, a lot more of importance than just trying to come up with some quick amendments.

My hope would be that in the coming hours we will have a chance to do that.

Mr. President, I yield the floor.

Mr. DURENBERGER. Mr. President, will the Senator yield for a moment?

Mr. DODD. I will be glad to.

Mr. DURENBERGER. Mr. President, let me respond very briefly to my colleague from Connecticut.

Let me say first that I should not have used the word "thrust" first. I never looked that up in the dictionary. I do not know what connotation it has. In my recollection in the 5 years-plus I have been here, we probably were not the first. I recall that my colleague, the senior Senator from North Carolina, against whom I debated for a solid 6 months I think in 1979, probably invented certification when we finally broke down and approved the first aid to Nicaragua. I believe that is when some form of certified conditionality arose.

But I rise to compliment the Senator from Connecticut, whose interest in this part of the world goes back before he came to the Senate and who has well articulated on the floor, as he just did, his concern not for the process but for the outcome.

I will grant to him that debating these issues on the Senate floor and in the authorizing committee on their way to the Senate floor is a much more appropriate way to safeguard our interests in Central America. I do not recall that there was a preference for congressional certification, but if that is the Senator's recollection of history, I say to my colleague I would certainly have preferred that approach as well.

And I would say in conclusion, in explanation, not by way of apologizing for pulling the amendment down, now that my colleague from Connecticut has indicated a desire to discuss the amendment—he did not say whether he was for it or not—that I sort of counted heads. As I tried to point out in my statement I found that a number of people did not like the notion of bringing my amendment up because they wanted to get to the numbers—the question of how much money to appropriate.

I found another group that did not want it brought up because they were the folks who liked the box-checking procedure, because it is a good way to cast an aye vote and go hide behind the boxes.

Then, of course, there were the "international lawyers" and the Secretary of State folks. An exception to that, of course, was the Senator from Wisconsin. But there is a body of opinion in the Senate which believes that only Secretaries of State, Presidents, and international lawyers should be permitted to make what is called foreign policy.

So for that reason, plus the fact we are finally dealing, as my colleague from Connecticut knows, in the Foreign Relations Committee with our responsibility for conditionality, I decided not to propose my amendment. I will share with my colleagues a concern I have for going down and voting in favor of this appropriation, as I intend to do, not having my congressional responsibility or my conditions firmly in hand.

I am one who has yet to have proved to him that this administration fully understands the import of the Kissinger Commission recommendations, is fully committed to a lot of costs that go beyond dollars in terms of a long-range policy in Central America, and as they fought this amendment, or this proposed amendment, may likely stall the process of congressional conditionality. So it is not without some sense of unease, if you will, that I back off from proposing the amendment, but it is with a renewed sense of commitment, particularly since I was privileged to hear the comments of my colleague now and in part his comments earlier this afternoon, that I feel somewhere in this process in the next several months, whether it is on an authorization bill or an appropriations bill, we will undertake to apply what I believe, and what I think the Senator believes, is our responsibility to this policy process.

So I thank the Senator for his comment.

Mr. DODD. I thank my colleague for his comments and look forward to working with him on the proposition that he decided not to move forward with today. I agree with him wholeheartedly. This is hardly the kind of vehicle we ought to be using, this constant catch-all we have every time we want to move something along. The fact we are discussing El Salvador on an agriculture bill I guess speaks volumes about our ability to deal intelligently with policy questions. It was not my choice, nor the choice of the Senator from Minnesota, nor do I believe the Senator from Hawaii, to have this debate on this particular legislative vehicle, but we are left with no choice on this matter. We have to play with the cards we are dealt. The cards dealt are the ones before us. My hope is that we might have an opportunity and a better forum for those kinds of policy discussions.

I appreciate the Senator's comments immensely and thank him for his contribution.

Mr. President, I yield the floor.

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Massachusetts is recognized.

Mr. TSONGAS. Mr. President, I should like to take this opportunity to bring my colleagues up to date on the meeting that took place this morning in the Intelligence Committee room on the fourth floor.

As some of my colleagues know, I had gone to Costa Rica and Nicaragua in August of last year, and the rest of that group I was with also went to El Salvador.

One of the people on that trip gave me a call in early February and asked me whether I would be interested in meeting with a Salvadoran army official who was prepared to tell the truth about the death squads and the corruption in El Salvador. I indicated that I would, and subsequently a meeting was arranged in the Hyatt on Capitol Hill. There I met this Salvadoran official, along with Congressman JAMES SHANNON, and that official proceeded to lay out allegations about the death squads, about the murder of the nuns, about the coverup of the murders, and the whole range of events in El Salvador that some of us find offensive.

Subsequent to that time, a meeting took place in my home in Massachusetts with the New York Times where we provided access to this official to the New York Times. As everyone knows, the Times subsequently printed a major story which went into detail. Mr. President, I ask unanimous consent the story be made a part of the RECORD.

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

[From The New York Times, Saturday, Mar. 3, 1984]

DEATH SQUADS IN EL SALVADOR: EX-AIDE ACCUSES COLLEAGUES

(By Stephen Kinzer)

A former Salvadoran military official has implicated high-ranking Salvadoran officials and civilians in acts of terrorism, including Roberto d'Aubuisson, a leading candidate for El Salvador's presidency.

The former official, who has served at the highest level of the security police in El Salvador, has given members of Congress extensive information on what he says are the inner workings of Salvadoran death squads, how and why they were formed, who directs and pays them and who selects their victims.

THE SALVADORAN'S CHARGES

He is believed to be the first officer with experience in the highest councils of the Salvadoran Government to accuse fellow officers publicly of violent political crimes.

It was not possible to obtain independent verification of the accusations by the officer, who asked to remain anonymous because of fear of reprisal. But a United States Senator who interviewed him says he will seek an investigation of the charges and a Congressman says he is confident of the former official's veracity.

These were among his charges:

The network of death squads in El Salvador was shaped by leading Salvadoran officials, including Col. Nicolás Carranza, chief of the Treasury police, and former Minister of Defense José Guillermo García, and is still directed by senior officials.

The man who organized and continues to direct the squads is Mr. d'Aubuisson, a former army officer.

Mr. d'Aubuisson continued to receive a military salary through the late 1970's despite official accounts that he had been dismissed from the army.

Money for rightist terror in El Salvador comes from Salvadoran exiles living in the Miami area.

Government officials routinely ordered the police and soldiers to stay out of areas where political murders were about to take place and that they helped assassins get to refuges in neighboring Guatemala.

Veterans of Nicaragua's deposed national guard were used in some killings carried out by Mr. d'Aubuisson's squads.

Minister of Defense Eugenio Vides Casanova is personally directing a cover/up in the slayings of four American churchwomen in 1980 and that his cousin, a colonel, ordered the murders.

"I WOULDN'T WANT TO BE HIS PRISONER"

The officer making these charges was interviewed by The New York Times at a small hotel in the southern United States. He was known by journalists working in El Salvador in the late 1970's. Congressional staff members and Central America specialists who have interviewed him at length recently said they were confident of his credibility.

In his interviews with The Times, he protrayed himself as a supporter of the Salvadoran Government and a vigorous opponent of the guerrilla insurgency that has enveloped his country.

One of the two members of Congress who has met with him, Senator Paul E. Tsongas, Democrat of Massachusetts, said he was taken aback by the man's strong promilitary sentiments.

"Given the things he was saying, I expected some kind of liberal humanitarian," Senator Tsongas said. "What I found was one tough military veteran. I wouldn't want to be his prisoner."

The former official said he feared that if Mr. d'Aubuisson won the election on March 25, his presidency might provoke a break between the United States and the Salvadoran Government, thereby possibly aiding the insurgent guerrillas. He expressed no sympathy for even the moderate left, calling the Christian Democrats Communist-oriented and corrupt and declaring that they were as great a threat to the country as Mr. d'Aubuisson and Colonel Carranza. He said he considered Mario Zamora, the Christian Democratic leader who was assassinated in early 1980, to have been "a Marxist agent who guided Christian Democratic youth into the hands of the guerrillas."

The former official said he had known Mr. d'Aubuisson for many years and considered him an "anarchic psychopath." He said he feared that "uncontrollable violence" would consume El Salvador if Mr. d'Aubuisson was elected President, and that this fear was one of the factors that led him to divulge closely held secrets.

Senator Tsongas said he would press the Senate Foreign Relations Committee, of which he is a member, to investigate each of the man's many charges about the involvement of the Salvadoran Government in acts of terror.

Representative James M. Shannon, Democrat of Massachusetts, who has also met with the Salvadoran, said he was confident of his veracity.

"He knew things that only someone who had access to the high command would know," Representative Shannon said. "He has the names and facts to substantiate what a lot of people have been saying."

Both Senator Tsongas and Representative Shannon are critics of the Reagan Administration's policy in Central America.

Other people familiar with the Salvadoran and his allegations said he had been known for his differences with Mr. d'Aubuisson. They said he might also be motivated by indications that young people close to him, possibly including relatives, may be developing ties to terror groups.

In interviews, the former official spoke several times of the number of Salvadoran youths who he said were being turned into members of death squads after joining Mr. d'Aubuisson's political coterie.

Allegations that death squads in El Salvador are tied to high military officers have been made before and have been cited by some Congressional critics of the Reagan Administration's policy in El Salvador.

In recent months the Administration has made new appeals to Salvadoran leaders to press for an end to death squad activity. Vice President Bush and Secretary of State George P. Shultz have both visited El Salvador to present the Administration case, and both said they were convinced the Salvadoran Government was making a serious effort to curb political violence.

The Salvadoran military command has publicly denounced the death squads, and military leaders have denied allegations that they are connected to violent acts.

"The death squads must disappear forever to prove our determination to combat them and our faith in the democratic process," Defense Minister Vides Casanova said in November. "All Salvadorans must oppose and denounce them so they will not only be illegal but condemned by everyone."

But according to the Salvadoran now sharing information with members of Congress, General Vides Casanova and other important Salvadoran officers have ordered or covered up acts of political violence.

He said he had personal knowledge of these crimes because his Government post had put him in direct contact with top military leaders. He said his office had regularly received sensitive information detailing the officers' participation in violence and that his agents sometimes monitored the development of assassination plots formulated by officers.

The present structure of rightist terror in El Salvador, according to the former official, grew out of the power struggle that erupted between reformist and conservative military factions in 1979.

After the October 1979 military coup, leftists gained a foothold in the Government and formed a loose alliance with reformist officers led by Col. Arnold Majano, a member of the revolutionary junta. Rightists led by Defense Minister Garcia and Colonel Carranza, then his deputy, were alarmed at this alliance.

The campaign to outmaneuver Colonel Majano and force him and his allies from the Government, according to the Salvadoran, secretly included a series of terrorist acts. Rightist officers, he said, hoped to destabilize the country and create conditions for a countercoup.

"Garcia and Carranza asked d'Aubuisson to establish the Broad Nationalist Front with the object of supporting the armed forces and destabilizing Colonel Majano, who was becoming a problem for them," the Salvadoran said evenly. "He did a good job organizing street rallies and took on the task of eliminating people."

Mr. d'Aubuisson was supposedly out of the army at this time, but according to the former official he was secretly still receiving a salary. In fact, he said. Mr. d'Aubuisson actually received a substantial raise in his military pay during the time he was organizing the death squads in late 1979.

"Garcia and Carranza gave him their most suitable men to each part of the country for his squads," the Salvadoran said. "The goal was to make it seem that the revolutionary junta was incapable of governing, to create chaos so they could push Majano out."

Colonel Majano was the target of sustained attacks from the right during his 14 months on the junta because of his support for land redistribution, nationalization of the banks and civilian control of the military. He is now in exile and reportedly lives in Mexico.

The former military official said he had direct knowledge of the participation of Mr. d'Aubuisson, General Garcia and Colonel Carranza in the process of selecting death squad victims, many of whom have been trade unionists, student leaders, peasant organizers and others considered potentially sympathetic to the left.

He said many of the men who carried out killings or kidnappings understood that they were acting on Government orders and that such a conclusion was reasonable because the police were cleared from the scene before assaults and full opportunities for escape were provided.

GUATEMALA IS CALLED SCHOOL AND REFUGE

Mr. d'Aubuisson is known to have gone to Guatemala regularly during 1979 and 1980, and, according to the former military official, he was in contact there with Mario Sandoval Alarcón and Leonel Sisniega Otero, the two leaders of the ultraright National Liberation Movement, a Guatemalan political party that has been linked to political violence. The National Liberation Movement was formed in the early 1950's with the help of the Central Intelligence Agency to overthrow the leftist Government of Jacobo Arbenz Guzmán, who fell from power in a C.I.A.-backed coup in June 1954.

According to the Salvadoran, Mr. d'Aubuisson and his men moved freely between El Salvador and Guatemala. In many cases, he said, assassins would drive directly from the scene of a murder in El Salvador to an airstrip where they would board a private plane for Guatemala.

Guatemala is the only country in Central America with a long history of death squad activity, and the former official said Mr. d'Aubuisson went there to learn how rightist squads were run. Trips to Guatemala after killings were also thought to protect the killers from possible private reprisals and from questioning by Salvadoran agencies not involved in the plots.

He said the Guatemalan Government was not fully aware of the extent of these ties

and was not a party to the activities of the d'Aubuisson group, although its intelligence agencies were aware that Mr. d'Aubuisson was active there.

In Guatemala, the former military official said, Mr. d'Aubuisson met regularly with a small group of wealthy Salvadoran exiles determined to oust the Majano faction from the Government and repeal the legal changes that had cost many of them much money and positions of political influence. Members of this group regularly provided names of people they wanted killed, he said, and paid Mr. d'Aubuisson to carry out their wishes.

"These exiles now operate out of Miami and still have the same relationship with the squads," he said. "With Carranza now head of the Treasury police, there is no problem."

According to the Salvadoran, the two most stunning political murders of early 1980 in El Salvador, those of Mario Zamora and Archbishop Oscar Arnulfo Romero, were both planned and carried out by Mr. d'Aubuisson with money from exiles in Guatemala and under the protection of General Garcia and Colonel Carranza. At this time, the former official said, Mr. d'Aubuisson did not have a reliable team of Salvadoran killers and used veterans of Nicaragua's deposed national guard as triggermen for both assassinations.

The killing of Mr. Zamora, an outspoken activist who was a spokesman for young leftists in the Christian Democratic Party and who held a Cabinet post under the revolutionary junta, happened when Mr. Zamora was engaged in a public feud with Mr. d'Aubuisson. Mr. Zamora was killed by a squad that broke into his home on the evening of Feb. 23, 1980.

Mr. Zamora's brother Ruben has become a leading spokesman for the Salvadoran revolutionary movement. He has said he believes Mr. d'Aubuisson helped plan his brother's murder.

A month after the Zamora killing, Archbishop Romero was slain while saying mass at a hospital chapel in San Salvador.

"As for the case of the Archbishop, d'Aubuisson simply ordered it after meeting with exiles in Guatemala," the former official said. "He formed the teams, his men followed the Archbishop to learn his habits and he picked the four men who carried out the operation and the eight others who made up the security group."

40 STICKS OF DYNAMITE ARE PRELUDE TO EXILE

Colonel Majano lost political ground continually through 1980, and most of the leftists in the Government, including two key junta members, were forced from office. At one point, Colonel Majano ordered the arrest of Mr. d'Aubuisson on charges of plotting a coup, but Mr. d'Aubuisson was quickly released through the efforts of Defense Minister Garcia.

As Colonel Majano drove near the Salvadoran Institute for Agrarian Reform on Nov. 11, 1980, a bomb made from 40 sticks of dynamite exploded just after his car passed. This assassination attempt was carried out by squads working for Mr. d'Aubuisson, the former offical said.

Two weeks after the car-bomb attack, six members of the executive committee of the leftist Democratic Revolutionary Front were kidnapped and killed, an action the former military official said was also carried out by squads working for Mr. d'Aubuisson. In mid-December, Colonel Majano was finally forced to leave the junta. He fled into exile soon afterward.

The Salvadoran was in a sensitive Government post when the four American churchwomen were killed in El Salvador on Dec. 2, 1980. He said his post gave him the opportunity to watch a cover-up develop. American officials familiar with circumstances at that time confirmed that the Salvadoran was well situated to see the inner reaction of the Government to the killings.

He said the murder of the churchwomen was "an unusual case" that did not involve Mr. d'Aubuission or what he described as "the normal structure."

"National guardsmen at the airport spotted the women, and they radioed for instructions," he said, speaking matter-of-factly and chain-smoking American cigarettes. "Two of the women were coming from a conference of Maryknoll nuns in Managua, Nicaragua, and the other two were known as suspicious.

"The word came down to eliminate them. It came from Col. Oscar Edgardo Casanova, who was in charge in that zone."

Salvadoran and American officials have said there is no evidence to suggest the five national guardsmen accused of killing the churchwomen were acting on orders. But critics, including relatives of the women, have expressed doubt that a crime of this magnitude would have been carried out spontaneously.

Colonel Casanova is a cousin of General Vides Casanova, then chief of the national guard and now Minister of Defense. Oscar Edgardo Casanova is now commander of the Salvadoran Army's Second Brigade, stationed at the western city of Santa Ana. He was transferred from La Paz, where the murders took place, weeks after the women were killed. His transfer was part of a shake-up that the former offical said was principally designed to provide a pretext for protecting the women's killers.

According to the Salvadoran, the transfers sent a message to soldiers that they would be protected if they were implicated in crimes of violence.

He said Colonel Casanova's involvement in the killing of the churchwomen was known to several people at high levels of the Salvadoran government.

"The men who did the killing have been promised that they will be freed through the judicial system, which means that they can never be put on trial again," the former official said. "If they don't name Casanova, they will get out of jail as soon as it is feasible."

KILLING SAID TO FOSTER MURDER AS WAY LIFE

The former official said that the January 1981 killing of José Rodolfo Viera, who headed the land redistribution program that many wealthy Salvadoran landowners bitterly opposed, was carried out by men working for Mr. d'Aubuisson. He described the two men who have been accused in the killing, Capt. Eduardo Alfonso Avila and Lieut. Isidro López Sibrián, as "integral members of the d'Aubuisson gang."

Mr. Viera was killed together with two American labor advisers as they were dining at the San Salvador Sheraton. Lieutenant López Sibrián remains on active duty, and Captain Avila is "under the jurisdiction of a judge" while charges that he left the country illegally are investigated.

The political party Mr. d'Aubuisson now heads, the Nationalist Republican Alliance, emerged out of the Broad Nationalist Front as a vehicle for candidates in the 1982 election in El Salvador. Mr. d'Aubuisson became president of the Constituent Assembly after the 1982 election and is now the Nationalist Republican Alliance candidate for President.

According to the former official, Alliance money is routinely used to pay both campaign expenses for Mr. d'Aubuisson's presidential bid and expenses of death squads under his control.

"He formed them and he runs them," the Salvadoran said of Mr. d'Aubuisson and the death squads. "Campaign contributors in Miami know that their money is going for both purposes, campaigning and killing."

Because Mr. d'Aubuisson's squads have operated with such impunity, the former official said, many Salvadorans have followed his example and taken to murder as a way of of resolving political grievances, personal quarrels or financial disagreements.

"Violence is consuming the country," he said. He said the example of Mr. d'Aubuisson had led "to a geometric increase in murders" over the last few years. People see that all they have to do is go out and shoot someone and nothing will happen to them, he said.

"Young people who want to do something for the country and for some reason are attracted to d'Aubuisson," he continued, "go to his office and ask what they can do to help. Someone gives them a gun and the name of someone to kill.

"It reaches the point where his hitmen get bored and ask him what operation they are going to carry out today. So he sends them out to kill a professor or throw a bomb at some union leader."

He asserted that José Napoleon Duarte, the Christian Democratic leader and the party's presidential candidate in the election this month, was told while he was serving as Provisional President in 1981 that Colonel Casanova was the man who ordered the killing of the American churchwomen. But he said Mr. Duarte chose not to act on the information for fear that doing so might produce a violent reaction.

Mr. Duarte has said he tried vigorously to pursue the case but was stymied by the military and a timid judiciary.

[From the New York Times, Thursday, Mar. 22, 1984]

TOP SALVADORAN POLICE OFFICIAL SAID TO BE A C.I.A. INFORMANT

(By Philip Taubman)

WASHINGTON, MARCH 21. The head of El Salvador's Treasury police has been a paid informant for the Central Intelligence Agency since the late 1970's, according to American officials.

The Treasury police have long been considered the least disciplined and most brutal of the Salvadoran security forces and some of the members have been linked to death squad activities by the Reagan Administration.

The American officials, who are familiar with C.I.A. activities in El Salvador, said that the Treasury police chief, Col. Nicolás Carranza, had received more than $90,000 a year from the C.I.A. as an informant for the last five or six years.

A senior officer of the Treasury police, their head of intelligence, Maj. José Ricardo Pozo, was removed from his job late last year after the Reagan Administration pressed the Salvadoran Government to take action against security officers, including Major Pozo, who were linked to the death squads, according to State Department officials. The American officials maintained, however, that there was no credible evi-

dence Colonel Carranza was personally involved with the death squads.

In visits to El Salvador at the time of Major Pozo's dismissal, according to Administration officials, Vice President Bush and other senior United States officials told Salvadoran leaders that military commanders, including Colonel Carranza, should move aggressively against any colleagues involved in death squad activities to dispel the impression that the commanders tacitly condoned the groups.

CONDUCT SAID TO HAVE IMPROVED

The State Department officials said today that since Colonel Carranza took command last year, the Treasury police had improved their conduct somewhat but remained a major source of human rights abuses.

A diplomat in El Salvador said today of the Treasury police, "That is still the organization that people would least like to be picked up by."

"We can't say the organization as a whole is involved with the death squads, but we did complain about some top officials, including Major Pozo, and their subordinates," a highranking State Department official said.

Intelligence officials, while declining to talk about Colonel Carranza, said C.I.A. operations in El Salvador had not involved the agency directly or indirectly in sanctioning death squads.

A C.I.A. spokesman, George V. Lauder, refused to confirm or deny that Colonel Carranza had been an informant. Repeated efforts this week to reach Colonel Carranza by telephone were unsuccessful. Aides said he was out of his office and unavailable.

Lieut. Col. Ricardo Cienfuegos, the chief spokesman for the Salvadoran armed forces, said today that without proof of a connection between Colonel Carranza and the C.I.A. he could make no comment. "We are not going to keep answering these charges without proof," he said.

American officials said the use of Colonel Carranza as a paid informant was part of the C.I.A.'s effort to monitor military and political developments, including power struggles within the Salvadoran military. When he was recruited by the C.I.A. in the late 1970's, Colonel Carranza was the Deputy Minister of Defense.

Before taking command of the Treasury police last May, Colonel Carranza worked at the Salvadoran telephone company and electric company in posts commonly occupied by ranking military officers.

THREE INTERNAL SECURITY FORCES

The Treasury police, originally established to deal with revenue violations, are one of three internal security forces in El Salvador. The others are the national police and the national guard. All three are active in efforts to counter guerrilla forces. Like the army, the three organizations report to the Minister of Defense.

John N. McMahon, the Deputy Director of Central Intelligence, in a recent appearance before the Senate Select Committee on Intelligence, testified that C.I.A. policy barred the use of agents or informants who were involved in assassinations, according to two members of the committee.

One of the Senators, who asked not to be identified, said that the C.I.A. had recently terminated its relationship with a Salvadoran security officer believed to be involved with the death squads even though the man had been a valuable source of information. That former informant, the Senator said, was not Colonel Carranza.

Information linking Colonel Carranza to the C.I.A. was initially provided by a former Salvadoran official who recently accused leading Salvadoran military officers and civilians of involvement in death squad activities. In an interview, the former Salvadoran official accurately identified the current C.I.A. station chief in El Salvador and named his two immediate predecessors. His information about Colonel Carranza's connection to the C.I.A. was confirmed by American officials familiar with the agency's operations in El Salvador.

ANONYMITY REQUESTED

The former official's accusations about the death squad links of Salvadoran officers and civilians could not be independently confirmed.

The former Salvadoran official, who was promised $50,000 by a group of critics of Reagan Administration policies in Latin America if he would speak out, has asked to remain anonymous for fear or reprisals. He has already received $29,500 of the $50,000.

American officials said it was common for the C.I.A. to recruit and pay senior military officers in foreign countries to provide information and to further American interests. Many of these informants, the officials said, are involved on their own in activities that the C.I.A. does not necessarily support or condone. "You can't always do business with honorable people," one former intelligence officer said. He added, "In such cases, the less you know, the better it is."

This gray area was illustrated two years ago when the former head of Mexico's national police was charged in San Diego with directing a stolen car ring that operated in southern California. Intelligence officials said the man had been a key C.I.A. informant in Mexico.

In an interview broadcast by CBS News tonight, the former Salvadoran official repeated his assertion that Colonel Carranza worked for the C.I.A. and was involved with the death squads.

Mr. TSONGAS. I felt, after my own inquiry, that this man was credible and it was important everyone in this country who was interested have a chance to have access to him.

So about 3 weeks ago, I traveled out of the city on the night I was supposed to be at TIP O'NEILL's roast to meet with him again and urge him to go public. He was very reluctant to do that because of physical security, concern about his family, and because he does not trust us.

Those negotiations went on and on, and finally last week we received word that he was prepared to come to Washington to lay out his allegations. I felt that was a major breakthrough, and so we arranged to bring the official to the Capitol at 9:30 this morning and let him tell his story.

The problem we had was that to allow him to tell the story required we invite both House Members and Senate Members, Republicans and Democrats, liberals, moderates, and conservatives. The dilemma was simple—there would be so many people anxious to hear him that we had to limit the number of people we invited, which we did. Fifty-one Senators were invited to the session this morning. Nine came.

If we are about to vote all this money for El Salvador, here is a highranking Salvadoran official risking his life and that of his family to come to tell the truth and hardly anybody shows up. It would require walking to the middle of this building, going up the elevator one flight and walking the other flight.

Senators BOREN, DODD, METZENBAUM, WILSON, CHILES, LAUTENBERG, NUNN, JOHNSTON, MATTINGLY, and I came, and I urge other Members of the Senate to talk to them. I regret that we limited the invitation. Had I known that the turnout would be so poor, I would have invited everybody.

That official, for 3 hours told his story of El Salvador: the corruption, the brutality, the death squads, the nuns.

Everyone is concerned about the nuns, but who wants to walk down and hear about it? Very few. The details of how the nuns were killed, who covered it up. Too far to walk. The corruption: millions of taxpayers' dollars being abused. Too far to walk. Who is kidding whom?

This man risks his life to tell us, the representatives of this country, what is going on in El Salvador. Does anybody care? Not many.

Do we find corruption offensive? Apparently not. Do we find death squads offensive? Well, maybe an irritant. What about the nuns?

What I found intriguing about this man was that when I was asked to meet with him, I expected to find a leftist or at least a closet liberal. This fellow was more anti-Communist than anybody in this body, and he spoke out today for aid to El Salvador. He made it clear that you can put in whatever aid you want; you do not clean up the act in El Salvador. The Communists are going to take over.

He talked specifically about the corruption and the brutality. Who was listening?

He met with the FBI today, at 2 o'clock, and detailed for them the same story, and it is my hope that eventually I can get him to go public. The major argument is this: If you cannot get Senators to come, the only way to get their attention is to go to their constituents.

The election in El Salvador does not solve the problem. It is a help. The problem is base corruption, and this fellow knows more about it than anybody else in this town.

It was embarrassing. Imagine risking your life to go to a strange country and tell the truth, and nobody comes. I believe that, unfortunately, there is a hear-no-evil, see-no-evil, speak-no-evil attitude.

I had a conversation recently with one of my constituents, a reporter, and we were talking about all this, and I was expressing my concern that four

Americans could be killed and 4 years later nothing has been done. He said to me, "Well, what were they doing?"

That was the same comment that was made in the hearings in our committee some 3 years ago. The implication is obvious—that if they were dealing with the leftists, they got what they deserved. That is a fine state of affairs. So, what we object to is not the killing, but the killing if they had contact with and were sympathetic to the guerrillas. I do not know whether they were or were not. But four Americans were killed, and there are people in this country who say, "Well, if they had any contact with the guerrillas, maybe they got what they deserved." That is offensive. So, Americans are killed by governments we support, and we look the other way.

I think the elections in El Salvador are very important, and it is a real struggle between those who want change and those who want to go back. I hope they work out well. But no matter what happens, if you do not stop the corruption, you will not stop the death squads; and eventually you will have a demoralized army that cannot defeat the guerrillas. As this man said this morning, you have to defeat the guerrillas, and you cannot do it without a reformed army. That was a very important message, and you should have heard it.

In some contrast is the issue of Nicaragua. Is there anybody in this body who would come here and argue that the Sandinista government does not have majority support? We were in bed with Somoza for something like 40 years, and I do not recall anybody being upset about him except the people of his country. I am sure there were some around here, but it was no big issue. Finally, the excesses and the brutality and the corruption were too much, and he was overthrown, and the Sandinistas came into power.

When I was in Nicaragua in August, we met with church officials in La Prensa and the business community and people who had grave reservations about the Sandinistas. I think many of those reservations were valid and are still valid.

We also got to the countryside, and we had a couple of meetings that I think are worth telling about.

The first was at a village called Estalee, where the contras are engaged in activities. The meeting was arranged with 100 or 150 Catholic organizers, and it was done in a sort of hall.

Two things were important to me about that session. One was that, after a while, I asked the question: "How many of you in this room are Catholics?" Every person raised his or her hand.

Then I said, "How many of you in this room are Sandinistas?" Everyone raised his or her hand.

Then I said, "How many of you are Marxists?" Two hands were raised. One was a 5-year-old boy who raised his hand because the person next to him raised his hand.

The point of that, I think, was very clear: That the average person in Nicaragua is a Sandinista and not a Marxist.

When President Reagan was on television in his debate with President Carter, he raised a very telling point.

He said, "Are you better off now than you were 4 years ago?"

A lot of Americans said, "No," and that is why Jimmy Carter is in Plains, Ga., and why Ronald Reagan is in the White House.

If you go to Nicaragua and you ask them the same question, "Are you better off today than you were under Somoza," you get the same answer. The answer is, "Yes, we are better off, goodby Samoza, he happens to be overthrown."

So is it any surprise that if it is all right in the United States for people to frame their perspective relative to the past, that they do that in Nicaragua as well? And if you grew up and you existed under Somoza, you would be pro-Sandinista, too. With all their problems, it is better than it was before.

I raised this issue at the Democratic Caucus on Tuesday and one Senator said that he disagreed with me. He said that he felt that the support enjoyed by the Sandinistas was a bare majority.

I got elected here with 55 percent of the vote. That is a bare majority. And that is better than a lot of people, not Senator INOUYE. He does not count. He gets 80 percent. That is a different world out there.

The fact is a lot of people got here by the skin of their teeth. Would anyone suggest that because I got with 55 percent of the vote I should not be here? I suppose there are some but most would not.

The Sandinistas, like it or not, are supported by their people beyond the majority, with all their problems and there are a lot of them. If you do not believe me, by the way, talk to the American Ambassador, not my appointee, a Reagan appointee. The obvious question is if they have majority support why the hell are we trying to overthrow them? Where did we get into this business? There are a lot of governments around the world that do not have majority support. Let us go after those. Why do we pick out Nicaragua?

What troubles me the most is the fact what we are doing there is not offensive to a majority of the Members of the Senate. The idea of going in and trying to knock off a government with majority support is offensive to what we stand for.

I will tell you the second story. I was in Estalee and this woman began wailing. I would guess she was around her late fifties, sixties, something like that. She had a woman with her who turned out to be her daughter. She began wailing, crying, and screaming and said that I and the Congressman as Americans were responsible because her son had been killed by the contras. They came in and shot up a jeep and he was in the jeep and he was killed. He was not a soldier. He was just a townsperson, and she blamed me for his death.

I left the meeting right after this and wanted to walk through the village and ask questions, which I did. Congressman SHANNON stayed behind. He was approached by a man in his forties who had three children with him. I think the oldest was around 15, maybe less than that. But two of them I know were just tots. The man came up to him and said, "Congressman, the mother of these children, my wife, was killed 2 days ago, and she was a nurse and she and the doctor she worked with were driving up the road, where there had been a battle, to try to provide medical attention and they had the red cross on the truck and that truck was ambushed and both the doctor and my wife, the nurse, were killed and these children have no mother, and it is your fault."

What would you have said? You probably would not have been there because you know that is what we are doing and you do not want the damn question. But when you vote in this body for money for the contras you are killing people. It is not your wife. That blood is on your hands.

I want you to think about it. We are not playing Secretary of State here. We are killing people. If you want to do that in 5 minutes, I do not.

What right do you have to do that? I challenge you to come up here right now and tell me and prove to me that Sandinistas do not enjoy majority support. Show me your evidence.

What you are doing for ideological reasons is supporting Contras with all their ties to the Somocistas and they are engaged in terror. And mothers of young children are being killed and they are being killed because the money came from here. There is no blood on this carpet but there should be. Go to Nicaragua, go to Estalle, have those conversations, then come back here and vote for it.

When Senator DODD was a Peace Corps volunteer and when I was a Peace Corps volunteer we stood for something. We stood for the greatness of this country, that we gave of our lives. We do not take lives. I would just hope that at some point there would be a reaffirmation that the United States really does care about human rights, that we really do care about

corruption, we do care about majority rule and self-determination and nonintervention.

That is why we are different from the Soviets.

The tragedy is that the Democratic Party is a part of all this, because there are many Democrats who do not want to vote no because they do not want to get blamed, if the question arises who lost El Salvador or who lost Nicaragua or who lost "X."

But at some point there is an accountability and the question of whether we are a nation that people around the world——

The Senator from Connecticut wishes me to yield?

Mr. DODD. First, I want to compliment my colleague on this statement. It is somewhat ironic, I guess, the two of us standing here both having served in the Peace Corps back two decades ago. I served in Latin America and he was in Africa. As he has just pointed out, in fact, almost stealing my thoughts, those were the days when it seemed we had policies that people seemed to approve. We were a stronger nation, and enjoyed tremendous support because we were participating in trying to improve the quality of life. Unfortunately, today it is quite the opposite. But I really just want to compliment the Senator on his remarks and tell him it is going to be a little lonely around here next year not having him sitting on this other side during moments like this, and when he gets through I will just take a couple minutes and go to something else.

Mr. TSONGAS. Just to pursue that point, I told the story before so it may be repeating. In 1963 I lived in a village called Valsa, Ethiopia, and the people of that village spoke in Galla and Gallaya. I only got past the first one.

One day my students said to me, "Why don't we go out in the countryside and see beyond the village town we lived in what the people were like way, way out in the countryside." So I agreed and, on that weekend after school was over Saturday morning we got up bright and early and we got on our horses, a very energy efficient motor transportation, I might say, and I and my students went riding into the countryside.

About midday, we came to a hut. Ethiopia is a very fertile country where they live, all farmers, but they were peasants. Where we were there were no roads. It was all done by mules and horseback and walking.

I got off the horse at this juncture because we wanted to rest, and the farmer invited us into the hut to have coffee. We went inside the hut, which is a traditional mud-wall building with a grass-thatch roof, and it is very dark in there. Eventually my eyes got accustomed to the darkness. There were two photographs on the wall of the hut. One was Haile Selassie, the Emperor of Ethiopia—and in that country you better have his picture in the hut. The second picture was Jack Kennedy.

Now, you could imagine what it is like to be a 22-year-old American, riding 4 hours into the Ethiopia countryside, get off your horse, go into a hut in the middle of nowhere, and there is a picture of your President. That was a moment that I cherish.

That is what America is. They perceived us as standing for something. Do you think any Peace Corps volunteer today gets on a horse and goes 4 hours into the countryside and sees a picture of any American Presidents?

The final incident I want to relate in Nicaragua was at a Catholic school in Managua. At the Catholic school, like any other Catholic schools, if you grew up in my part of the country, the students wear uniforms, white top with blue pants or blue skirt. We were supposed to meet somebody, and the person did not show up.

Rather than leave, I and the other Americans walked over to where the students were. They had no idea who we were. We began to talk with them. We got into the question of Sandinistas, the Somocistas, et cetera. I said to one of the students: "How do you feel about Marxism?"

He said, "I don't know very much about it."

I said, "Well, you know Fidel Castro was a good friend of your government's here, and he is a Marxist. How do you feel about Somocista Marxists having influence with your government?"

He said, "Well, I don't know anything about Fidel Castro, but he didn't do anything to hurt me."

I expressed my concern about Marxism, and I said, "How would you feel if the United States decided to help you overthrow the Marxist regime here and sent American troops to land on the shores to liberate you?"

He looked at me and he said, "Well, if that happened, I and the other students here would go get our guns and go fight them."

I said, "Well, you don't understand. They would be coming here to liberate you."

He said, "They would not come to liberate us. They would come to bring back the Somocistas."

Do you not find it surprising that the Sandinistas would go out into the countryside and give away arms? I mean, if you do not think the people are with you, the last thing you are going to do is give them weaponry.

You do not think that in Argentina, prior to the current regime, they used to go around giving out weaponry to people. No, because they did not know which way these people were going to shoot.

Does it surprise you that with all the money that we have given to the Contras they have not done anything? A raid here, raid there, killing here, killing there. What have they taken? Where is the popular support? It is not there.

Those students in that Catholic school, if we land all our Marines in Nicaragua, are going to shoot them and be shot in return because we are identified with Somoza. No surprise. So the people we are supporting are Somocistas, in large part, and are viewed that way by the people in Nicaragua.

I think that the revolution in Nicaragua is unfortunate. I think the Sandinistas had a marvelous opportunity to introduce real pluralism, and they messed it up. They did not deal with the church correctly or the Meskito Indians or La Prenza. They could have been the role model, and I think they have failed that. But that does not lead to the conclusion that it is our job to overthrow a government that enjoys majority support.

Finally, let me say one thing. What I object to beyond my human objections to killing and corruption is I have come to the conclusion, unfortunately, that many people in the United States, particularly in elected office, have concluded that time and history are not on our side. You do not engage in these kinds of things if you believe that history is moving your way. These are acts of desperation.

We all remember the allegation made about Henry Kissinger, that he was dealing with the Soviets because he felt that time was on their side and he was going to cut the best deal he could.

Mr. MATTINGLY. May I ask the Senator a question?

Mr. TSONGAS. Let me take 3 minutes, then I will be glad to respond.

For what it is worth, let me give gou one lameduck's view of which way we are going. When I went to Ethiopia in the Peace Corp in the early 1960's, the enthusiasm in Africa was for socialism. Every African leader went to places like Butiyama in Tanzania, Tangangika to be schooled on the great new economic theory of African socialism. That was the wave of the future. We were the past. And they all went that way. Zambézia, Angola, Mozambique, you name it. A funny thing happened. It did not work. Socialism simply does not work.

Where do you think all of the leaders go today? Do you think anybody is bothering to go to Butiyama to see Julius Nyerere? They are all going to Singapore and Taiwan and South Korea. Why? Because capitalism incentives work.

So I believe very profoundly that history is on the side of the free enterprise system because it happens to be

a much better economic theory, and, in my opinion, that is because it is based on self-interest. And that is how we are made, like it or not. That is why it works.

History is moving toward us. The only thing that can stop that is the example where the movement of history is thwarted by injustice. If I went up to that father in Estalee with the three children and said, "Sir, you don't understand; capitalism is better than socialism and Marxism," he would say to me, "My wife was killed. Don't talk economic theory to me." For that father and for the countless people in Nicaragua, El Salvador, or you name it, all politics is local like in the United States. Our job is to let history work its will and to remove economic injustice, that is, land reform, remove social injustice, including the death squads and allow history to move.

If we really believe that history is on our side—and I think it is—then our job vis-a-vis the Soviets is to remove injustices and history will move toward us away from the Soviets. To jump into bed with the Contras and Nicaraguans means only one thing: That those who argue that believe history is on their side, the Soviet side, and we have to act in desperation, violate our principles.

The irony is a self-fulfilling prophecy. The injustice continues, the corruption continues, and the Soviets come in. Check your history. Marxism is a reactive philosophy. There is no example, not one, where Marxism rose by itself. Marxism came in every instance in response to corruption, injustice, brutality, or whatever. Our system does generate itself because it is the best system. Remove the injustice and Marxism simply does not work.

The classic example is Robert Mugabe, a Marxist, a left-wing guerrilla, Communist, or you name it. You have heard all of those words in this body. When he became Prime Minister of Zimbabwe, do you think he went to Russia? You know where he went. He went to Wall Street in a three-piece suit because he understands economic theory. They are all coming here.

What I argue for is that eventually we believe we are not only right but that we will prevail. If we allow the humanity and the principles of America to be extended, the Soviets simply cannot compete. But you look the other way with the death squads, you look the other way with corruption, you allow the nuns to be killed without response, then you give the Soviets their entree.

That does not help America. That helps the Soviets. This is a great country. That is why all our parents and grandparents came here. Our job is to protect and to continue it. That includes what we do in the Third World as well.

I yield to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all, let me commend again my distinguished colleague and friend from Massachusetts. We were elected to the House together in 1974, and have served in the Senate together these last 4 years.

Much of what you have heard from the Senator from Massachusetts in 25 or 30 minutes is what many of us have been talking about today. He said it with a great deal of feeling and firsthand experience from his years as a Peace Corps volunteer in Africa, from his onhand experience in Central America meeting and talking with people, and his continued involvement over these past 3 or 4 years in trying to improve not only the quality of life of the people in that part of the world but to also enhance the national security interests of our own country.

Far too often that is forgotten by those who argue the position that the senior Senator from Massachusetts was arguing. Too often it is seen as individuals who are associated with the opposition somehow. That, if you are not willing to buy the present policies, you are nothing more than a dupe supposed for Marxist interests in this region or elsewhere in the world.

I spent time, as I mentioned earlier, as a Peace Corps volunteer in Latin America. I spent 3 years living in the mountainous region of the Dominican Republic. It was an eye-opening experience. It was not a weekend. It was not a quick trip with a congressional delegation. It was not a vacation. It was 3 years with almost constant involvement with the people of that part of the world. But I came to appreciate in those years as a relatively young person that they do have a deep love and a determination to be free.

They had lived under a dictator in that country, under Trujillo, for some 30 or 40 years, not unlike what we saw in El Salvador, or saw in Nicaragua under Somoza. They wanted their freedom. They wanted to be able to choose and to participate in selecting their political leadership. They also wanted pluralism. They wanted to be able to see the country have religious expression and freedom of the press. They wanted to be able to grow economically. They did not want to have to fear for their lives.

Unfortunately, as we are seeing today in Central America, those same aspirations, people going to the polls trying to participate in a free election, which we commend them for, regrettably are not necessarily going to be able to end the violence.

Mr. President, let me notify my colleagues here in the Chamber that I have an awful lot I want to talk about. I want to make it clear that I am not going to yield the floor; that I am going to engage in a rather extended discussion going back over what has transpired in this part of the world over the past 4 years. I want to let my colleagues and you, Mr. President, and others know that I intend to take some time this evening to go back over events of the past 3 or 4 years, look at our policy in each one of these countries, and take this opportunity to look at the history of these countries—what has occurred there not just in the last 4 years, but going back some time.

Mr. KASTEN. Would the Senator yield for a question?

Mr. DODD. For purposes of a question only.

Mr. KASTEN. I understand the Senator. First of all, I appreciate the Senator's comment that he might be wanting to speak for a couple of hours on this question.

In the interest of trying to set up a schedule, it is my understanding, after conferring briefly with the Senator from Hawaii, that the leadership on our side and the leadership on your side have indicated that they would very much like to get some kind of a schedule so that we can proceed at least to a vote on the Inouye amendment, which is the business pending before the Senate, the $62 million. If you would like to speak until 8 o'clock or something like that, could we set a time certain so that people would know they would be able to arrange their schedules around the dinner hour and also be able to anticipate when you would be finished. We could go forward, vote on that part, and tomorrow go back into some of the policy questions that I understand the Senator from Pennsylvania and others may discuss.

Mr. DODD. I appreciate the chairman's question. I, with all due respect, say to my colleagues that they could probably plan a good, long dinner tonight and that they should not have to anticipate for some time anyway having to return here for any votes. I say that with all due respect. Of course, I am conscious of the interests and the desires of some to move to the point of discussing these numbers.

I have been here, as the chairman has, since this afternoon.

Mr. KASTEN. I want to make certain we are not misunderstanding each other. I was told twice in a conversation with the Senator from Massachusetts that there were a number of amendments to be discussed, but he did not intend to engage in a filibuster. We have an amendment before us and, frankly, there are a lot of other amendments that will be before us. I understand there are a lot of things to be debated, but we ought to be debat-

ing on the amendment and voting on it. Otherwise, we are just taking up a large amount of time. We ought not to be filibustering but moving on the amendments to the bill.

Mr. DODD. I cannot speak for the distinguished Senator from Massachusetts nor anyone else. I appreciate the chairman's desire to roll along here, roll right along with these numbers.

Well, I am not prepared to roll right along with these numbers. I think we ought to discuss these issues a little more at length than some people want to give them, and to go back on them.

I do not know what the senior Senator from Massachusetts said to the chairman. I understand he talked about a full debate. Those are his words.

Well, I am prepared to have a full discussion here for a while. I am being as candid and open as I know how. I am not trying to play games, but I do feel very strongly about it. I do not believe we ought to plow along with numbers and then discuss policy questions. We have been plowing along with numbers for the past 4 years and that has not gotten us anywhere. As I said earlier, I intend to proceed along with the agenda I have set out. Later on, we may want to discuss other things. At this particular point, I do not see any point in talking about a time certain.

Mr. MATTINGLY. Will the Senator yield for a comment?

Mr. DODD. Yes.

Mr. MATTINGLY. I would like to refer to the meeting we had this morning. The person there who was giving the information said he did not want the aid cut off in El Salvador. So in his debate, I want the Senator to address that issue.

Mr. DODD. In fact, the Senator from Massachusetts in his remarks pointed out that the gentleman we saw this morning made that point. This was no Marxist, no leftist, this was an individual who felt strongly that the aid ought to be forthcoming.

Also, I would point out, that just pouring in aid without some very fundamental changes would not achieve anything. He did point out, the Senator is correct, that from his particular perspective he would like to see the aid forthcoming. However, he said it would not make any difference at all in the final analysis unless there was some fundamental change.

Mr. MATTINGLY. Well, I was the one who asked the question and I recall what he said.

(Mrs. KASSEBAUM assumed the chair.)

Mr. DODD. Madam President, I think we all are aware that President Reagan is greatly concerned about recent developments in Central America and in the Caribbean region and how to deal with them. I would add, Madam President, that he is not alone in that. His concerns are shared by 535 Members of Congress, by Republicans and Democrats alike, by the American public as a whole, by our neighbors in this Hemisphere, and, yes, by friend and foe both near and far.

What heightens these concerns for many of us here at home as well as abroad is the serious doubts and reservations that we have about the course being charted by the President and by his administration.

It comes down to an honest difference of opinion, not unlike differences over budget and tax policy, differences over arms control, and production of the MX missile.

There are legitimate differences on these basic, fundamental issues, and there are certainly legitimate differences on the question of what our policy should be with respect to the nations of Central America.

Clearly, the President and his spokesmen see it one way. They see it largely in terms of our Communist adversaries moving into the Western Hemisphere, expanding their influence, and aiding and abetting wars of national liberation in the Central American region.

While they are not unmindful of the internal conditions within that region, their emphasis is on the external factors and forces, meaning Moscow and Havana; meaning Chernenko and Castro.

Their formula for dealing with communism is a strong dose of anticommunism, which immediately translates into the use of military force, the use of military might, and the use of military power.

Unfortunately, this is a hallmark of this administration's approach to the problems of the region. I believe it was one of the reasons we decided to use military force in Grenada. This is why I believe we are involved in a not-so-secret war in Nicaragua. This is why we are building military bases in Honduras. This is why the President has already provided hundreds of millions of dollars in military assistance to the region. This is why he is requesting hundreds of millions more. This is why, unfortunately, we are urgently training thousands of soldiers in Central America. This is why the Defense Department wants an increase in the number of U.S. military advisers in the region. This is also why many of us are firmly convinced that the President's approach is as unwise as it is dangerous.

This conviction does not arise because we are oblivious to the threat posed by the Soviet Union, by Cuba, or by their allies.

It does not arise because we have turned a blind eye to their efforts in Central America. Nor does it arise because we have illusions about the nature of the Communist system, or because we lack the will, Mr. President, or the commitment, or the patriotism to confront that system and to confront it, if need be, with military force.

No; our conviction that the President is proceeding unwisely if not dangerously in Central America arises from a different view, a different interpretation of the fundamental facts in the case.

With the specter of growing American involvement in the Central American region, both in terms of men and treasure, it is time to look at the facts, to look at the reality of the region and our relationship to it, warts and all. The sooner we do so, the sooner we divorce the substance and the reality from the fantasy and the fiction, the better our assessment will be of where we have been, where we are now, and where we are going.

As we proceed in this assessment, I think it should come as no surprise to learn that we know little more about Central America in 1984 than we did about Indochina in 1964. I begin with the very basics.

Spanish-speaking Central America houses five relatively small nations: Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. Their land mass is slightly larger than the State of California.

The population of the region comprises some 20 million people, about the same as New York State.

For the most part, the people who live in the area are ill-educated, ill-fed, ill-housed, and ill-treated. Illiteracy is widespread. Infant mortality is relatively commonplace. Malnutrition is virtually endemic. Unemployment is often at staggering levels. Respect for human rights is frequently nonexistent.

Together the Central American nations produce goods valued at less than $20 billion annually, roughly what the United States produces in 2 days. For the most part, income distribution continues to be highly skewed, the very few living in isolated spendor and the very many in shantytown squalor.

Politically, with the exception of Costa Rica, the nations of the region have had more than their fair share of demons, devils, and demagogs. Judging from the past, democratic experience is an alien ideology, to be avoided at all costs and discussed only in the presence of the American Ambassador or a visiting Congressman.

From this standpoint, the Somozas or the Romeros or the Lucases of recent vintage represent something of a time-honored tradition in Central America.

While we hope this tradition can be broken, we must also recognize that the odds seem to be against it. What have we done to help improve the odds? What has been our policy

toward this region of Central America?

Well, the policies pursued by the United States toward Central America beginning with the enunciation of the Monroe Doctrine in 1823 have had a certain consistency to them. Our primary purpose has been to protect and defend the basic security interests of the United States.

A secondary purpose has been to extend the blessings of liberty, freedom, and democracy to our southern neighbors. There has never been serious debate as to the order or priority for the two.

In response, what the democratic leaders of Latin America and their followers see is a historical effort by the United States to keep the hemisphere beyond the reach of any outside influence. We safeguarded Latin America and Central America from the Spanish and British in the 19th century and today from the Russians and the Cubans.

As they see efforts, however, it has never been quite clear whether the U.S. goal was to protect their independence and sovereignty or to extend the power and influence of the United States. While the rhetoric of the United States has maintained it was the former, the actions of the United States all too frequently suggested it really was the latter.

As Latins are quick to point out, these actions include a war with Mexico in 1845 to 1848, resulting in the annexation of what was then northern Mexico and what is today the Western and Southwestern part of the United States; repeated military intervention in the Caribbean and Central Amerian region throughout the first part of this century; with marines stationed in Cuba, Haiti, the Dominican Republic, and Nicaragua; open and strong support for a whole host of antidemocratic regimes, including Batista in Cuba, Trujillo in the Dominican Republic, Ubico, Martinez, and Somoza; the toppling of the Arbenz government in Guatemala in 1954 by exiled military forces under the direction of the Central Intelligence Agency; the Bay of Pigs invasion in 1961 and the covert operations designed to terminate the Castro government in Cuba; the sending of Marines to the Dominican Republic in 1965; clandestine efforts to prevent the election of Salvador Allende in Chile and subsequent efforts to overthrow his government, finally leading to Allende's demise in 1973; and, within the last several months, repeated threats of military action, paramilitary operations against Nicaragua, plus stepped up U.S. military involvement in the region, culminating in the decision to invade Grenada.

While the United States may strenuously object to such a list of particulars and to the indictment it brings, the Latin response is clear and concise: "Your actions speak louder than your words." That difference between what we practice and what we preach has made U.S. policy ineffective and impaired our credibility, and neither the Green Berets nor a division of marines nor a squadron of F-16's can get it back.

I submit that the way to reclaim U.S. credibility and effectiveness in Latin America is to close the gap between what we say we stand for and the actions we are prepared to take to prove it. In other words, we must bring into line our ideals and our endeavors. El Salvador is a good place to start.

To get a "fix" on El Salvador, keep in mind that for the past several decades, many U.S. observers have cautioned one administration after another about the explosive situation in Latin America. One observer, writing in 1963, bluntly assessed the situation in these terms:

> There is absolutely no doubt in my mind that revolution is inevitable in Latin America, he wrote. And by way of explanation he offered this:
>
> The people are angry, they are shackled to the past with bonds of ignorance, injustice, and poverty. And they no longer accept as universal or inevitable the oppressive prevailing order which has filled their lives with toil, want and pain. The terrible realization has drawn upon them that the futility of their lives and that of their parents' lives need not have been, that it is the bitter fruit of an evil system of justice. And so they are filled with a fury and a determination to change the future.

Sounds like a warning I suppose from Fidel Castro or a call to arms by Che Guevara? Or perhaps scare-talk from a guerrilla commander in Central America. Actually it is none of the above. These lines were written by that dangerous radical, Milton Eisenhower, brother of the former President. His words echoed a more familiar warning issued a year earlier by President Kennedy speaking to the Latin America diplomatic corps. "Those who make peaceful revolution impossible," Kennedy told them, "will make violent revolution inevitable."

The Kennedy-Eisenhower prediction of violent revolution is Latin America has become the reality of Central America today. Yesterday, Nicaragua; today, El Salvador; and tomorrow, Guatemala.

Let us take a closer look at El Salvador. Wedged between Guatemala and Honduras, El Salvador is the smallest Spanish-speaking country on the mainland, and one of the poorest. The wealth of the country, such as it is, has historically been controlled by the landed gentry and its offshoots in the industrial sector—some extended "fourteen families," according to popular legend.

Prior to March 1982, the last time El Salvador celebrated free elections was in 1931. The results were short lived. By the end of the year General Hernandez Martinez had seized the reins of government. He held on to them for the next 14 years. His despotism was unenlightened. Today it is best remembered for having put down the 1932 peasant revolt in which some 20,000 to 30,000 campesinos were eventually slaughtered because of their demands for land reform.

In the intervening years, little changed, the military ruled, often ruthlessly, and it ruled in league with El Salvador's economic elite. The military and security forces maintained law and order and in turn were rewarded by the vested economic interests. To the surprise of no one, this arrangement over time worked to the absolute advantage of the very few and to the absolute disadvantage of the very many.

And where were we in all of this? Well, for the past 50 years, we have supported one Salvadoran military regime after another.

Since the end of the Second World War, Uncle Sam has provided El Salvador with more than a billion dollars in economic and military assistance, 80 percent of which the Reagan administration has provided in the last few years. And as we know from morning newspapers, newscasts at night, radio broadcasts, and our papers, substantial increases are on the way. In fact, the pending amendment of some $62 million is a reduction from $93 million the administration wanted to offer. The total package this fiscal year is some $178 million, added to the millions that we have spent over the last 4 years, suggesting somehow just one more time: give us another million, another $5 million, another $10 million, one more box of bullets, one more gun, and we are going to turn this thing around. We are going to make a difference. We are going to get better. Just stay with me a little bit longer. I promise you, just a little bit longer and things will get better.

Well, I have waited and I have hoped along with my colleagues and kept on wanting to believe that the jawboning many of us were doing on both sides of the aisle over the last 3 or 4 years might have an impact, might begin to make a difference. Maybe there is still hope down the line. But I do not think we can just willy-nilly go around spending these moneys, continuing to support what appears to be a military effort that is not getting us anywhere, where in fact you could argue today the very insurgents that the government we are supporting is fighting are doing better today than they were 4 years ago despite the fact that we spent that money.

Mr. LEAHY. Madam President, will the Senator yield to me for a quesition without losing his right to the floor?

Mr. DODD. I am delighted to yield.

Mr. LEAHY. Madam President, I ask the Senator, is it not a fact, taking the best evidence which has been in the open press, that the guerrillas fighting in El Salvador seem to be getting the bulk of their arms from the Salvadoran military; that is, arms that they have captured in military operations?

Mr. DODD. Will the Senator repeat the question? I am sorry.

Mr. LEAHY. Perhaps I should preface it this way. We hear that the Salvadoran military is about to run out of arms; they are about to run out of ammunition; that unless we come immediately to their aid, the whole thing will collapse because they are facing a resistance from the guerrillas heavily financed and supplied by the Soviet Union via either Cuba or Nicaragua. Is it not a fact, as has been reported in the open press, the very large, very significant percentage of the arms now going to the rebels is arms that have been captured from the Salvadorans themselves?

Mr. DODD. My colleague is absolutely correct. But you do not have to rely on a hardworking reporter to dig that information out. In fact, administration officials have testified to that very fact. I will read a recent article—I believe it appeared in yesterday's New York Times—by Hedrick Smith—because I think it is pertinent to the Senator's question:

> A top Defense Department official said today that roughly half of the arms used by the Salvadoran guerrillas were U.S. supplied weapons taken from armed forces of El Salvador.

Now, we have known for some time that there were supplies coming in apparently from Nicaragua by way of Cuba originating I think in Vietnam. Again, U.S. weapons that we had left behind at the time of our withdrawal from Vietnam in 1975. And many have said, "Well, that is where those weapons are coming from." It is true that some of the weapons the guerrillas are using and some of the ammunition is from that source. But what Mr. Fred Ikle, the Under Secretary of Defense for Policy, said is that half are coming from weapons we are supplying the Government of El Salvador. That is a staggering statistic when you consider it. From sentiments expressed earlier today, if we adopt the pending amendment of $62 million, you could argue, based on the conclusion of the Defense Department, that we are actually subsidizing the insurgency with $30 million in weaponry.

The article goes on to say:

> More U.S. military aid was urgently needed to help the Salvadoran Army break what Mr. Ikle termed a military stalemate, turn the corner against the guerrillas and ultimately gain a victory over the guerrillas.

We have heard that over and over again, just turn the corner, just give us this one more time. I promise you, Senators and Congressmen, just give us this little bit more and we are going to nail it down. We are going to be able to bring you home a victory and we are going to have a win on our side, but just give us this little bit more.

Mr. LEAHY. Madam President, if the Senator will yield again for a further question without losing his right to the floor, I ask the Senator if he is familiar with an article in U.S. News & World Report of February 27, this year, just a month ago—a magazine I have always found to be pretty objective in its reporting. It is certainly not considered a left-wing publication by any means—entitled "El Salvador turning into 'Vietnam West' for U.S.?" My question will be basically whether the Senator agrees with the concern expressed. They say:

> Both sides in El Salvador's bitter civil war now expect—or fear—that it is only a matter of time before U.S. military forces intervene in the conflict.
>
> Government supporters still are fervent anti-Communists. But after four years of warfare, they have lost faith in the ability of their own U.S.-backed Army to decisively defeat the leftist insurgents. So they look to Ronald Reagan to order in American troops to prevent a Marxist victory.
>
> Should neither D'Aubuisson nor Duarte receive a majority on March 25, as is probable, a runoff will be held within 30 days. The winner will take office on June 1 for a five-year term.
>
> Privately, however, numerous Americans concede that putting U.S. combat troops in the field may be the only way to prevent a Communist victory. "The options in El Salvador keep diminishing," says one U.S. official. "If the Salvadoran Army keeps on deteriorating, Reagan will have no choice but to commit American troops."
>
> Nevertheless, military observers say that the Army still too frequently is fighting a "9 to 5" war, permitting rebels to move freely at night and on weekends.

Now, I say to my friend from Connecticut that I have quoted this at some length because it is obvious from the whole article they had spoken to a number of American officials in putting the story together. It has a San Salvador dateline. The whole article seems aimed toward the possibility—actually it appears to be the probability, that American troops will eventually be committed to El Salvador. I have heard the Senator from Connecticut lay out very cogently this afternoon, as did the Senators from Massachusetts, how we go step by step into a situation where we cannot get out. It would appear to me that, indeed, this is what we are getting to; that we will commit so much of our prestige, our manpower, obviously our money, a billion dollars already in a country that geographically is smaller than Vermont, and request more.

Are we not getting into a situation where the suggestion made in U.S. News & World Report could well come true—that is, the total Americanization of the war down there, including American combat troops?

Mr. DODD. I thank my colleague for his question.

That is the concern of many of us, that there is a progression that seems to follow historically. There is a progression where we have seen, in the past, the country become involved, not in one fell swoop, but it is bit by bit, where it becomes harder and harder for the United States to turn itself around.

Obviously, the classic example is the most recent one we have had, which ended in tragic results. We sent 1,600 marines into the airport at Beirut, Lebanon. They were a peacekeeping force. That was the description. They were going to help build a peaceful future for Lebanon.

What we discovered, once they were there, was that there was not much they could do. They could not engage the various factions which were almost too numerous to count, they could not go after those who were attacking them, without becoming involved or involving this country in a wider conflict there. There was no real purpose for them, we discovered, shortly after their arrival.

But then the argument shifted from the original one, which was, should we send them there? We argued and debated that issue for a few days, anyway. Once they are there, what happens is that the arguments shifts, and the argument is not any longer whether or not it is right or wrong for them to be there. The argument then becomes, what is it going to look like if they leave? What sort of signals does it send?

In fact, I remember sitting at a meeting with Dr. Kissinger when he said, "I think it was a tragic mistake for us to try to play a military role in Lebanon, but now that we are there, we've got to stay."

My concern is that when we are talking about this sort of slow, ever-escalating involvement in El Salvador, innocently enough, beginning, as we do in many places, with military attachés, and then it goes to advisers, none of that is really objectionable. What is wrong with advising people who are allies in a conflict and maybe training those fellows? How do you conjure up images of terrible times in the past and say we should not be doing that?

Then it comes to reconnaissance flights and support. That is hard to argue against, too, I suppose, to help them out. Obviously, you lose some of the fellows on the reconnaissance flights, and you have to give them protection. You have to protect them against ground fire.

That is where we are in El Salvador. We have moved from the innocence of just an attaché to the adviser, to the trainer, to reconnaissance, and now to having a significant military force on the bordering country, to financially

supporting a group of counterrevolutionaries, as they are called, in Nicaragua.

Apparently, we are now getting requests from Costa Rica for some military equipment. I hope that is not true. All of sudden, we find a nation which for 4 decades has proved that you can live in that part of the world without an army. This has our fingerprints all over it, and I am worried about it.

I am not saying that we should not be doing anything. I argue with people who say that we should be isolationists and should not be involved. We have to be involved. There is no question in my mind that we have to be involved. But it is the quality of our involvement. Whom do we help? Are we helping ourselves? Are we contributing to the possibility of peace and stability? Or are we becoming a part of the problem, as the President likes to suggest that Congress or the Government is? We are becoming part of the problem, and we are inching closer everyday.

I appreciate my friend from Vermont being here. What I am doing is not something that my colleagues appreciate, and I am sensitive to that. But I feel that at some point we have to say, "Where are we going, and what are we doing?"

I am told, by the way, according to the Salvadoran military people, that under the worst of conditions, they would be looking at a shortfall in military equipment in the middle of next month and possibly June. That is the worst-case scenario. Yet, I hear the same arguments: You have to rush this through, get it done fast, and get the money there quickly.

I apologize for taking time tonight. If it gets people thinking about what we are doing, it is worthwhile. We become caught up in who is losing El Salvador, and I think we should take stock of what has been happening in that country—the bloodshed, the horror, the poverty.

One week it appears that the Government is on top, the next week it is the insurgents, and it swings back and forth. I do not know of anybody who is looking at this situation who thinks they are going to see any solution of this militarily.

The point of the Senator's question was, of course, that we are getting closer to the danger that in order to resolve this issue militarily, we will end up sending U.S. military forces down there to try to clean up the mess. I think that is the direction we are heading in. I believe we are working ourselves into a corner where we are going to be confronted with one of two choices: Either accept an insurgent victory, because the military in El Salvador has not been able to defeat them on the field of battle, or we send in the troops to make sure we do not have "another Cuba" or "another Nicaragua." That is the choice we will be confronted with.

Mr. LEAHY. Madam President, I ask the Senator if he will yield further for a question, without losing his right to the floor.

Mr. DODD. I am glad to yield.

Mr. LEAHY. Is it not really the position of the Senator from Connecticut that what he wants the Senate to do is really to vote on the ultimate question: Do we allow American military might, including American fighting personnel, to get themselves involved in the war in El Salvador or not?

It is not a fact that what the Senator from Connecticut wants—and many of the rest of us want—is to say that the U.S. Senate, the greatest deliberative body in the world, will stand up and vote yea or nay on the question of whether or not we, as individual Senators, representing our individual constituencies, intend to allow American troops to ultimately become engaged in the fighting in El Salvador?

Mr. DODD. That is the purpose of this. It is not a dilatory effort.

I took some offense earlier in the day when it was suggested that this is planned, playing different roles—a Secretary of State or an international lawyer. I felt the anger rise because it is not play at all.

It is not play to see those bullet-ridden bodies of women and children, or to see the corpses of the four American women being excavated from shallow graves, brutally assassinated, to see two American labor advisers get blown away in a restaurant.

In effect, it is not games. People in El Salvador tonight do not think it is play. They like to think, I believe, that the United States and particularly the Congress of the United States would show some greater sensitivity to what is going on.

I think it was interesting to note in the election last week that Napoleon Duarte, an individual for whom I have a great deal of respect, by the way, and have come to know personally over the last 3 or 4 years, the centerpiece of his campaign was a dialog, negotiations with the opposition to see if there was not some way politically to solve the difficulties. He ran for President in his own country and got darn near 50 percent of the vote of the people of that land.

We have been told up here for the last 4 years the people of El Salvador do not want to hear about that at all, that they do not want to sit down and talk with the insurgents and the guerrillas, that they will have nothing to do with it. Yet we find in the middle of this war and conflict the major platform, the plank, if you will, of Mr. Duarte's campaign was the very point that some of us here have been trying to make over the past 4 years. Let us see if we cannot try that route. What harm comes from exploring, seriously exploring a political diplomatic resolution of the war in El Salvador?

If it does not work, we always have the other options, including the one we are going to support in this Senate in the next few days, and that is more military aid. We always have that one.

What harm is it to try this other one, to seriously commit ourselves, seeing if we cannot come out of this situation. We could achieve some form of a ceasefire or start to talk about the building of an interim government, and then talk about an electoral process and meaningful economic assistance coming from the Contadora countries, incuding many in Latin America and Western Europe, Japan, and then start talking about a future.

Instead we get one side of the mouth saying we are for political diplomatic solutions and we wish to resolve them, and of course, our actions sort of belie any real commitment to a real political effort.

As to the Contadora nations, I wish more people knew more about this region and knew its history. It is always the difficulty, I suppose, in foreign policy debate that too many people think the world began the day we all of a sudden got recently involved. But if people were more familiar with this part of the world, knew its history, they might appreciate what is going on with these Contadora countries. It is absolutely without historical precedent in modern Latin American history for four countries, these four, particularly, to get together to try and come up with an answer, a nonmilitary answer, to the problems in Central America.

For the Mexicans to become involved in international affairs in its hemisphere is without precedent since the revolution in Mexico. They have always been very isolationist. They never have gotten involved. They issue statements occasionally but never play an activist role.

Venezuela has been a bit more active but still never to the point where they are willing to place their credibility on the line.

Panama and Colombia have always had their own differences with each other, and yet here they are sitting down at a table with the Mexicans and the Venezuelans trying to come up with some intelligent, thoughtful response to the tragedy of Nicaragua and El Salvador.

And what do we say about them? We have the Kissinger Commission study which examines a variety of issues. What do they say about the Contadora nations? The Kissinger Commission report is about 133 pages long. If my memory serves me well, and I have read the document about six different times, you will find I think one reference to the Contadora nations somewhere around page 133. It is about a

paragraph and a half long, and it is hardly what you call a ringing endorsement of that process, maybe the most significant hope we have. I am sorry. It is on page 120 of the Kissinger Commission report.

Here we have 132 pages of how to bring peace and stability and hope to the Latin Americans in the 1980's. We have the four most significant Latin American countries trying to work out an answer to that. We study the problem, and when we get through studying the problem, they find themselves on one paragraph of a 132-page report. This is what it says about their effort and we wonder why there is some degree of skepticism about our intentions.

The report says:

> To be sure, the interests of these four countries are not identical, nor do they always comport with our own. The Contadora nations do not have extensive experience in working together, and the Contadora process has not yet been tested in terms of crafting specific policies to provide for rational regional security.

As if we have, by the way.

> Thus the United States cannot use the Contadora process as a substitute for its own process.

That is it.

Here we have one of the most significant things going on in our hemisphere and that is what it gets. We are talking about some answers.

I am not arguing, nor would I, that the Contadora nations have the key to the answer, that they have come up with a magic solution. But the fact that we are unwilling to associate with four democracies in this hemisphere who are laboriously going through the process of trying to find some answers that will bring peace and stability I think is one of the great, great tragedies in history. History will record it that we missed an opportunity, we missed a real opportunity. Put aside, if you will, the questions of doing anything for Latins—I suppose that is not all that popular to be talking about that. Just speaking about it in terms of our own interests, be very, very selfish about it, absolutely selfish as we can be. What do we waste? What do we lose?

I have tried to come up with an intelligent response to my own question, putting myself in the shoes of those who disagree with me. What is the risk? What is the danger by alining ourselves with the four strongest democracies in Central America and the northern part of Latin America and making an effort to try and come up with an answer short of a military solution that will allow for democratic institutions to blossom and to flower?

Instead, we go to the political craptable, in effect, and we roll dice with only one of two answers coming up. Either Mr. D'Aubuisson, or someone like him, runs the shop, or someone like a Fidel Castro runs the shop. That is basically what we are saying our options are.

Too many people I think in this town think that all of Latin America is made up Somozas, Trujillos, Castros, and Che Guevaras, and that there is no one else down there. The fact of the matter is there are an awful lot of other people down there who do not feel very comfortable with either the Castros, the Che Guevaras, or the Somozas, and the Trujillos. They wish just once, just once that one administration, Republican or Democratic—they really do not care which—would take some time to recognize that there is something else going on down there and to deal with it with a greater degree of sensitivity than I am afraid we have.

I have been heavyhanded, I suppose, according to many, on this administration, but I said and I will say it again it is not just this administration. These problems did not begin the day Ronald Reagan took office in January 1981. They go back a long time.

What we are getting is not something new. Unfortunately, it is basically a continuation of the same. And the hope would be that we might be able to break this pattern of behavior.

Senator TSONGAS, our colleague from Massachusetts, earlier was talking about his Peace Corps experiences and some of the things that happened to him in Ethiopia. It was less than 20 years ago, in 1966, that I went to the Dominican Republic as a Peace Corps volunteer. Most people do not believe me when I say this, but I remember seeing on the walls of urban areas graffiti which quoted Tom Paine and the Declaration of Independence, and talked about the Constitution of the United States—graffiti on the walls of Latin America.

I would defy anyone today to go to any of those countries and find that kind of association, where the ideal was the United States. Today you read Marx, Lenin, and others, I suppose, who have appealed in a fascinating way to some of these younger people and older people.

But I think it is far too simplistic to suggest that somehow because they do not associate themselves any longer with the United States they have embraced a Fidel Castro or someone like him. I guess it makes me angry, I guess, that is what I am trying to say to you—I hate to see us in a situation where we have done more for Fidel Castro. What we have done for that man, what we have done for his cause in Latin America in 20 years is nothing he ever could have achieved on his own.

We are the best strategic asset Fidel Castro ever had. We do more to advance his reputation and his ideology by our shortcomings and mistakes. And how tragic it is to see people think of the United States as being a Nation that only seems to be good for military assistance or supporting less than democratic regimes.

I have a feeling the American people would not like it. A lot of them do not get a chance to go to these countries and meet other human beings, other citizens in these lands. But I have a feeling it would make them as angry as I felt when I heard our entire country being indicted because of a policy.

I wish somehow there were ways in which we could transport entire communities for periods of time to meet these other people and see the conditions they are living under.

What has always amazed me, and it did as a Peace Corps volunteer 20 years ago, was not that there was a revolution going on. What always amazed me was how long it took. I cannot imagine any community of Americans I have ever seen in this country that would tolerate what communities of Latin Americans have tolerated for decades. They would not. We would not tolerate it for 1 month, 1 week. We would be irate if we were confronted with some of the conditions that these people are living under. And if they could see, if Americans from Connecticut, or Kansas, or Wisconsin, or Vermont could be taken down and see what is going on in these countries, how their tax dollars are being spent, I think they would demand, in their own way, an entirely different policy than the one we are presently following in Latin America.

You do not need to be a former Peace Corps volunteer, you do not need to be a Ph. D. in Latin American studies, you do not even need to speak the language. You just need to see it, to bear witness to it.

If more people in this country had a chance to see that, I think their response would be what mine has been and what others has been. I dread the thought of Marxists winning in El Salvador. I dread the very thought that that is going to occur, the possibility of that occurring. And yet I am afraid to tell you that the policies we are following now create a far greater likelihood of that result than getting on a better course.

As I stand here tonight, I promise you, if we continue what we are doing, "just around the corner another victory," another $60, $90 million, pursuing the same policy. It is really not the number. The number does not make the difference, I suppose, as long as the policy is bad. But pursuing that same policy almost guarantees that we will see a Government emerge in El Salvador that will be antagonistic to us.

And then we will turn around and some people will stand up and they will say, "I will tell you why that happened. Because of that guy DODD and a

few of his friends up there; they lost El Salvador, you know." I will guarantee you the headline. I will guarantee you what is being said right now and what you will hear on radios and televisions. "Those are the guys that are losing. Those 8 or 10 or 12 or 20, whatever the number is. The people up in the Congress, they lost Central America." As if somehow we were responsible for what any person could see by just looking.

The argument was used, obviously, a number of decades ago as to Red China. "There were some people down at the State Department who lost Red China." Forget that 800 million Chinese had anything to say about it. "A handful of State Department officials created that situation."

So I will expect in the coming days or weeks or months that label—in fact, it already has been extended to me and to others in this body because we refused to accept blindly these policies, not only costly in dollars and cents, which is no cost at all compared to the cost of human life and the tragedy associated with an extended conflict that shreds a nation of any sense of itself.

Madam President, there are a number of things I would like to address. Here is a wonderful speech, by a great friend of mine—not a great friend, but a good friend. I would like to think of him as an even closer friend. A Mexican writer, he is a novelist but he also comments frequently on public policy in Latin America. His name is Carlos Fuentes. Maybe he gave the best commencement address in 1983 given anywhere in the country, the commencement address at Harvard University.

He says in about 10 or 15 minutes in a commencement address what others have spent days, I suppose, trying to say. I would like to share his commencement address with my colleagues tonight because it really does get to the very essence of the problem.

In this address, he says the following:

LADIES AND GENTLEMAN: Some time ago, I was traveling in the state of Morelos in central Mexico, looking for the birthplace of Emiliano Zapata, the village of Anenecuilco. I stopped on the way and asked a *campesino*, a laborer of the fields, how far it was to that village. He answered me: "If you had left at daybreak, you would be there now." This man had an internal clock which marked his own time and that of his culture. For the clocks of all men and women, of all civilizations, are not set at the same hour. One of the wonders of our menaced globe is the variety of its experiences, its memories and its desire. Any attempt to impose a uniform politics on this diversity is like a prelude to death.

By the way, I would say tangentially, dropping from the speech, that I spent 8 or 10 hours with Lech Walesa in Poland last summer. What he was going through, and the people in Hungary and Czechoslovakia, Latvia, Lithuania, and Estonia have gone through, gave me the eerie sense that we are getting involved in sort of the same thing in our own backyard. His plight is not unlike the plight of many people in our own hemisphere.

Carlos Fuentes said:

Lech Walesa is a man who started out at daybreak, at the hour when the history of Poland demanded that the people of Poland act to solve the problems that a repressive government and a hollow party no longer knew how to solve.

We in Latin America who have practiced solidarity with Solidarity salute Lech Walesa today.

The honor done to me by this great center of learning, Harvard University, is augmented by the circumstances in which I receive it.

I accept this honor as a citizen of Mexico, and as a writer from Latin America.

Let me speak to you as such.

As a Mexican first:

The daybreak of a movement of social and political renewal cannot be set by calendar other than those of the people involved.

With Walesa and Solidarity, it was the internal clock of the people of Poland that struck the morning hour.

So it has always been: with the people of my country during our revolutionary experience; with the people of Central America in the hour we are all living; and with the people of Massachusetts in 1776.

The dawn of revolution reveals the total history of a community.

This is a self-knowledge that a society cannot be deprived of without grave consequences.

THE EXPERIENCE OF MEXICO

The Mexican Revolution was the object of constant harassment, pressures, menaces, boycotts and even a couple of armed interventions between 1910 and 1932.

It was extremely difficult for the United States Administrations of the time to deal with violent and rapid change on the southern border of your country.

Calvin Coolidge convened both Houses of Congress in 1927 and—talkative for once—denounced Mexico as the source of "Bolshevik" subversion in Central America.

We were the first domino.

But precisely because of its revolutionary policies favoring agrarian reform, secular education, collective bargaining and recovery of natural resources—all of them opposed by the successive governments in Washington, from Taft to Hoover—Mexico became a modern, contradictory self-knowing and self-questioning nation.

The Revolution did not make an instant democracy out of my country. But the first revolutionary government, that of Francisco I. Madero, was the most democratic regime we have ever had: Madero respected free elections, a free press and an uncontrollable Congress. Significantly, he was promptly overthrown by a conspiracy of the American Ambassador, Henry Lane Wilson, and a group of reactionary generals.

So before becoming a democracy, Mexico first had to become a nation.

What the Revolution gave us all was the totality of our history and the possibility of a culture. "The Revolution—wrote my compatriot, the great poet Octavio Paz—the Revolution is a sudden immersion of Mexico in its own being. In the revolutionary explosion . . . each Mexican . . . finally recognizes, in a mortal embrace, the other Mexican."

Paz himself, Diego Rivera and Carlos Chavez, Mariano Azuela Azuela and Jose Clemento Orozco, Juan Rulfo and Rufino Tamayo: we all exist and work because of the revolutionary experience of our country. How can we stand by as this experience is denied, through ignorance and arrogance, to other people, our brothers, in Central America and the Caribbean?

A great statesman is a pragmatical idealist, Franklin D. Roosevelt had the political imagination and the diplomatic will to respect Mexico when President Lazaro Cardenas, in the culminating act of the Mexican Revolution, expropriated the nation's oil resources in 1938.

Instead of menacing, sanctioning or invading, Roosevelt negotiated.

He did not try to beat history. He joined it.

Will no one in this country imitate him today?

The lessons applicable to the current situation in Latin America are inscribed in the history—the very difficult history—of Mexican-American relations.

Why have they not been learnt?

AGAINST INTERVENTION

In today's world, intervention evokes a fearful symmetry.

As the United States feels itself authorized to intervene in Central America to put out a fire in your front yard—I'm delighted that we have been promoted from the traditional status of back yard—then the Soviet Union also feels authorized to play the fireman in all of its front and back yards.

Intervention damages the fabric of a nation, the chance of its resurrected history, the wholeness of its cultural identity.

I have witnessed two such examples of wholesale corruption by intervention in my lifetime.

One was in Czechoslovakia in the fall of 1968. I was there then to support my friends the writers, the students and statesmen of the Prague Spring. I heard them give thanks, at least, for their few months of freedom as night fell once more upon them: the night of Kafka, where nothing is remembered but nothing is forgiven.

The other time was in Guatemala in 1954 when the democratically elected government was overthrown by a mercenary invasion openly backed by the C.I.A. The political process of reform and self-recognition in Guatemala was brutally interrupted to no one's benefit: Guatemala was condemned to a vicious circle of repression, that continues to this day.

Intervention is defined as the action of the paramount regional power against a smaller state within its so-called "sphere of influence."

Intervention is defined by its victims.

But the difference between Soviet actions in their "sphere of influence" and United States actions in theirs is that the Soviet regime is a tyranny and you are a democracy.

Yet more and more, over the past two years, I have heard North Americans in responsible positions speak of not caring whether the United States is loved, but whether it is feared; not whether it is admired for its cultural and political accomplishments, but respected for its material power; not whether the rights of others are respected, but its own strategic interest are defended.

These are inclinations that we have come to associate with the brutal diplomacy of the Soviet Union.

But we, the true friends of your great nation in Latin America, we the admirers of your extraordinary achievements in literature, science and the arts and of your democratic institutions, of your Congress and your Courts, your Universities and publishing houses and your free press—we your true friends, because we are your friends, will not permit you to conduct yourselves in Latin American affairs as the Soviet Union conducts itself in Central European and Central Asian affairs.

You are not the Soviet Union.

We shall be the custodians of your own true interests by helping you to avoid these mistakes.

We have memory on our side.

You suffer too much from historical amnesia.

You seem to have forgotten that your own Republic was born out of the barrel of a gun: the American Revolutionaries also shot their way to power.

We hope to have persuasion on our side, but also the body of international and inter-American law to help us.

We also have our own growing strategic preoccupations as to whether, under the guise of defending us from remote Soviet menaces and delirious domino effects, the United States would create one vast Latin American protectorate.

Meeting at Cancun on April 29, the Presidents of Mexico and Brazil, Miguel de la Madrid and Foao Figueliredo, agreed that "the Central American crisis has its origin in the economic and social structures prevalent in the region and [that] the efforts to overcome it must . . . avoid the tendency to define it as a chapter in East-West confrontation."

And the Prime Minister of Spain, Felipe Gonzalez, on the eve of his visit to Washington, defined U.S. involvements in Central America as "fundamentally harmful" to the nations of the region and damaging to the international standing of the United States.

Yes, your alliances will crumble and your security will be endangered if you do not demonstrate that you are an enlightened, responsible power in your dealings with Latin America.

Yes, you must demonstrate your humanity and your intelligence here, in this house we share, our Hemisphere, or nowhere shall you be democratically credible.

Where are the Franklin Roosevelts, the Sumner Welleses, the George Marshalls, and the Dean Achesons demanded by the times?

FRIENDS AND SATELLITES

The great weakness of the Soviet Union is that it is surrounded by satellites, not by friends.

Sooner or later, the rebellion of the outlying nations in the Soviet sphere will eat, more and more deeply, into the innards of what Lord Carrington recently called "a decaying Byzantium."

The United States has the great strength of having friends, not satellites, on its borders.

Canada and Mexico are two independent nations that disagree on many issues with United States.

We know that in public, as in personal life, nothing is more destructive of the self than being surrounded by sycophants.

But the same way as there are "yes men" in this world, there are "yes nations."

A "yes nation" harms itself as much as it harms its powerful protector: it deprives both of dignity, foresight and the sense of reality.

Nevertheless, Mexico has been chosen as a target of "diplomatic isolation" by the National Security Council Document on Policy in Central America and Cuba through Fiscal Year 84.

We know in Latin America that "isolation" can be a euphemism for destabilization.

Indeed, every time a prominent member of the Administration in Washington refers to Mexico as the ultimate domino, a prominent member of the Administration in Mexico City must stop in his tracks, offer a rebuttal and consolidate the nationalist legitimation of the Mexican government: Mexico is capable of governing itself without outside interference.

But if Mexico is a domino, then it fears being pushed from the North rather than from the South; such has been our historical experience.

This would be the ultimate accomplishment of Washington's penchant for the self-fulfilling prophecy: A Mexico destabilized by American nightmares about Mexico. We should all be warned about this.

Far from being "blind" or "complacent," Mexico is offering its friendly hand to the United States to help it avoid the repetition of costly historical mistakes which have deeply hurt us all. North Americans and Latin Americans.

Public opinion in this country shall judge whether Mexico's obvious good faith in this matter is spurned as the United States is driven into a deepening involvement in the Central American swamp.

A Vietnam all the more dangerous because of its nearness to your national territory, indeed, but not for the reasons officially invoked. The turmoil of revolution, if permitted to run its course, promptly finds its institutional channels.

But if thwarted by intervention it will plague the United States for decades to come: Central America and the Caribbean will become the Banquo of the United States: an endemic drain on your human and material resources.

The source of change in Latin America is not in Moscow or Havana: it is in history.

So, let me turn to ourselves, as Latin Americans.

FOUR FAILURES OF IDENTIFICATION

The failure of your present hemispheric policies is due to a fourfold failure of identification.

The first is the failure to identify change in Latin America in its cultural context.

The second is the failure to identify nationalism as the historical bearer of change in Latin America.

The third is the failure to identify the problems of international redistribution of power as they affect Latin America.

The fourth is the failure to identify the grounds for negotiations as these issues create conflict between the United States and Latin America.

THE CULTURAL CONTEXT OF LATIN AMERICA

First, the cultural context of change in Latin America.

Our societies are marked by cultural continuity and political discontinuity.

We are a Balkanized polity, yet we are deeply united by a common cultural experience.

We are and we are not of the West.

We are Indian, Black and Mediterranean.

We received the legacy of the West in an incomplete fashion, deformed by the Spanish monarchy's decision to outlaw unorthodox strains, to defeat the democratic yearnings of its own middle class and to superimpose the vertical structures of the Medieval imperium on the equally pyramidal configuration of power in the Indian civilizations of the Americas.

As it embarked on its imperial dealings with men and women of different cultures—it they had left at daybreak, they would be there now—Spanish absolutism mutilated the Iberian tree of its Arab and Jewish branches, heavy with fruit.

The United States is the only major power of the West that was born beyond the Middle Ages, modern at birth.

As part of the fortress of the Counter-Reformation, Latin America has had to do constant battle with the past. We did not acquire freedom of speech, freedom of belief, freedom of enterprise as our birthrights, as you did.

We have had to fight desperately for them.

The complexity of the cultural struggles underlying our political and economic struggles has to do with unresolved tensions, sometimes as old as the conflict between panthesim and monotheism; or as recent as the conflict between tradition and modernity.

This is our cultural baggage, both heavy and rich.

The issues we are dealing with, behind the headlines, are very cold.

They are finally being aired today, but they originated in colonial, sometimes in pre-Conquest situations and are embedded in the culture of Iberian Catholicism and its emphasis on dogma and hierarchy, and intellectual inclination that sometimes drives us from one church to another in search of refuge and certitude.

They are bedeviled by patrimonial confusions between private and public rights and forms of sanctified corruption that include nepotism, whim and the irrational economic decision made by the head of the clan, untrammelled by checks and balances.

They have to do with the traditions of paternalistic surrender to the Caudillo, the profound faith in ideas over facts, the strength of elitism and personalism and the weakness of the civil societies; the struggles between theocracy and political institutions, and between centralism and local government.

Since Independence in the 1820's we have been obsessed with catching up with the Joneses: the West.

We created legal countries which disguised the real countries abiding—or festering—behind the constitutional facades.

Latin America has tried to find solutions to its old problems by exhausting the successive ideologies of the West: Liberalism, Positivism and Marxism.

Today, we are on the verge of transcending this dilemma by recasting it as an opportunity, at last, to be ourselves—societies neither new nor old, but, simply, authentically, Latin American as we sort out, in the excessive glare of instant communications or in the eternal dusk of our isolated villages, the benefits and the disadvantages of a tradition that now seems richer and more acceptable than it did one hundred years of solitude ago.

But we are also forced to contemplate the benefits and disadvantages of a modernity that now seems less promising than it did before economic crisis, the tragic ambiguity

of science and that barbarism of nations and philosophies that were once supposed to represent "progress," all drive us to search for the time and space of culture in ourselves.

We are true children of Spain and Portugal. We have compensated for the failures of history with the successes of art.

We are now moving to what our best novels and poems and paintings and films and dances and thoughts have announced for so long: the compensation for the failures of history with the successes of politics.

The real struggle for Latin America is then, as always, a struggle with ourselves. within ourselves.

We must solve it by ourselves.

Nobody else can truly know it: we are living through our family quarrels.

We must assimilate this conflicted past.

Sometimes we must do it—as has occurred in Mexico, Cuba, El Salvador and Nicaragua—through violent means.

We need time and culture.

We also need patience.

Both ours and yours.

NATIONALISM IN LATIN AMERICA

Second, the identification of nationalism as the legitimate bearer of change in Latin America.

The cultural conflict I have evoked includes the stubbornness of the minimal popular demands, after all these centuries, which equate freedom with bread, schools, hospitals, national independence and a sense of dignity.

If left to ourselves, we will try to solve these problems by creating national institutions to deal with them.

All we ask from you is cooperation, trade and normal diplomatic relations.

Not your absence, but your civilized presence.

We must grow with our own mistakes.

Are we to be considered your true friends, only if we are ruled by right-wing, anti-communist despotisms?

Instability in Latin America—or anywhere in the world, for that matter—comes when societies cannot see themselves reflected in their institutions.

DEMOCRACY IN LATIN AMERICA

Change in our societies shall be radical in two dimensions.

Externally, it will be more radical the more the United States intervenes against it or helps to postpone it.

Internally, it will of necessity be radical in that it must one day face up to the challenges we have so far been unable to meet squarely; we must face democracy along with reform; we must face cultural integrity along with change; we must all finally face, Cubans, Salvadorans, Nicaraguans and Argentinians, Mexicans and Colombians, the questions that awaits us on the threshold of our civilization, of creating free societies, societies that take care of the basic needs of health, education and labor, but without sacrificing the equally basic needs of debate, criticism and political and cultural expression?

I know that all of us, without exception, have not truly fulfilled these needs in Latin America.

I also know that the transformation of our national movements into pawns of the East-West conflict make it impossible for us to answer this question: Are we capable of creating free national societies?

This is perhaps our severest historical test.

Rightly or wrongly, many Latin Americans have come to identify the United States with opposition to our national independence.

Some perceive in United States policies the proof that the real menace to a great power is not really the other great power, but the independence of the national states: how else to understand U.S. actions that seem meaninglessly obsessed with discrediting the national revolutions in Latin America?

Some are thankful that another great power exists, and appeal to it.

All of this also escalates and denaturalizes the issues at hand and avoids considering the third failure I want to deal with today: the failure to understand redistribution of power in the Western hemisphere.

LATIN AMERICA AND THE REDISTRIBUTION OF POWER

It could be debated whether the explosiveness of many Latin American societies is due less to stagnation than to growth, the quickest growth of any region in the world since 1945.

But this has been rapid growth without equally rapid distribution of the benefits of growth.

The contrast has become as explosive and understandable as it was in 1810 against Spanish colonial rule.

And it has coincided, internationally, with rapidly expanding relations between Latin America and new European and Asian partners in trade, financing, technology and political support.

Latin America is thus part and parcel of the universal trend away from bipolar to multipolar or pluralistic structures in international relations.

Given this trend, the decline of one superpower mirrors the decline of the other superpower.

This is bound to create numerous areas of conflict. As Chancellor Helmut Schmidt eloquently expressed it from this same rostrum, "We are living in an economically interdependent world of more than 150 countries—without having enough experience in managing this interdependence."

Both superpowers increasingly face a perfectly logical movement toward national self-assertion accompanied by growing multilateral relationships beyond the decaying spheres of influence.

No change comes about without tension and in Latin America this tension arises as we strive for greater wealth and independence, but also as we immediately start losing both because of internal economic injustice and external economic crisis.

The middle classes we have spawned over the past fifty years are shaken by a revolution of diminishing expectations—of Balzacian "lost illusions."

Modernity and its values are coming under critical fire while the values of nationalism are discovered to be perfectly identifiable with traditionalist, even conservative considerations.

The mistaken identification of change in Latin America as somehow manipulated by a Soviet conspiracy not only irritates the nationalism of the left. It also resurrects the nationalist fervors of the right—where, after all, Latin American nationalism was born in the early 19th century.

You have yet to feel the full force of this backlash, which reappeared in Argentina and the South Atlantic crisis last year, in places such as El Salvador and Panama, Peru and Chile, Mexico and Brazil.

A whole continent, in the name of cultural identity, nationalism and international independence, is capable of uniting against you.

This should not happen.

The chance of avoiding this continental confrontation is in the fourth and final opening I wish to deal with today: that of negotiations.

NEGOTIATIONS BEFORE IT IS TOO LATE

Before the United States has to negotiate with extreme cultural, nationalistic and internationalist pressures of both the left and the right in the remotest nations of this hemisphere—Chile and Argentina—, in the largest nation—Brazil—and in the closest one—Mexico—it should rapidly, in its own interest as well as ours, negotiate in Central America and the Caribbean.

We consider in Mexico that each and every one of the points of conflict in the region can be solved diplomatically, through negotiations, before it is too late.

There is no fatality in politics that says: given a revolutionary movement in any country in the region, it will inevitably end up providing bases for the Soviet Union.

What happens between the daybreak of revolution in a marginal country and its imagined destiny as a Soviet base?

If nothing happens but harassment, blockades, propaganda, pressures and invasions against the revolutionary country, then that prophecy will become self-fulfilling.

But if power with historical memory and diplomacy with historical imagination come into play, we, the United States and Latin America, might end up with something very different:

A Latin America of independent states building institutions of stability, renewing the culture of national identity, diversifying our economic interdependence and wearing down the dogmas of two musty 19th century philosophies.

And a United States giving the example of a tone in relations which is present, active, co-operative, respectful, aware of cultural differences and truly proper for a great power unafraid of ideological labels, capable of coexisting with diversity in Latin America as it has learnt to coexist with diversity in Black Africa.

Precisely twenty years ago, John F. Kennedy said at another Commencement ceremony: "If we cannot end now our differences, at least we can help make the world safe for diversity."

This, I think, is the greatest legacy of the sacrificed statesman whose death we all mourned.

Let us understand that legacy, by which death ceased to be an enigma and became, not a lament for what might have been, but a hope for what can be.

This can be.

The longer the situation of war lasts in Central America and the Caribbean, the more difficult it shall be to assure a political solution.

The more difficult it will be for the Sandanistas to demonstrate good faith in their dealings with the issues of internal democracy, now brutally interrupted by a state of emergency, imposed as a response to foreign pressures.

The more difficult it will be for the civilian arm of the Salvadoran rebellion to maintain political initiative over the armed factions.

The greater the irritation of Panama as it is used as a springboard for a North American war.

The greater the danger of a generalized conflict, dragging into Costa Rica and Honduras.

Everything can be negotiated in Central America and the Caribbean, before it is too late.

Non-aggression pacts between each and every state.

Border patrols.

The interdiction of passage of arms, wherever they may come from, and the interdiction of foreign military advisers, wherever they may come from.

The reduction of all the armies in the region.

The interdiction, now or ever, of Soviet bases or Soviet offensive capabilities in the area.

What would be the quid pro quo?

Simply this: the respect of the United States, respect for the integrity and autonomy of all the states in the region, including normalization of relations with all of them.

The countries in the region should not be forced to seek solutions to their problems outside themselves.

The problems of Cuba are Cuban and shall be so once more when the United States understands that by refusing to talk to Cuba on Cuba, it not only weakens Cuba and the United States, but strengthens the Soviet Union.

The mistake of spurning Cuba's constant offers to negotiate whatever the United States wants to discuss frustrates the forces in Cuba desiring greater internal flexibility and international independence.

Is Fidel Castro some sort of superior Machiavelli whom no gringo negotiator can meet at a bargaining table without being bamboozled by him? I don't believe it.

NICARAGUA

The problems of Nicaragua are Nicaraguan but they will cease to be so if that country is deprived of all possibility for normal survival.

Why is the United States so impatient with four years of Sandinismo, when it was so tolerant of forty-five years of Somocismo?

Why is it so worried about free elections in Nicaragua, but so indifferent to free elections in Chile?

And why, if it respects democracy so much, did the United States not rush to the defense of the democratically elected President of Chile, Salvador Allende, when he was overthrown by the Southern Jaruyelski, General Augusto Pinochet?

How can we live and grow together on the basis of such hypocrisy?

Nicaragua is being attacked and invaded by forces sponsored by the United States.

It is being invaded by counter-revolutionary bands led by former commanders of Somoza's National Guard who are out to overthrow the Revolutionary government and re-instate the old tyranny.

Who will stop them from doing so if they win?

These are not freedom fighters. They are Benedict Arnolds.

EL SALVADOR

The problems of El Salvador, finally, are Salvadoran.

The Salvadoran rebellion did not originate and is not manipulated from outside El Salvador. To believe this is akin to crediting Soviet accusations that the Solidarity Movement in Poland is somehow the creature of the United States. The passage of arms from Nicaragua to El Salvador has not been proved: no arms have been intercepted.

The conflict in El Salvador is the indigenous result of a process of political corruption and democratic impossiblity that began in 1931 with the electoral results by the Army, and culminated in the electoral fraud of 1972, which deprived the Christian Democrats and the Social Democrats of their victory and forced the sons of the middle class into armed insurrection. The Army had exhausted the electoral solution.

This Army continued to outwit everyone in El Salvador—including the United States. It announces elections after assassinating the political leadership of the opposition, then asks the opposition to come back and participate in these same hastily organized elections—as dead souls, perhaps?

This Gogolian scenario means that truly free elections cannot be held in El Salvador as long as the Army and the death squads are unrestrained and fueled by American dollars.

Nothing now assures Salvadorans that the Army and the squads can either defeat the rebels or be controlled by political institutions.

It is precisely because of the nature of the Army that a political settlement must be reached in El Salvador promptly, not only to stop the horrendous death count, not only to restrain both the Army and the armed rebels, not only to assure your young people in the United States that they will not be doomed to repeat the horror and futility of Vietnam, but to reconstruct a political initiative of the center-left majority that must now reflect, nevertheless, the need for a restructured Army, El Salvador cannot be governed with such a heavy burden of crime.

The only other option is to transform the war in El Salvador into an American war.

But why should a bad foreign policy be bipartisan?

Without the rebels in El Salvador, the United States would never have worried about "democracy" in El Salvador. If the rebels are denied political participation in El Salvador, how long will it be before El Salvador is totally forgotten once more?

Let us remember, let us imagine, let us reflect.

The United States can no longer go it alone in Central America and the Caribbean. It cannot, in today's world, practice the anachronistic policies of the "Big Stick."

It will only achieve, if it does so, what it cannot truly want.

Many of our countries are struggling to cease being banana republics.

They do not want to become balalaika republics.

Do not force them to choose between appealing to the Soviet Union or capitulating to the United States.

My plea is this one:

Do not practice negative overlordship in this hemisphere.

Practice positive leadership. Join the forces of change and patience and identity in Latin America.

The United States should use the new realities of re-distributed world power to its advantage. All the avenues I have been dealing with come together now to form a circle of possible harmony: the United States has true friends in this hemisphere; these friends must negotiate the situations that the United States, while participating in them, cannot possibly negotiate for itself, and the negotiating parties—from Mexico and Venezuela, Panama and Colombia, tomorrow perhaps our great Portuguese speaking sister, Brazil, perhaps the new Spanish democracy, re-establishing the continuum of our Iberian heritage, and expanding the Contadora group—have the intimate knowledge of the underlying cultural problems.

And they have the imagination for assuring the inevitable passage from the American sphere of influence, not to the Soviet sphere, but to our own Latin American authenticity in a pluralistic world.

President Bok, Ladies and Gentlemen: My friend Milan Kundera, the Czech novelist, makes a plea for "the small cultures" from the wounded heart of Central Europe.

I have tried to echo it today from the convulsed heart of Latin America.

Politicians will disappear.

The United States and Latin America will remain.

What sort of neighbors will you have?

What sort of neighbors will we have?

That will depend on the quality of our memory and also on our imagination.

"If we had started out at daybreak, we would be there now."

Our times have not coincided.

Your daybreak came quickly.

Our night has been long.

But we can overcome the distance between our times if we can both recognize that the true duration of the human heart is in the present, this present in which we remember and we desire; this present where our past and our future are one.

Reality is not the product of an ideological phantasm.

It is the result of history.

And history is something we have created ourselves.

We are thus responsible for our history.

No one was present in the past.

But there is no living present with a dead past.

No one has been present in the future.

But there is no living present without the imagination of a better world.

We both made the history of this Hemisphere.

We must both remember it.

We must both imagine it.

We need your memory and your imagination or ours shall never be complete.

We need our memory to redeem your past, and our imagination to complete your future.

We may be here on this hemisphere for a long time.

Let us remember one another.

Let us respect one another.

Let us walk together outside the night of repression and hunger and intervention, even if for you the sun is at high noon and for us is at a quarter to twelve.

Mr. President, this was the very profound and most enlightening commencement address given by Carlos Fuentas, who, by the way, was in Washington the other day and was kind enough to spend some time with Members of this body and the House to talk about the present problems in Latin America.

As I said at the very outset, I consider it to be the preeminent commencement address given in 1983 by anyone in this country.

Mr. LEAHY. Mr. President, will the Senator yield to me on the condition I be allowed to yield back to him? I will make that as a unanimous-consent request.

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

Mr. DODD. I am delighted to yield.

Mr. LEAHY. Mr. President, we are having a discussion today of some significance. It goes well beyond the question of the amount of money that is involved. Some people in this country have lost sight of the fact that this emergency appropriation—incidentally, the same kind of emergency appropriation we faced in March of last year—is not really that much of an emergency.

The President has funds available to him in two different categories which actually are considerably more than what is in this request. If the President thinks there is an emergency in El Salvador, he is able to spend those funds.

I recall very well a letter the appropriate subcommittee on appropriations, signed by all but one member of that committee, sent to the Secretary of State dated March 23, 1983. It says:

Dear Mr. Secretary:

This is in reference to the various reprogramming requests pending before the Committee on Appropriations dealing with increased military ($60 million) and economic ($77.1 million) assistance for El Salvador in fiscal year 1983.

I am talking about a letter of March 23, 1983, for those who may have a certain feeling of deja vu.

It goes on to say:

The Committee will not object to these reprogramming requests with the understanding that the administration will agree in writing to the following terms and conditions with reference to these funds and U.S. policy toward El Salvador:

1. A reaffirmation by the President, of the assurances given to the Committee in 1981, that the number of United States military advisors and trainers will not exceed 55 persons;

I might add parenthetically, Mr. President, that as I read Fred Ikle's statement before another committee today, I wonder if that limit of 55 still stands, or if it is simply that we are going to rename the people and put them in there.

It is a bit like fielding a football team of 35 people, but saying that the excess number will be called basketball players, no matter how they may be suited and no matter what they are doing.

Second, we said:

Given the inadequate functioning of the Salvadoran judicial system——

That is an understatement if I ever heard one.

* * * the administration will begin a new and immediate effort aimed at addressing the structural defects in this system with special attention to the effective prosecution of those accused in the murders of United States citizens.

Mr. President, this was last year at this time. This is not a letter written in the past couple of weeks. This was written last year, when we were faced with the same request, for the same emergency money.

The letter continues:

3. The administration will begin a new and immediate diplomatic initiative aimed at securing from the Salvadoran military their guarantee of the physical security and integrity of the participants in the justice system, including justices, prosecutors, defense attorneys and witnesses;

Ah, to hope that that might actually happen.

Mr. President, in that letter, we say that an Appropriations Committee "will watch events in El Salvador closely in the coming months."

Again I remind my colleagues that this is a letter written 12 months ago.

The letter continues:

When the fiscal year 1983 supplemental and the fiscal year 1984 appropriations bill come to the floor of the Senate, the Committee will decide in light of developments whether to offer amendments to reduce or eliminate funds for El Salvador. Our judgment on that issue will be determined by the progress, or lack of it, that El Salvador has made in dealing with the terms, conditions, concerns and understandings in this letter. Some of the questions which the Committee will consider in determining what action will be taken on future requests for assistance to El Salvador are as follows:

The PRESIDING OFFICER. Will the Senator suspend?

The Senate does not appear to be in order, and the Chair respectfully requests that, for the benefit of people who want to hear the Senator from Vermont; Senators needing to discuss issues do that outside the Senate Chamber.

The Senator from Vermont may proceed.

Mr. LEAHY. I thank the Chair for seeking order, and I do appreciate it.

Mr. President, I was stating that in our letter to the Secretary of State, the Appropriations Committee listed certain things they would look at during the year and would use to determine whether they and individual Members would have amendments to be offered to any request this year. Some of the touchstones we said we would use were as follows:

1. Is unlawful violence attributable to elements within the government being brought under control and are perpetrators being brought to justice under a strengthened judicial system?

Mr. President, if we are true to our word of last year, that one statement alone begs amendments.

Can anybody really say that the perpetrators are being brought to justice under a strengthened judicial system? Can anybody in this Chamber tell me—give me names and give me dates—any perpetrators of violence who have been brought to justice under a strengthened judicial system in El Salvador?

The second touchstone we gave that could trigger amendments and changes in the administration's request was this:

Have the cases involving the American churchwomen and the American labor leaders been fairly and expeditiously prosecuted?

Mr. President, I spent nearly a third of my adult life as a prosecutor. I know what it means to fairly and expeditiously prosecute something. It does not mean having a case that is 4 years old, in which the Salvadoran Government was given an open and shut case against the perpetrators of the crime, and still have that matter languish in the courts.

It is really a case of the Salvadoran Government taking our money—to date, about a billion dollars—thumbing their nose at the American taxpayers, and saying: "We're not going to do anything. We know you will keep paying. We know you will keep on sending the money. You always do. You couch in flowering, well-meaning thoughts what you want in reforms, and we nod our head and say yes, that's right. But the money keeps coming; and if the money keeps coming, why do we need to have the reforms? Why do we have to run the risk."

And this is what is really behind it—"of prosecuting people who may then point their fingers at higher-ups, including higher-ups within the government?"

That really is the issue. Why strengthen a legal system which may bring a house of cards down about the heads of higher-ups? Why should that system push forward for prosecution of those people involved in the murders of Americans when they know full well the great potential for them to point their fingers at people who were involved in those murders, people who were knowledgeable about them, people who planned them, people who profited by them, people who covered them up?

Mr. President, just about every Member of this body knows exactly which people in authority I am talking about.

Third, we said:

Is there a functioning amnesty program, designed and being implemented in a manner that will restore to the beneficiaries a genuine opportunity to participate in Salvadoran society?

Mr. President, I share with many of my colleagues the gratification felt when we saw so many Salvadorans go to the polls this past weekend. Many of us had said that we wish that people in our own jurisdictions would show such an eagerness to vote.

Mr. RANDOLPH. Mr. President, will my colleague yield at this point? I do not want him to yield if it breaks his train of thought.

Mr. LEAHY. If I can do it, Mr. President, without altering the same unanimous-consent agreement under which I have the floor.

The PRESIDING OFFICER. There is no objection heard, so the Senator may proceed.

Mr. LEAHY. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I am grateful to my concerned colleague as he speaks on this subject.

This will not contribute to what is now being discussed in reference to the matter of El Salvodor, but he has mentioned the number of, let us say, citizens of that country who had the right and always with the right goes the responsibility of the use of the ballot. I am not sure that I am correct but I have tried to determine how many of those that could vote actually voted in El Salvador.

Does the Senator have figures on that point? I believe that there were about 1,800,000 that were eligible and that 1,300,000 actually voted. That may be in error. But I am calling attention to this because I have heard my colleague from Oklahoma talk on this subject on yesterday, when Senator BOREN said in effect that having watched those people there, attempting to cast their votes, he realizes as he never had before the privilege and responsibility of voting here in the United States of America.

This gives to me the opportunity—for the record perhaps it is appropriate at this time—to say that of the countries of the Earth that have the right and also the responsibility to participate with the ballot, the United States of America is second from the worst in the percentage of people in this country who go to the polls.

In Australia, for example, the people there in a sense lose citizenship if they do not vote. There is a severe penalty and the voting percentage there was something more than 96 percent in the past years. In New Zealand and other countries where the voting booth is not just conveniently around the corner as it is in this country, there are some 90 out of every 100 voters who are at the polls.

And we now in this country are almost to the point, I say to my able colleague, where it will be the majority of the minority over the rest of the minority in choosing the President of the United States. We are at that point where less than one-half of the people of this Republic are going to be voting.

In the past few weeks in our caucuses and in our primaries, it seemed by some of those who give to us through the media of various types a feeling that there is a great outpouring. There is about 8 to 10 percent less participation in the caucuses and the primaries now than there was in 1980.

So, we are now at the bottom of the list almost of these countries throughout the world. Only Colombia, in South America, is less than the United States of America in the participation of the use of the ballot on election day.

I remember John Kennedy when he was elected in 1960, and there were 63 out of every 100 cast their ballots. He had been in office not too long, a few months, when he commissioned a study, to see in his words, "the appalling lack of the American people in the use of the ballot is something that we should look into," and this study was to give us some of the reasons perhaps that people in the United States were not voting.

Twenty years later it was not 63 percent, it was 53.4 percent that participated in the selection of the President of the United States.

I speak not against any State, but in New York State, the Empire State, that vote was less than 50 percent; 48.5 percent of the people eligible to vote were at the polls.

I am perhaps laboring this subject, but I think it is very important, as my colleague discusses the voting which apparently was rather high percentagewise in El Salvador in recent days, to point out what is happening in a country like the United States of America where there is no violence on election day, where there is no fear of casting your ballots, that the people of this country are not voting.

I did offer the 26th amendment to the Constitution of the United States for 18-, 19-, and 20-year-old youth to have the right and responsibility to vote. I offered it first in 1942 when I was a Member of the House of Representatives. It took us 30 years to achieve it here with the passage of two-thirds of the Congress present and voting and then referred to the States and in 90 days the States ratified it. It is of some interest perhaps because sometimes people do not understand that that does not come back to the President of the United States for his signature. That completes the transaction, the action of the Congress with the approval of three-fourths of the States.

I do believe that we should realize the tradegy of what is taking place in our own Republic, a failure of men and women to vote on election day. It is estimated that by November there will be 174 million persons eligible to vote in this country. I wonder what percentage of these individuals will actually vote.

Recently in New England I spoke to students and I asked them to be very frank and honest with me and, at one point in Yale University, I asked 100 who were eligible to vote in 1980 would they stand and then I asked those who had actually voted to remain standing and those who had not to take their seats; 19 out of 100 youth eligible to vote had not done so in 1980.

I am grateful for, in a sense, the understanding and even tolerance of the Senator in allowing me to inject this subject matter, but I think there may be a lesson learned along the way. It is a further attempt by hopefully people within this country to have battalions for the ballot in 1984 and I want to enlist the Senator's assistance in leading such a crusade.

Mr. LEAHY. Mr. President, I thank my good friend from West Virginia and my seatmate for a lesson that was quite appropriate at this point in our discussion.

As I said, all of us would be moved by the sight of those thousands in El Salvador standing in line under the hot Sun waiting for their chance to vote, and I applaud the people of El Salvador for their faith in the electoral process.

But I must admit I see a wee bit of a cloud on the horizon which dimmed somewhat my enthusiasm for this election, and the optimistic reports from the congressional delegation because of some of the other reports coming out of El Salvador.

While none of us can become an expert by a 1- or 2-day trip to El Salvador any more than someone from El Salvador can become an expert by 1 or 2 days in the United States, we should consider very carefully the reports out of that and the reports out of the independent media.

(Mr. COCHRAN assumed the chair.)

Mr. LEAHY. In that regard, I would urge my colleagues to consider a recent article in the Wall Street Journal. That is not a wild-eyed liberal newspaper, by any means; it is certainly not known for its opposition to the President's policy in El Salvador. And I would like to read excerpts from an article from just a month ago in the Wall Street Journal. They said:

> Salvadorans doubt that their votes will bring democracy or stability to this war-torn nation. . . .
>
> If Duarte wins, business won't participate actively in the system, a business leader says. But "d'Aubuisson polarizes things by calling everyone a Communist." The two candidates, he says, "aren't the right people. They don't move anyone." Indeed, although voter turnout is expected to be high, as it was for the 1982 Constituent Assembly election, many citizens here see this election as a meaningless exercise undertaken more to please the "Yanquis" than to improve conditions.

Quoting further from the article:

> One place to view this despair is in the crowded office of Tutela Legal, a human-rights group that compiles the grisly statistics on El Salvador's "disappeared."
>
> Esther Flores De Escobar, 70-years-old and toothless, has journeyed here seeking information about her 27-year-old son, Ricardo, who vanished Aug. 28, 1981. Slowly, she turns the pages of the blue and red albums filled with snapshots identifying mutilated bodies. She shows little hope of finding her son and no hope that life in El Salvador will change.
>
> Presidents don't mean anything. The same people will be running the country, she says bitterly. They're having this elec-

tion for propaganda. Because the United States wants it. Because that's the way Ronald Reagan will send us money.

Behind her pessimism is the fact that the military is the final arbiter of Salvadoran politics. During the past 50 years, the army seized power 17 times. Indeed, this nation's heritage of violence can be traced back to the alliance formed between the ruling oligarchy and the military in 1932, when the powerful landowners who controlled El Salvador brought in elements of the military to put down a peasant uprising. The army slaughtered 30,000 people, 1 percent of the population, and has remained a political force ever since.

Mr. President, further on in the article it says:

A top official of the Catholic Church hierarchy—afraid to be identified by name—says "regardless of who is elected, the military are the ones who rule the country."

In such an environment, he adds, attempts at social reform are fruitless—and dangerous. "If you live here and start talking about justice, or the suffering of the poor, or the killings by the right-wing death squads, they consider you a leftist subversive. They put you in the same basket as the Communists."

He concludes gloomily, "I really don't see much hope for peace or justice or human rights regardless of who wins. Nobody who wins will be strong enough to take on the army."

Mr. President, I recall my own trips to El Salvador. I remember how pervasive violence has become as a way of life. I remember the first time I was there leaving San Salvador heading for the airport and seeing dead bodies along side the road in two different places.

Now, I have spent enough time in my years in law enforcement, and I have seen enough dead bodies, and I have seen enough people who have been shot to death; in some instances, those who had been shot to death minutes before and others some time before that. So I think I can judge probably as well as anybody what happened there.

In both of these instances, it is obvious that the people had been shot and killed only hours before. But more than just seeing the dead bodies, more than just seeing somebody who had been killed, the thing that sticks in my mind the most was, in one of the instances, the little snapshot in my mind that I recall frozen there, and something that I do not think I will ever forget: one man walking away from the body, I remember him in midstride. He had a camera in his hand. He obviously had just taken a photograph of the person that had been shot. Somebody else was standing there talking. And a couple of people started to dig a hole by the side of the road. They were just going to put the body in it. A common occurrence—take a picture for identification and then bury the body. It is that common.

Now, if you stop for a moment just to think about what is in those pictures taken for identification. If anybody wants to know the kind of terrorism and violence going on in that country, they ought to go to the legal aid office. They ought to look at some of the photographs there, as I have.

As I said, I have seen a lot of people killed violently. I have investigated a lot of murder cases before I came to the Senate. But I have never seen anything like I saw in page after page after page of these albums. And even there the incongruity of it. You come in and you see a table of all these photo albums. And they are just regular photo albums like you buy in a stationery store. One of them, in fact, very similar to the exact same kind of an album, the words are not the same in English, as the photo albums we have at home with pictures of family gatherings.

There are no family gatherings in these. You pick them up and what should be an album somebody might have of pictures of their children or family or whatever, and you open it and one after another after another of the faces, the empty eye sockets where the eye has been burned out by acid, the people whose throats had been slit, some of the pictures of bodies with no heads, they had been decapitated, or photographs of the heads alone if they had been found. Mutilated bodies, some of the worst, most perverse ways you could imagine.

Do you know what the worst thing about it is? You go through these and after you have looked at 50 or 100, or 150 pictures, of men and women and children that have been bayoneted or shot or strangled or burned to death or bludgeoned to death or decapitated, violated, it becomes almost numbing. And I caught both myself and a couple others in there just flipping through the pictures. It is not even real anymore. It is not even real anymore. One horribly murdered person is so shocking. Two is almost unbelievable. Three you cannot grasp the reality of it. But when there are 50, 75, 100, 200, 300 of these pictures and you look at them, realize that human beings can do that to other human beings, and you ask yourself, how could this possibly happen? And then you ask the most objective people there, including some of the intelligence people you are working with, "Who did this? Who is responsible for this?" And you find that the pictures you are looking at, the majority of the people killed there, the vast majority of the people photographed there, have either been murdered by government forces or by those who are condoned by the Government or protected by the Government or directed by the Government. And you ask yourself, "As Americans, is this the kind of government we should be supporting?"

Ask yourself as Americans at what point do we go beyond a strategic interest, and at what point do we talk about a moral question, Mr. President, which affects our country. We talk about America's interest. I will defend America's interests as much as any man or woman in this body, and I will defend America's interests as much as any American ever will. Let us define what America's interests are.

Is it in America's interest to make possible such an obscenity? I do not think any American feels it is. Do we really do ourselves credit as a nation if we step back and say we will give them one more year, and we will assuage our conscience by fencing the language? We are only going to do this on your assurance that the killings will stop, those involved in killing Americans will be brought to justice—the Americans who have been killed saying nothing about the 30,000 El Salvadorans who have been killed—but on your assurance that they will be brought to justice knowing full well that is not going to happen.

What I find so troubling, Mr. President, is that after a while those who are policymakers become as numbed as those of us who might look at pictures of the people who have been murdered. How does the numbness show? The numbness shows when the Secretary of State, a good and decent man, will come here and emphasize the property damage done by the guerrillas. He will talk and become incensed at a power station blown up, or a bridge destroyed, almost as though any one of these things could possibly equate with the human damage done by both the right and the left. I hold no brief whatsoever for either side, right or left, that commits these atrocities.

Mr. President, we are not asked to give money to support the guerrillas. I certainly would never support such a request. What we are asked to support is a government which stands guilty of the inability by design or neglect to curb those people who kill the same people that the Government is supposed to protect.

I recall late one day talking to the Archbishop there and he said, "The blood of my country is running out. The blood of my country is draining out of my country by these murders."

How true that is. We have had discussions here about there being no direct evidence to link any person in the Government with these rightwing death squads. Oh, come, Mr. President. As one having looked at some of the evidence, I would be glad to take some of these cases to a grand jury anywhere.

U.S. News and World Report said:

Death-squad victims are not limited to Marxists. They include workers in agrarian reform, labor leaders, teachers, politicians seen as too liberal or any kind of social reformer.

"The target is anybody with an idea in his head," says a U.S. diplomat.

Mr. President, last year in the Appropriations Committee we were asked to appropriate around $200,000, if I recall the amount correctly, to protect people working with AID because they had been threatened by, among others, Major D'Aubuisson. We on the one hand send money to a government of which he is a part, and at the same time, hire bodyguards to protect people we are supporting because he threatens them.

I wonder, if the American people really had a chance to write the checks that are going down to Central America, how many of those checks would ever be signed. But that is really what the U.S. Senate should be doing, the 100 of us. We represent the 235 million Americans, and we are going to decide whether they sign the checks for more money to go down there. Let us ask what we do. Let us ask what happens with that money, Mr. President. A Washington Post article in October indicated that when AID needed the money: The protection, expected to begin today, could extend to about 10 labor leaders, involve 70 to 80 security guards, cost no more than $200,000 and last "not very long," according to other administration officials. The AID statement indicated that Congress would be consulted on the question which is of course always very nice. And quoting one AID official as they say, "In the last couple of weeks serious threats have been made on their lives, by name, in public radio and television statements by Mr. Roberto D'Aubuisson, President of the National Assembly."

Certainly if the President of the National Assembly that we are having to bankroll is threatening the people that we are also paying for down there, naturally we are going to hire bodyguards for them.

After all, we indirectly paid for the bodyguards of the same people who were threatening them. So why not complete the circle? We will hire directly or indirectly the bodyguards of those who make the threats, and bodyguards for those who are being threatened. Nobody could accuse us of being unfair in that case. After all, we are providing the weapons directly or indirectly for both sides to a large extent in the conflicts down there; at least for once Uncle Sam is being evenhanded—expensive but evenhanded.

I spoke earlier, Mr. President, of the moral question facing our Nation. We ought to look at the question of whether our Nation ends up looking absolutely silly by the policy going on.

I recall a Secretary of State coming before the Appropriations Committee back about 3 years ago and saying how important all of this is because we are going to draw the line against international communism in El Salvador; saying in effect that this is the No. 1 foreign policy consideration of the United States. I was in the capital of one of our NATO allies shortly thereafter, and the foreign minister of that country said to me, "Now we understand that the No. 1 foreign policy consideration in the United States, the place we are going to draw the line, is El Salvador. So what we have to do over here in NATO is to get out our map and find out where El Salvador is, now that we know that is your number one priority."

The President said there had been some talk of Soviet missiles going down to Nicaragua.

Come on. Let us be serious. Soviet missiles in Nicaragua? Soviet missiles in El Salvador? Either place, is that really the threat? Or is that rhetoric for the folks back home?

What we ought to do is look at where our threats really are. I remember discussions in 1980 during the Presidential campaign about a Soviet brigade in Cuba. Do you remember that? Does everybody in this body remember the Soviet brigade in Cuba?

There was a sudden discovery made by some of the political candidates that not all the Soviets went home after the Cuban missile crisis.

It did not take a great deal of study of intelligence cables to learn that. They could have read that in the newspaper. I suspect some probably did.

The discussion was that the United States could not stand for this, we could not have that Soviet presence off our coast, 90 miles away. Look at the threat to our security.

Somebody asked me about that back in Vermont. Mr. President, I think Vermonters tend to be a little more sensible about these things. They asked me, "Pat, is that really the threat it is made out to be?" I said, "No; it is not." They asked why not, and I said, "They are heavily outnumbered by the Florida National Guard; I will put my money on the Florida National Guard any time. Assuming the troops went 90 miles to Key West or wherever they might land in Florida, we will get them. If they made a bad mistake and tried to land in Miami during rush hour they would be lost anyway."

I said it would become a threat, of course, if Cuba were to have a buildup where eventually they might be able to handle long-range bombers from the Soviet Union, bombers that potentially could be equipped with nuclear weapons, or another danger would be if they were to build up their submarine facilities.

"Aha," said my friends back in Vermont, "fortunately we now have a new President who will not allow that to happen."

Well, Mr. President, referring to the matters that had been in the public press, without going into anything classified but matters in the public press, it is obvious in the past 2 years there has been a tremendous buildup of the Soviet presence in Cuba. Their potential is much greater. I say this never would have happened if Ronald Reagan was President of the United States.

So I ask, Mr. President, whether perhaps we allow ourselves to be distracted by a sideshow here. Is the danger really as stated in El Salvador or in Nicaragua? Or are we being asked to neglect the failure to follow through with some of the 1980 campaign on Cuba?

I raise the point and I think it is a valid one. But I would hope we would not be distracted again, even on that question, regarding the failures in Cuba. I think we have not paid the kind of close attention to our security interests there in the past 3 years that I would have liked to have seen.

Let us go back to El Salvador for a moment and ask what we have there.

I have heard we just give lipservice to the fact that we understand there is no military solution to El Salvador, that there can only be a political solution. I have not seen the kind of effort with the Contadora group that might bring that about. I have not seen an effort made with the other countries within Central America to bring about that kind of a political solution. But what I do see, and this we ought to all pay attention to, is more and more candid, off-the-record comments by people within the Government who say they assume that eventually we will have to have a strong American military presence in El Salvador to bring this about, and apparently from the published reports many Salvadorans in high positions assume that we will have to have American military forces come into El Salvador to bring about the kind of military stability that has been discussed.

Mr. President, if indeed this is true, and each one of us has available the same material and can talk to the same people, and each of us can ask them to speak on or off the record, if that potential lies there must we not finally face the moral, political, economic and military questions inherent in El Salvador? Must we not reach a point where we no longer pass these appropriations willy-nilly, where the administration comes in with a figure higher than what they expect to get, and we say we are going to score a great victory by cutting it down and then putting good language in there that we are doing this only on the condition that things improve, only on the condition that the judiciary system becomes better, only on the condition that the killings stop? And then a year later what is the one thing

we can point to? There are less people murdered in the past year.

Of course. Even in El Salvador the rate of killings are such that after a while you begin to run out of targets. You cannot kill the same person twice. Naturally, the killings go down. At this rate we could get to a point where there would be no killings in El Salvador—no people, but no killings.

I think we ought to be honest about it. Mr. President, we ought to put some very specific amendments in here and vote up or down on them. If we want to give, in effect, unlimited military aid to El Salvador, then either vote for it or vote against it. The Senate can work its will on that.

Are we going to allow Americans to go down and fight in El Salvador? Let us not duck the question. Let us vote it up or let us vote it down. Let us do what the Congress should have done in Lebanon. Perhaps not only would a lot of American lives be saved had we done this in Lebanon, but the United States would not now be in such a damaged position in the Middle East. Let us vote up or down on these specifics. Let us determine if it is an absolute free rein on the money or if there are some specifics that will either allow the money or cut it off.

Let us let the President of the United States know exactly what he can or cannot do; let us let the Salvadorans know exactly what they can or cannot do. But let us bring it to a vote, let us make it a specific one, Mr. President.

If we wonder what is in it for us, if, for a while, we are deluded into thinking that this little state, this little country, smaller geographically than Vermont, smaller geographically than Massachusetts or New Hampshire—it is smaller than three of the New England States geographically. If we are really, truly convinced that that country is so vital to the security of the United States—that country, incidentally, which has taken up more time in debate by this administration and by the last two Congresses than has the question of arms control. Nuclear arms control, an issue that involves us with the Soviet Union, an issue that involves the life and death of this whole planet. We have spent more time on the question of El Salvador and more effort on the question of El Salvador than we have on arms control. If, Mr. President, we truly feel that this country is so strategically situated or so significant militarily, economically, or politically that we must give it that kind of consideration, then I would urge, Mr. President, that we think for a moment of those faces, those bodies, in those photo albums—those that even have faces; that we think of what is involved, what kind of a country, what kind of government would allow this brutal slaughter of its own people?

What kind of people might we be supporting that would continue this and are continuing it now? Why is it that, with all of the language that we have given and all of the threats that the United States has made, nobody has been brought to justice? Mr. President, those are questions we must ask ourselves.

I would hope, Mr. President, that we would not allow ourselves to shrink from our responsibility in saying whether we are or are not going to allow Americans to go down and fight in El Salvador because we might be painted with the brush of who lost El Salvador. Rather, we ought to ask ourselves the question, How many of us willing to stand up and say, "Who saved the honor of the United States?"

I refer my colleagues to an article in the Wall Street Journal of March 15 by Hodding Carter III, entitled "Reagan Redux; the Salvadoran Aid Charade." I read the first three paragraphs:

"We can't afford to let political partisans jeopardize our security interests or undercut the opportunity for El Salvador to build its democracy."

The words were President Reagan's on Monday, but they could have been uttered by the President at just about any time over the past three years. There's hardly anything about them that reflects reality on the ground in El Salvador, although they say a lot about Mr. Reagan's skillful mastery of reality in Washington, which is that Congress is terrified of being held responsible for anything.

To begin with the most fundamental point, El Salvador does not have a democracy on which its elections this March 25 can "build." It had elections two years ago in which a vast number of Salvadorans participated, and it will go through an electoral process, run by those who rule the country, again in two weeks. But that does not make it a democracy, unless you believe that the Soviet Union is a democracy because it has 90% turnout for its balloting or that Somoza's Nicaragua was a democracy because he would occasionally allow the exercise of voting.

Mr. President, it is amazing to me that it was initially thought that this is a simple matter and we just kind of slide it through. "After all," we are suddenly told, "it is an emergency," even though the President has emergency funds that could be used if he wants to use them in this case; and we are told that there will be, in effect, the imminent collapse of El Salvador if the money does not come through, and do not listen to those terrible things being written by the media suggesting that perhaps democracy is not being born full-grown from the soil of El Salvador.

I cannot help but think that if there had been debates of some depth in both bodies back quite a few years ago, we would not have had Vietnam. I said this afternoon that every Senator has to be, under the Constitution, at least 30 years old, so they should be able to remember Vietnam. I am 43; I remember it very well. No matter what our ages are, we should be able to remember it and remember how we got into it. But if we made the mistake in Vietnam, is there any excuse for making it again in Lebanon and not having a debate on what our people are doing in Lebanon?

After all, that is the first time we have had a chance to use the War Powers Act, that piece of legislation that was passed by that unique combination of those who had strongly opposed the war in Vietnam and those who were saying, "mea culpa, mea culpa, mea maxima culpa" regarding Vietnam and were saying, "You see, I was really a closet opponent of Vietnam all those years." Yet at the first chance to use the War Powers Act, Congress cut and ran and told the President of the United States, "Do not worry; you have a Tonkin Gulf Resolution here; you have got carte blanche until after your election, after the congressional election. Go to it; it is all yours."

And then what happens? After the disaster in Lebanon, after we leave there with our tail between our legs, after the whole Middle East situation is a complete fiasco, the Secretary of State says it never would have happened had it not been for the War Powers Act. Yet, the War Powers Act was not even there. The War Powers Act was off on vacation during all that time. That act had as much hindrance in Lebanon as the Vermont Legislature might have had. In fact, I suspect, with the combined moral impact of the Vermont Legislature, it might have had more influence on it. But certainly the War Powers Act did not hinder anything. It really does no good for the debate to suggest that a War Powers Act, inoperative as far as Lebanon is concerned, something that had been set aside for 18 months, could somehow bring about the fiasco we saw there with 16 months or more left to run this open credit card given the administration.

OK, Mr. President, so we make a few mistakes in this country—Vietnam and Lebanon. So we mess up now and then.

Well, nobody is perfect. But do we really have to do it a third time? Do we really have to do it in El Salvador?

There is somewhere something about three strikes you are out. I wonder if maybe the United States is a little bit like Casey at the bat.

I must admit it is getting late on a Thursday evening if the Senator from Vermont, who normally likes to keep his speeches down to 4 or 5 minutes, goes into baseball metaphors. I was, after all, as a young man growing up, never able to play third base. I was the base, not the person who plays third. My skills were such in baseball. So

perhaps I should go to a different metaphor.

But I suggest, in all seriousness, that we have some history we should be considering. We should not try to duck our responsibility. None of us can read what is going to happen. We do not know exactly what is going to happen a year or 2 years from now. So it is easy to say, "We gave him that money. I never knew he was going to do that with it." Or we continue that military aid and we make it possible for things to get worse, "but we never knew that was going to happen." Or we send down a few more advisers, a few more gunships, a few more soldiers, a few more trainers, a few more observers, and a few more this and a few more that. And then a couple of them get into some shooting and, "My God, we didn't know that was going to happen. After all, we passed a sense of the Senate resolution that nothing naughty should happen down there." Or "It is the sense of the Senate that we want peace and justice to come. It is not our fault that things fell apart."

Now, Mr. President, can we really take much consolation in that, or do we accept the fact that the United States, a country of 235 million people, has only 100 representatives in the U.S. Senate; that they have a right to expect that those 100 will be leaders and that those 100 will try to anticipate problems which might face the United States; that those 100 will try to take steps to avoid such problems for the United States. Not that those 100 will always be right, not that those 100 will always be perfect, but that those 100 will put the long-range interests of the United States ahead of their short-range political interests, and that the 100 Members of the U.S. Senate are willing to stand up and be counted, face the possibility that they may or may not make mistakes, but be on record as to their positions.

Really, that is where we are today. That is the situation we are in today. We can tell the people of the world, after all those years when we talked about the need for improvement in the justice system, all those years we said our patience was running thin, all those years we said El Salvador must at least reflect some of the basic rights that we as Americans hold dear or the money will be cut out, yes, we have reached that time.

Should we not say by our votes to the Salvadorans:

> What has distressed my government is the lack of parallel action against those who murder and kidnap university professors, doctors, labor leaders, capesinos and government workers. We know by their selection of victims and other information that the Maximiliano Hernandez Martinez Brigade and the secret Anti-Communist Army are not guerrilla organizations. It is another case of fascists serving the Communist cause and this is all the more reason why the investigations must take place.

> None of us can afford to continue in the self-deluding belief that nothing is really known about the shadowy world of these individuals and, therefore, nothing can be done. The cost is too great for both our nations.

Can we not say that from the floor of the Senate? Because that is what our Ambassador, Thomas Pickering, said before the American Chamber of Commerce in San Salvador on November 5, 1983.

Might we not say by our votes what the Ambassador was saying, that it was not just a hollow matter, it was not just done for public opinion as much in the United States as down there, but that we took him seriously, the U.S. Senate took him and the administration seriously, and we take ourselves seriously and we are going to back it up.

Are we going to back him up when he said:

> No one wants to live in a country where no efforts are made to find out who dumps bodies in gas stations and parking lots. No one wants his children to grow up in fear that almost anything his children say may be taken as "subversive."

> Just over a year ago, in this very forum, my predecessor focused his remarks on this same topic. I am sorry to say that while there has been increased recognition of the problems of the judicial system here, too little has changed.

Mr. President, so far in the last 3½ years, there have been three different American Ambassadors in El Salvador. Each one has said similar things. Each of the last three Ambassadors said the same thing: "I am fed up. I am not going to stand for it any more." But of course we do. Of course we still send the money down. There really has not been any money that has been stopped. The Salvadorans are going to get exactly what we have decided they will get. The military gets exactly what we decide they will get. Even in those instances when we have known who has been involved in the killings, nothing has been done. We even have one who has confessed to the murder of an American, and the person has yet to be tried.

People within the military or the Government are connected with the death squads, and nothing is done, and money still goes to that same military and that same Government.

When it is questioned, we are told, "Look at the atrocities committed on the left." I say that we ought to say very clearly that we abhor the atrocities on the left; we abhor them just as we abhor those on the right. Let us not forget that we do not fund the left, except indirectly through the arms that get funneled through the Salvadoran military. We do fund the Government, and we do fund some who are involved in those deaths.

The question we ought to ask ourselves, as a country, is this: Does that improve our security? Does that improve our image? Does that really reflect what we stand for as a country?

Mr. President, I should like to read again from Ambassador Pickering's speech. I think it is extremely important. Ambassador Pickering said—remember, this was last year:

> Some day, and today is not too soon, Salvadorans will have to begin to create the national consensus that such actions are not only reprehensible merely as a matter of rhetoric, but are issues on which they and their fellow citizens must be heard. What is wrong should not only be called wrong, there should be a national consensus that it is wrong.

> I am surprised that the consensus has not emerged. Less than 3 weeks ago nine strangled bodies stuffed into sacks were found in Zaragoza. Among the dead were two obviously pregnant women. Is there anyone in this room who can find any pretext, any excuse, to justify that? Where are the condemnations? Why hasn't the private sector, which regularly issues statements on political matters, publicly condemned such outrages? Why haven't the daily papers done so? Is the condemnation of murder the business only of human rights organizations, some government leaders, the Roman Catholic Church and the U.S. Government and its Embassy? The whole world noted, how, this October 21, one million Spaniards in over 40 cities peacefully demonstrated their repudiation of violence.

> Failure to take the necessary steps now risks turning El Salvador over the anarchy in the short run and later to the Communists who will benefit most from the anarchy.

Mr. President, I ask unanimous consent—and this is a variation of the unanimous-consent pending—that I be allowed to yield the floor to the Senator from Michigan (Mr. RIEGLE), and that he then be allowed to yield. I will soon make a unanimous-consent request that I change the pending unanimous-consent request to allow me to yield to Senator RIEGLE, and that he then be allowed to yield to Senator DODD. But I will withhold that unanimous-consent request. I do not think it will be objected to. In fact, I have reason to believe that it will not be objected to. But I will withhold it until a Member of this majority is able to come to the floor.

Mr. INOUYE. Mr. President, will the Senator yield? I realize that the Senator has not made the request, but what is the purpose?

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to suggest the absence of a quorum and that at the end of the quorum I then be recognized again, under the original unanimous-consent agreement.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LEAHY. Mr. President, under the unanimous-consent agreement, 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.

The PRESIDING OFFICER (Mr. SPECTER). The Senator from Hawaii.

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

The PRESIDING OFFICER. If the Senator will withhold for a moment, the unanimous-consent agreement was that, at the termination of the quorum call, the Senator from Vermont (Mr. LEAHY) would be recognized.

Mr. DODD. Mr. President, the understanding of the prior unanimous-consent request was that when the Senator from Vermont was given the floor, it was with the understanding that when he yielded the floor, the floor would have to be yielded back to the Senator from Connecticut.

Mr. INOUYE. Mr. President, with that understanding, I ask unanimous consent that the order for the quorum call be rescinded and that upon completion of my statement we will once again be in a quorum call until the Senator from Vermont is ready to regain the floor.

Mr. DODD. Mr. President, the Senator from Vermont would regain the floor.

The PRESIDING OFFICER. The Senator from Hawaii is asking that he be permitted to ask for unanimous consent that the order for the quorum call be rescinded with the same stipulation.

Mr. INOUYE. Yes, Mr. President.

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

Mr. INOUYE. Mr. President, I shall now attempt to respond to the eloquent presentation which my colleague, the Senator from Massachusetts, made last evening in opposition to my amendment.

I find myself forced into a most uncomfortable position in that I must oppose him while sharing many of the sentiments he expressed yesterday. I too, am pained by the violence in El Salvador, and it saddens me that, in a curious twist of fate and human nature, we must provide more military assistance in order to reduce the level of violence in that war-torn country. I believe that a deadly increase in the level of violence would certainly follow were we to cut off military assistance or to adopt the sharply reduced level he would propose.

This is not, however, the first time I have been in an uncomfortable position here in the Senate. In October of last year, I found myself condemning this Nation's invasion of Grenada. Against the tide of public opinion and the strongly voiced sentiment of this body, I spoke against what I regarded as both a violation of the OAS charter and a threat to the Constitution of the United States. Mine was one of the lonesome voices speaking out at that time.

Some of my friends thought it odd that in March of last year I would insist that the number of U.S. military advisors in El Salvador be limited to 55 in number. Nonetheless, I take some small measure of satisfaction in the recognition that this unofficial ceiling continues to be observed. It has served to limit U.S. involvement in El Salvador.

At the present time, some of my colleagues may find it extraordinary or unusual that I would support any military assistance to El Salvador. After all, in mid-February, I presented my views on the report of the Kissinger Commission and on contemporary human rights conditions in El Salvador. I said at that time that the response of the authorities in El Salvador to human rights concerns expressed by Ambassador Pickering, Secretary Schultz, and Vice President BUSH, among others, "has been and continues to be wholly inadequate." And so it has. Just last Thursday, Capt. Eduardo Avila, whose arrest was cited by the administration as a recent favorable action by the Government of El Salvador, was released on personal recognizance.

In my notes on the Kissinger Commission report, I also said that the Congress must accept responsibility and implement the Commission's call for action: "The U.S. Government has a right to demand certain minimum standards of respect for human rights as a condition for providing military aid to any country."

Finally, in the concluding sentence of my notes, I said, "We must have the courage to stand by our convictions * * * we must do what is necessary to win in El Salvador."

Why, then, Mr. President, have I offered an amendment to reduce military assistance from the level requested by the President and, having done so, why do I now oppose the further reduction proposed by my Democratic colleague, the Senator from Massachusetts?

Mr. President, the amendment I have offered has been carefully considered and is proposed in absolute and total sincerity. The President of the United States has suggested that critics of his policies in Central America are either naive or phoney. Whatever naivete I may have had when I first came to the Senate has been stripped away by the rigors of 22 years of service in this institution. I trust that the consistency of my opposition to the administration's policies in Central America, as well as the constancy of my efforts to work with my colleagues—Republican and Democrat alike—to shape a new and better approach to that troubled region, will be sufficient to turn away any doubts as to my sincerity.

Mr. President, foremost among the considerations which prompted me to propose my amendment is, quite simply and directly, I want to reduce the level of violence in El Salvador. As I noted, I have now served in the Senate for 22 years, and, in that time I have learned how to count votes. As a result of my discussions with Senators on both sides of the aisle, I believe I can accurately state that, were the question propounded in such a way as to leave the Senate a choice between $92,750,000 in military assistance to El Salvador, as proposed by the President, and zero dollars, the President would prevail. Similarly, there is no question in my mind that, if put to a vote, the amendment of the Senator from Massachusetts to reduce the level of funding to $21 million would fall far short of the votes necessary for passage.

On the other hand, I believe that my amendment, which cuts the President's request by a substantial amount, will gain the support of a majority of the Senate.

Incidentally, it should be noted that the President requested $178 million, and that this amendment is less than one-third of that amount.

The legislative history of my amendment will clearly indicate that $13.5 million of the funds appropriated by my amendment are to be reserved for procurement of four medevacs helicopters and 44 field ambulances and related medical materiel which are to be available to all, to combatants and to noncombatants.

My amendment will reduce the level of violence which would otherwise occur, were the full $92,750,000 to be provided.

There are some who would suggest that I should stand in opposition to any additional assistance to El Salvador; that I should make a strong statement in opposition and go down in defeat if necessary. Mr. President, I have no interest in taking such a posture; I seek not to make a gesture but rather to reduce the death and destruction in El Salvador. Given the opportunity to cut the level of violence, I have acted; let others play the role of Beau Geste.

Mr. President, there is another very important reason which has caused me to defend my amendment and to oppose that offered by the Senator from Massachusetts. The Senator has said that his amendment would send a signal to those in power in El Salvador. I believe he is correct. It would send a signal, but it would be a signal which I believe he nor I nor any of us would wish to send. I shall explain.

Last week, prior to the elections in El Salvador, I argued that we should defer consideration of this appropriation until the first round of the elections in El Salvador had been held. In

my discussions with the majority leader, Mr. BAKER, and Secretary of State Shultz, I spoke of the significance of waiting until we had some idea of the electoral outcome. I said it was a matter of some consequence whether we held out our hand in aid and friendship to Jose Napoleon Duarte or Maj. Roberto D'Aubuisson. We now know the approximate results: Duarte 44.5 percent; D'Aubuisson 29.3 percent; and Francisco Jose Guerrero, the PCN candidate, 18.8 percent. The remaining candidates received a total of 8.4 percent.

Now, consider the signal we would be sending, were we to cut the funding to $21 million. The people in El Salvador know that we delayed consideration of the request until after the election; this was reported in their newspapers. They also know that former President Duarte is the clear winner; with but 5 percent more, he would again be their President. If we cut this funding request to $21 million—now, the signal would be that we disapprove of Duarte's success at the polls.

Mr. President, I would suggest that that is not the signal we should be sending at this time.

In addition to an ill-intended and mistaken signal to Duarte, such a substantial cut would also send a signal to the military in El Salvador. In view of the importance we have attached to elections, a sharp reduction now would signal to the military our intention to withdraw irrespective of the outcome of the very elections we have supported.

Such a signal would awaken and activate rightist hotheads in the military and very possibly lead to a coup d'etat.

It is not unknown in this country that Duarte is not well liked among the military in El Salvador. We could, by our actions, fan the flames of discontent in the military and we would well unleash a reign of terror to match that of 1932, when a military, unrestrained by human rights considerations tied to U.S. assistance, massacred 30,000 peasants.

Unless we are very careful, the signal we send could be the death knell of democracy in El Salvador.

Mr. President, from the reports of our colleagues who observed the elections in El Salvador, it appears that they were an extraordinary demonstration of democracy. But, even if these elections were not so successful, even if they were but the first, tentative, shaky steps toward democracy, what should our response be? Should we say, too bad, you did not live up to our expectations? Or should we say to the people of El Salvador, we recognize the effort you have made to bring freedom and democracy to your country and we will support you. Let those who criticize these elections go now to El Salvador and stand at the side of Jose Napoleon Duarte as he campaigns in the second round; let them taste, as he has, the fear and hatred of the right; let them see the courage of his conviction that these elections are important to democracy in El Salvador.

That is the signal we should send.

We do not excuse, we do not condone, we do not countenance the continuation of death squad activity in El Salvador. However, the killings of the death squads have diminished as a result of the pressures brought to bear by the Congress. There is no way to determine with precise accuracy how many have fallen victim to these murderous agents of the far right, but the trend has been downward. Our Embassy's records, which do not make any pretense of accounting for all victims, nonetheless indicate this decline: in 1981, the average monthly toll was 514 deaths; in 1982, it was 226; in 1983, it was 140. Present indications are that, in recent months, there has been a further substantial decline in the monthly toll, to about 25 per month.

Those among us who have supported conditionality and other pressures to bring an end to death squads ought to give recognition to this effort by the Government and Armed Forces of El Salvador.

I think at this juncture we should note that of the high profile assassinations of the year 1984, five were on members of the National Assembly, all members of the right.

We should be wary of measures which would remove the pressure which has brought about the reduction in murders. As I said in my notes on the Kissinger Commission:

> Clearly we should be very cautious before accepting any representations of a decline in death squad activity. Moreover, we have no evidence that the structure of the death squads has been dismantled. The network of informers and assassins is still intact, and the authorities in El Salvador have dragged their feet on the prosecution of those implicated in the crimes of the death squads. If we now appropriate additional amounts of military assistance without adequate safeguards, the pressure will be off and, predictably, the death squads will return.

And so, Mr. President, we face this dilemma. If we appropriate additional military assistance without adequate safeguards, the pressure will be off and, predictably, the death squads will return. Equally certain and predictable is the result of an abrupt termination or sharp reduction in military assistance. The rightists in the army and other security forces will determine that it is not worthwhile to consider U.S. political and humanitarian concerns and, predictably, death squads and massacres will return.

Mr. President, I believe—I pray—that my amendment will avoid both of these outcomes. It would keep the pressure on; it would maintain the principle of the so-called Specter amendment, because by amendment withholds 30 percent of the President's request. The amendment signals the Government of El Salvador that the Congress has not forgotten the deaths of four American churchwomen.

In addition, a number of my colleagues have indicated that they are also concerned that adequate safeguards accompany the provision of any additional military assistance, and they have indicated that they will propose stronger concepts of conditionality as amendments to this bill. I welcome these efforts, and I will listen carefully to their presentations.

Second, Mr. Chairman, my amendment would provide sufficient funding to the military to make it in their interest to continue to improve their adherence to human rights concerns and democratic objectives which accompany U.S. assistance.

Mr. President, I hope that the Senate will adopt my amendment as the most practicable way to reducing the level of violence in El Salvador.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. INOUYE. Mr. President, I ask unanimous consent——

Mr. LEAHY. Mr. President, what is the parliamentary situation,

Mr. DODD. Mr. President, I object.

Mr. INOUYE. Mr. President, what I am trying to do is by unanimous consent, to permit the Senator from New York to submit an amendment and ask for its immediate consideration and, after that, go back into a quorum call and present the floor to my friend from Vermont, as it was in the original unanimous-consent request.

Mr. DODD. Reserving the right to object, Mr. President, I may not, but I would like to suggest the absence of a quorum until I discuss this.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BAKER. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside for a period of 1 minute so that the distinguished Senator from New York (Mr. D'AMATO) may offer an amendment to this bill. Debate will be limit-

ed to 1 minute. At the conclusion of that time and after action of the Senate if the Senate does act at that time, the Senate will return to the consideration of the pending question, which is the Inouye amendment. I ask unanimous consent that it be in order at that time for the majority leader to be recognized for the purpose of suggesting the absence of a quorum.

I further ask unanimous consent that when the calling of the roll is dispensed with, the Senator from Vermont be once again recognized.

Mr. LEAHY. Reserving the right to object and I shall not object, I wonder if the majority leader would amend the very last part of that request to say, instead of the Senator from Vermont being recognized, the Senator from Connecticut be recognized.

Mr. BAKER. Mr. President, of course. I modify the request in that respect.

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

The Senator from New York is recognized.

AMENDMENT NO. 2861

(Purpose: To make additional appropriations to the United States Information Agency)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO) proposes an amendment numbered 2861:

On page 6, immediately after line 21, add the following:

UNITED STATES INFORMATION AGENCY

Notwithstanding any other provision of law, for necessary expenses of the United States Information Agency $850,000.00 for payment to Nassau County of the State of New York as reimbursement for activities carried out by Nassau County during the 1984 International Games for the Disabled.

Mr. D'AMATO. Mr. President, this is an amendment authorizing Federal assistance to Nassau County, N.Y., to assist in the preparation and execution of the 1984 international games for the disabled, to be held there in June of this year.

My amendment appropriates $850,000 to the U.S. Information Agency, which will pass this assistance on to Nassau County. The USIA enthusiastically endorses this amendment. Its office of private sector programs is ready, willing, and able to assist in this endeavor.

It is anticipated that this world-class competition will bring together 2,500 premier athletes and their support staffs from throughout the world to join with American disabled competitors in the true spirit of international sportsmanship and athletic endeavor. Much like the summer Olympic games to be staged in Los Angeles this summer, the international games for the disabled will feature athletes who have competed against others in their native lands for the privilege to represent their countries. More than 50 nations will participate in these games which feature 21 separate events.

The United States was selected as the host country for the international games for the disabled by the International Sports Organization for the Disabled, the International Blind Sports Association, and the Cerebral Palsy International Sports and Recreation Association. It is an honor and a privilege for my home State of New York to play host to these 1984 games.

With this honor, however, come serious responsibilities for the host committee in attempting to accommodate and protect thousands of athletes, while still hosting high-quality athletic competition. The people of Nassau County have shown determination and creativity in addressing the demands associated with these games, but their best efforts cannot match the demand for resources associated with an international competition.

Mr. President, it is a sad reality in these troubled times that even organizations of noble and virtuous events such as the international games for the disabled must be deeply concerned about security. The Nassau County Police Department estimates that its cost for providing adequate security for the games will exceed $6 million. It is a burden that must be borne if we are to produce an event that will be conducted in a secure and hospitable environment.

Even under the amendment that I am introducing today, local government will meet approximately 90 percent of the security costs for the games. Nevertheless, it is appropriate that the Federal Government provide some small measure of assistance to a cause that will reflect positively on all Americans as hosts. The recent bombings in this very Capitol and elswhere are vivid reminders of the destruction that can result when security is not adequate. For reasons I do not pretend to understand, international athletic events have been especially favorite targets of terrorists.

I am confident that my colleagues in the Senate share my commitment to insuring that the special athletes who gather in Nasasu County this summer return to their native lands with only positive memories of glorious moments of pure competition conducted in an atmosphere of sportsmanlike camaraderie. I urge my colleagues to support this amendment and the humanitarian goals and principles it seeks to promote.

Mr. President, I believe that in making this money available, we make it available for a noble and worthy cause of which we should all be proud.

That concludes my remarks with respect to this particular amendment. I thank the Chair.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2861) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that after I put a series of requests in respect to housekeeping details, it may be in order for me to be re-recognized for the purpose of suggesting the absence of a quorum and, at the conclusion of that quorum call, the Senator from Connecticut be once again recognized.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

(The orders for Friday entered at this point and the statement of the program are printed at the conclusion of today's proceedings.)

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and that, notwithstanding the previous order, I may be recognized after the disposition of it.

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

UNANIMOUS-CONSENT REQUEST

Mr. BAKER. Mr. President, I am prepared to put a unanimous-consent request that I hope may set the framework for dealing with this bill through to final passage. It is not an arrangement that has been arrived at easily. I believe it accommodates the legitimate requests and requirements of Members on both sides of the aisle, and I hope it is not objected to.

After I put the request, I once again intend to suggest the absence of a quorum, before the Chair rules on the request, so that there may be an opportunity for Members to examine the language I am about to speak, since we

do not have this unanimous-consent request reduced to writing at this time.

Mr. President, I ask unanimous consent that the Senate now proceed to vote on the Inouye amendment, without further debate, motion, or point of order; that after the disposition of the Inouye amendment, no other amendments dealing with Central America will be in order until after the bill is once more laid down on Monday next.

I further ask unanimous consent that in respect to two amendments to be offered by the distinguished Senator from Massachusetts (Mr. KENNEDY)—to wit, amendment No. 2837 and amendment No. 2843—there be a time limitation of 4 hours each, to be equally divided, and the control of that time to be in the usual form.

I further ask unanimous consent that final passage of this bill occur at 6 p.m. on Wednesday next and that the provisions of paragraph 4 of rule XII be waived.

Mr. DODD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. DODD. I think another important provision——

Mr. BAKER. There is one other provision.

Mr. President, I further ask unanimous consent that if the Inouye amendment is adopted, it will be considered as original text for the purpose of further amendment. I make that as an addition to my unanimous-consent request.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BAKER. Mr. President, once more we have engaged in negotiations which have been conducted in good faith on both sides. I think we have part of an agreement. But I wish now to withdraw my previous unanimous-consent request and restate a unanimous-consent request.

The PRESIDING OFFICER. The request is withdrawn.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, I now ask unanimous consent that the Senate proceed to vote on the Inouye amendment, No. 2853, and that following the vote the amendment be considered as original text for the purpose of further amendment.

I further ask, Mr. President, that after the disposition of the Inouye amendment, that no further amendments dealing with Central America will be in order prior to Monday next.

Mr. President, that is the end of the request, but now let me state the matter of policy on behalf of the leadership on this side.

Members will observe that I have omitted two sections in the request. One has to do with the specific time limitations on two amendments. The other has to do with the time for final passage.

Let me say to all Members that I intend to confer with the minority leader tomorrow morning. I will engage tomorrow morning in an effort to ascertain however many amendments of whatever type and character may be offered on this side of the aisle. I believe the minority leader may do the same.

At some point during the day tomorrow, presumably during the morning, it is the intention of the leadership on this side to propound a further unanimous-consent request with respect to amendments, perhaps time limitations, and a time for final passage, either as a specific time for final passage or an order that may provide that final passage will occur not later than a particular time nor earlier than a particular time, those circumstances to be dealt with after the leadership ascertains how many amendments there are and how much time they will take.

The request I have just put would do two things only: It would provide that the Senate would now proceed to vote on the Inouye amendment. Let me say that I fully expect if this request were granted the vote would be by voice vote, and that if the amendment is adopted, as I believe it would be, we would then pick up no other Central America amendments until next Monday.

May I point out, however, that we will be in session tomorrow. We will be dealing with other amendments, non-Central America related tomorrow, and there will no doubt be rollcall votes tomorrow, but not on Central America issues.

Mr. President, with that explanation, I put the request.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Mr. President, reserving the right to object, regarding the Inouye amendment, immediately after the consideration of the Inouye amendment, my understanding is that it would then be understood that that amendment would be considered as original text.

Mr. BAKER. Yes, Mr. President. I believe that was included in the request, and that is certainly the case.

Mr. MELCHER. Mr. President, reserving the right to object, on the first point I do not think the request was phrased in the unanimous-consent agreement that the Inouye amendment would be considered as original text.

Is it my understanding now that that is the request?

Mr. BAKER. May I inquire of the Chair how the request was put?

The PRESIDING OFFICER. The Chair recollects the original request contained the stipulation that the Inouye amendment would be considered as original text.

Mr. BAKER. That is my recollection, but just for the sake of clarity I will restate it.

I ask unanimous consent that the Senate proceed to vote on the Inouye amendment, amendment No. 2853, and that following the vote that amendment be considered as original text for the purpose of further amendment. That is the request.

Mr. MELCHER. I thank the majority leader and I thank the Chair.

Further reserving the right to object, Mr. President, I will ask, Does that request include the chance for recognition on Monday? I assume we are coming in on Monday morning. Is that correct?

Mr. BAKER. Mr. President, we will be in tomorrow if this request is granted, we will not be dealing with South America issues. We will be in on Monday, I would expect around noontime.

Mr. MELCHER. Mr. President, we shall come in at noon on Monday. I wonder if the majority leader would include in his request that I be recognized to offer an amendment to lower the amount in the Inouye provision for El Salvador and have an agreement on time for that amendment?

Mr. BAKER. Mr. President, for the same reason that we can meet at a time certain in reference to the amendment on which unanimous consent has been sought for time limitations, may I urge the Senator not to press that point at this time? I hope he will not, because until we have an opportunity to check on this side, I would not be discharging my responsibilities if I gave away the right of some other Senator to seek recognition.

Certainly, I would not wish to agree with that without specific clearance with the minority leader, who has priority recognition under the precedents of the Senate after the majority leader. I have no doubt in my mind at all that the Senator can be recognized immediately after we resume consideration of this matter on Monday. But until I have an opportunity to consult with the minority leader and canvass Members on this side, I would not be in a position to do that, I believe.

I am sorely tempted to do that, but, frankly, I cannot do that and do justice to the responsibility I hold as leader. So I hope the Senator will not press it and will accept instead my assurance to him that I will help him do that—subject, of course, to my consul-

tation with the minority leader and the other matters I have gone through.

I have no personal problem with that. I understand what the Senator is doing when he proposes an amendment to the Inouye amendment which reduces the dollar amount. I fully respect that. Further, I shall try to assist the Senator in trying to gain recognition. I believe we can succeed in that. If the Senator will consider not asking that that be included in the unanimous-consent request, it will be very, very helpful.

Mr. MELCHER. Mr. President, may I inquire of the majority leader, the effect of what we are doing by moving Senator INOUYE's amendment into original text is to clear the path for other amendments to be offered tomorrow. That leaves us with some concern—two concerns. I shall keep on the track of El Salvador first.

When we return to the El Salvador situation, those of us who would attempt to lower the amount of aid for El Salvador which Senator INOUYE has provided in his amendment would want to have the opportunity to discuss those amendments in complete fashion without being cut off by tabling motions. Having said that, I understand what the majority leader has stated and I sense the fairness of his statement regarding setting time and procedures if those amendments are called up first and disposed of. So I can accept that.

The second point I would like to discuss with the majority leader is the question of tomorrow and the amendments other than on El Salvador that will be offered. Would it be the feeling of the majority leader that we could dispose of most of those tomorrow?

Mr. BAKER. Yes, Mr. President; I hope so.

Mr. MELCHER. But if we had not disposed of all of them, that would not preclude the opportunity later on, even though we would be returning to the question of El Salvador on Monday.

Mr. BAKER. It would not, the Senator is correct.

Mr. MELCHER. I thank the majority leader. I think out of accommodation to the great number of people involved very deeply on the question of El Salvador and other points in the bill, I shall not object.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object, Mr. President, just again for the purpose of clarity, and I appreciate immensely the majority leader's patience and his perseverance this evening. Just so we understand it correctly, taking the Inouye amendment and considering it as original text, the effect of that, and correct me if I am wrong, would be to allow for amendments in the second degree? It would be as if the Inouye amendment were part of the original text?

Mr. BAKER. Yes, Mr. President; it would allow amendments in the first and second degree.

Mr. DODD. First and second. I thank the majority leader.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I thank all Senators. I know that many Senators had to subordinate their own personal preferences in order to reach this accommodation. I urge them to understand it was worthwhile, and it has accommodated the needs of many Senators, and I am grateful.

Mr. President, I now, pursuant to the request, ask the Chair to put the question on the Inouye amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 2853) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INOUYE AMENDMENT ON EL SALVADOR AID

Mr. GOLDWATER. Mr. President, on January 11, 1984, the so-called Kissinger Commission issued its report on Central America. Among other things, the Commission unanimously recommended and emphasized that the United States provide to El Salvador "significantly increased levels of military aid as quickly as possible so that the Salvadoran authorities can act on the assurance that needed aid will be forthcoming."

In February, the President proposed comprehensive legislation, including a supplemental request for $178 million in military aid for El Salvador this fiscal year. Although the President requested prompt action on this request, it is now clear that prompt action has not been possible. Last week, in the course of intensive consultations within the Senate, Senator INOUYE agreed to a compromise in which $61.75 million be added to this urgent supplemental. Because this $61.75 million meets the most urgent needs, the administration agreed to support this bipartisan proposal in order to assure expeditious consideration.

Yesterday, I asked Senator INOUYE if I could be a cosponsor of his amendment. I think his amendment is fair and I think it merits speedy action. And yet some Members of this body wish to eliminate even these funds for El Salvador.

Mr. President, I do not understand what is going on here. On the one hand, a bipartisan Commission comes up with a recommendation that we provide El Salvador with $178 million in military aid this fiscal year. The President requests $92.75 million of this on an urgent basis. We reach a bipartisan compromise here where $61.75 million will be made available, and some Members wish to eliminate that as well.

I think it is fair to say that some people will never be satisfied with our role in helping to defend the emerging democracies of Central America. I think we ought to move ahead on the Inouye amendment and vote for it, and not waste any further time by trying to accommodate people who will never be satisfied.

Mr. President, last week I received a letter from Secretary of State Shultz on this matter, and I note that an additional letter was sent to Senator BAKER on this subject this week. I believe that these two letters together provide an excellent presentation of the administration's position with regard to the urgent need for this supplemental appropriation for El Salvador. I request unanimous consent that both letters be printed in the RECORD in their entirety.

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

THE SECRETARY OF STATE,
Washington, D.C., March 21, 1984.

Hon. BARRY GOLDWATER,
Chairman, Select Committee on Intelligence, U.S. Senate.

DEAR MR. CHAIRMAN: The Senate will soon begin debate on H.J. Res. 492, urgent supplemental appropriations. Included in this legislation is a $93 million emergency request for security assistance for El Salvador. H.J. Res. 492 also contains a supplemental funding request for special activities in Central America designed to pressure the Sandinista Government to negotiate in good faith on reciprocal and verifiable agreements to end assistance to all guerrilla forces operating in the region. We believe it is important that the Congress play an active role in this decision and urge prompt action by the Senate to approve these requests.

Our policy in El Salvador is working. El Salvador's political system is demonstrating greater respect for human rights and is achieving socioeconomic progress. The new constitution has been approved; the law on political crimes has been reformed; land reform has been extended; and death squad activity has been dramatically curtailed. No leftist or moderate political leader has been killed this year. Across the country, violent deaths connected with political activity are the lowest since we began counting in October 1980. Left-wing death squads or guerrillas were responsible for most of the highly publicized deaths, including the killings of two Americans and four politicians.

The army is holding its own in the field. Notwithstanding the spectacular raids carried out by the guerrillas, the army has protected the major population centers and defended the harvest. It is now preparing to defend the elections which will take place next Sunday.

These elections offer the best hope for the future. They are being hotly contested and the polls indicate massive support for the process by the population. A runoff is

likely thirty days after this first vote is certified. Next year, elections will be held at the departmental and municipal levels.

We hope that the armed opposition will ultimately participate in this process and will allow peaceful change in that society to be decided by the will of the majority. The alternative is to allow violent extremists to dictate policy at the point of a gun. With our help, the Salvadorans are trying to strengthen their democratic institutions and lay the groundwork for equitable economic growth. Our assistance and the best efforts of the Salvadorans will be of no avail, however, if the armed forces lack the resources to provide the necessary security.

Last fall, we knew and the Congress knew that the assistance levels contained in the continuing resolution for El Salvador were inadequate. However, those deliberations were conducted in the shadow of the Bipartisan Commission consideration of Central American policy. The assumption was that, once the Commission had made its findings, we would be in a better position to evaluate our needs and, if necessary, to adopt a supplemental.

The Bipartisan Commission issued its report on January 11 and called for a continuation of emergency stabilization and long-term development measures. The Commission unanimously recommended and emphasized that the United States provide to El Salvador "significantly increased levels of military aid as quickly as possible so that the Salvadoran authorities can act on the assurance that needed aid will be forthcoming."

In February the President proposed comprehensive legislation, including a supplemental request for $178 million in military aid for El Salvador this fiscal year. We hoped that the Congress would act favorably on this request. However, it is now obvious that prompt action will not be possible.

We are requesting that $93 million of the overall $178 million request be appropriated now—these needs cannot await action on the overall initiative. The army is in the field; the guerrilla forces have lost the initiative but retain the ability to cause great damage. All available funds are now fully obligated and the supply pipeline is beginning to run dry. More training, communications equipment are vital; medical evacuation capabilities are also urgently needed to prevent wounded soldiers from dying needlessly when medical facilities are but a few miles away.

Our policy in Central America includes a coordinated strategy aimed at achieving a comprehensive regional peace. One portion of this policy is designed to pressure the Sandinista government in Nicaragua to negotiate in good faith. In the past year, we have seen them drop their opposition to regional negotiations and agree to the 21 objectives in the Contadora process. The most difficult period of negotiations lies ahead; the Contadora group is moving toward implementation of the objectives. Unless the pressure is maintained, the Sandinistas are likely to revert to their obstructionist posture. If Congress limits, or fails to fund, our options in this area, the prospects for a negotiated peace are diminished.

I urge you to support these supplemental requests. In your consideration ask yourselves one vital question: who will lose if the flow of U.S. military support for our friends in Central America is interrupted? Not the death squads; they will only reassert themselves if a vacuum is created by our refusal to continue the aid. Not the Salvadoran guerrillas; they would also return to the offensive. And not the Cubans and Soviets; they would only be encouraged to intensify their efforts to destabilize the region.

The losers will be the democratic reformers and the people who aspire to freedom and the opportunity for a better life. We, and friends of democracy everywhere, would also lose.

Sincerely yours,

GEORGE P. SHULTZ.

THE SECRETARY OF STATE,
Washington, D.C., March 27, 1984.

Hon. HOWARD H. BAKER,
U.S. Senate.

DEAR SENATOR BAKER: In my letter of March 21, I described the urgent need for immediate Congressional action to provide $92.75 million of the $178 million supplemental appropriation requested for El Salvador. I am pleased that the committee on Appropriations recommended approval of the full $92.75 million, subject to a requirement for demonstrated progress by the Government of El Salvador toward free elections, freedom of association, the establishment of the rule of law and an effective judicial system, and the termination of the activities of the so-called death squads.

Last week, in the course of intensive consultations within the Senate, it became clear that there was bipartisan support for immediately providing $61.75 million of the urgent request. Because $61.75 million meets the most urgent needs, the Administration agreed to support this bipartisan proposal in order to assure expeditious consideration.

I urge the Senate to act now to adopt H.J. Res. 492. To delay these funds is to hinder prospects for democracy and peace, to prolong suffering, and to strengthen the hand of adversaries who are determined to undermine the democratic process in El Salvador.

The Government of El Salvador is making major efforts to achieve further progress in all the areas of concern to the United States. That the people of El Salvador appreciate and support these efforts was dramatically illustrated during Sunday's election, just as the guerrillas' hypocrisy and antipathy for democracy were demonstrated by their efforts to disrupt that election. I note in this connection that the armed forces of El Salvador are keeping their historic commitment to protect the elections and to remain neutral on its outcome. It is now up to Congress to decide whether we will provide the resources for the people of El Salvador to continue with the democratic process which they have so courageously begun.

This compromise on H.J. Res. 492 will permit us to continue our current programs for the immediate future, but it will leave unfulfilled other important requirements for both economic and military assistance which must be met this year if we are to sustain the progress El Salvador is making to establish a secure democracy and lay the basis for equitable economic growth. Additional funds will be required in FY 1984 to begin the long-term effort charted by the National Bipartisan Commission on Central America. Therefore, I also urge that the Senate expedite its consideration of the comprehensive legislation and appropriations to implement the recommendations of the Bipartisan Commission.

Sincerely yours,

GEORGE P. SHULTZ.

● Mr. GRASSLEY. Mr. President, I support the bipartisan compromise assistance plan for El Salvador which has been offered by the distinguished Senator INOUYE of Hawaii.

Our Nation has been protected from serious internal political disorders and we are a rare example of stability in the world today. El Salvador's fragile situation is a reflection of what much of the world must deal with in social and political affairs. Political change and transformation of whole social systems are difficult enough in times of peace. El Salvador has been involved in a struggle for years in the midst of a concentrated war being waged by a small group of revolutionaries. The determination and persistence of the Salvadorans in the face of these unceasing threats is remarkable and convinces me that we must not abandon that small nation to forces that openly espouse antidemocratic plans for that region.

El Salvador is a nation in a difficult process of transition from an oligarchic system to a democratic government. It is flawed, imperfect, and struggling to move toward free institutions and a just society. It is beleaguered and suffering and yet it has not embraced authoritarianism. I challenge those who arrogantly charge that El Salvador is an authoritarian mirage; that its political parties are all mere illusions; that the recent elections were theatrical smokescreens. Those charges are a slap in the face of the people of El Salvador and I will give no credence to such allegations.

I was very moved and encouraged to hear and read the reports on the Salvadoran elections provided by our colleagues, the very distinguished Senators HUDDLESTON, WILSON, ROTH, and BOREN. The cynics must provide a response to the impressive facts and impressions amassed by those Senators and Members of the House of Representatives who saw the elections first hand. Certainly that group of distinguished Members of Congress cannot be charicatured; the U.S. observer team was bipartisan in nature, covered the political spectrum and cannot be charged with being a group of narrow political extremists. Yet despite their lack of a homogeneous political view, the Members of this Senate who worked as observers returned with a remarkably unified view. They witnessed no force—except guerrilla action in many areas—and no intimidation, except guerrilla assaults in over 40 towns. They witnessed great determination—hours in the hot Sun—eagerness to participate in the process, and willingness to risk their lives to vote. The protections against fraud and manipulation were impressive: One representative from each party observing the vote at each polling place; multiple international observ-

ers; identity cards with photos, stamped to prevent multiple votes. In the face of the computer foulups, the threats of violence by the guerrillas, the new voting procedures, and the searing Sun, the Salvadorans treked to the polls in massive numbers. Perhaps 70 percent of the nation's voters filled out ballots, a percentage that should embarrass us.

The cynics cannot be allowed to demean this latest vote as a right wing charade. Duarte is not D'Aubuisson. D'Aubuisson is not Guerrero. The Christian Democratic Party is not the Arena Party in disguise. That charicature simply will not stand up to even slight criticism. Salvadorans did have a choice between parties with varying agendas—admittedly an imperfect choice in an unstable situation, but a choice nonetheless and a broader one than is enjoyed in many countries.

We must not cease from calling for accountability in the murder of the American nuns. We must not stop condemning the death squads of either political extreme. We must continue to exert leverage in urging protections of human rights. We must unceasingly encourage judicial reform. These responsibilities grow out of a moral obligation to help El Salvador protect itself in its energetic, determined goal of developing a just and free society. We cannot offer unlimited funds, but this compromise plan provides assistance with accountability.●

U.S. MILITARY ASSISTANCE TO EL SALVADOR

Mr. BURDICK. Mr. President, I express my strong conviction that the Senate should not provide further military assistance to the El Salvadoran Government.

In order for me to vote for more military assistance, I would have to assure my constituents that the $1 billion the United States has already spent in El Salvador has been put to good use, and additional funds will make the situation even brighter. I cannot in good conscience give my constituents these assurances.

What have we gotten for our $1 billion expenditure in El Salvador? To quote from a Wall Street Journal piece on El Salvador:

> Four years of savage civil war have shattered the economy, broken the national spirit, and left 40,000 civilians murdered. The bloodshed has wiped out a generation of leadership and narrowed the political spectrum.

What a horrifying return on our tax dollar.

Certainly, the anti-Government forces are responsible for a share of the terror in El Salvador. But, what about the Government we are supporting with our money?

Reports abound that the right wing death squads continue to kidnap and kill civilians at an appalling rate. We can no longer ignore the mounting evidence that the death squads are controlled by prominent military and civilian figures. An official in the office of the Archbishop of San Salvador put it plainly when he said:

> The problem is that the people running the death squads are also running the country. Removing a few infamous offenders does nothing to dismantle the structure.

I realize we cannot confirm all the stories we have heard about the El Salvadoran Government's involvement in death squad activity, but even if half the stories are true, I submit the picture is ugly enough.

Not only must I tell my constituents that the human rights picture in El Salvador is terrible, but I must also tell them that despite the large amount of military aid we have pumped into El Salvador, its army can barely maintain the status quo.

One reason the army may be so ineffective is that almost half the weapons the United States has supplied to the army have ended up in rebel hands. Some of these weapons were captured, but I have also heard disquieting reports that a good many were sold to the rebels by army personnel. What is the point of providing millions more to this army if the material just ends up in the rebels' arsenal?

So, the human rights situation is grim, and the army's performance is lackluster—but what about the elections? Well, I would like to think the elections represent a major step forward, but I cannot push from my mind two statements I recently came across from Archbishop Chavez and a retired El Salvador colonel. The Archbishop made the point that:

> The war is so terrible that most people care little who wins. They only want the war to end.

The retired colonel made the unsettling observation to the Christian Science Monitor that:

> These elections are an act put on by the sectors that have always held power to please the people paying the bills—the United States.

Mr. President, it seems to me that it is time to admit that the approach our Government has taken to the conflict in El Salvador has only caused conditions to go from bad to worse. Rather than wasting millions more, we should step back and take a fresh look at the problem.

I would suggest that we heed the advice of Archbishop Damas. In his view, there is no solution other than dialog with the opposition. You can be sure that there will be no dialog if the United States continues to up the military ante. But, there may be a chance to make some progress if we lend our full support to the peace plan put forth by the Contadora nations—Mexico, Venezuela, Colombia, and Panama.

Many of the U.S. legitimate security concerns are addressed in the peace proposals put forth by the Contadora group. Our strong support of the Contadora group's efforts would breathe some life into the Contadora peace process, and put the United States in the position of supporting regional solutions to regional problems.

Mr. President, someone needs to take the first step to break out of the circle of violence in El Salvador. I think most Americans would be proud to see their country take that intitative.

D'AUBUISSON INVOLVEMENT WITH DEATH SQUADS

Mr. GOLDWATER. Mr. President, yesterday afternoon the distinguished senior Senator from Massachusetts asked me if I would tell the U.S. Senate, "whether Mr. D'Aubuisson was or is involved in any way whatsoever with death squad activity?"

Now I responded to Mr. KENNEDY by saying that I did not want to discuss this issue in open session. We all have to observe the same rules with regard to classified information, and I felt he was getting into an area which would require a closed session of the Senate.

In the past, I have often spoken in these Chambers on the issue of leaks and proper security. We all know too well that, "it is the ship of state which leaks at the top." In fact, I believe it was the brother of the distinguished Senator from Massachusetts, the late President John Kennedy, who coined that phrase—the ship of state leaks from the top. So I just want to reiterate what I consider to be my responsibility, to remind my colleagues of their obligation to protect the legitimate secrets of this Nation regardless of the apparent importance of an issue or the heat of the debate. The unauthorized disclosure of classified information may give one or the other of us a short-term advantage in debates of this sort, but the long-term beneficiaries of this practice are usually the enemies of the United States. I believe there can be free debate without a free-for-all, and I urge my colleagues to use restraint when discussing sensitive matters or pieces of information obtained from sensitive intelligence sources.

Now, in responding to Senator KENNEDY's question as to whether or not Mr. d'Aubuisson was involved with death squad activity, I would like to make reference to the daily press briefing of the Department of State held on February 3, 1984. During that session, Mr. Alan Romberg of the Department of State was asked if he had any comment on the statements made by former Ambassador White that the U.S. Government has imformation which would implicate d'Aubuisson in the killing of Archbishop Romero. Mr. Romberg responded to this question as follows:

> That simply is not true. As we have stated in response to these charges on at least

three earlier occasions, we're well aware of the allegations linking Mr. d'Aubuisson to the death of Archbishop Romero. The information available to us, however, is limited and incomplete and no conclusions can be drawn from it.

In 1982, in May, and again in May of 1983, we provided the documentary information available to the Department on this matter to the House Foreign Affairs Committee. In addition, a Department official testified on the subject before a closed session of that committee on May 26, 1982.

Mr. President, on March 8, 1984, Secretary of State Shultz and CIA Director Casey both appeared before the Senate Select Committee on Intelligence with regard to Central America. During that hearing, questions were asked which involved the issue of death squads. The transcript of those sessions are classified at the top secret level. Nonetheless, they are available to Members of the Senate who are prepared to abide by the provisions of the Senate Resolution 400 in receiving the information contained therein.

In my judgment, and based on the information available to our committee, I think it is fair to say that there is no direct link between Mr. d'Aubuisson and death squad activity in El Salvador. But I do not think we should pursue this issue in an open session of the U.S. Senate.

● Mr. PELL. Mr. President, as the ranking member of the Committee on Foreign Relations which has responsibility for authorizing foreign aid moneys I have reluctantly joined in the effort to consider various legislative proposals to this, a supplemental appropriations bill. The argument has been made that we should not consider these policy related issues in a funding bill, that the proper forum for such consideration is the authorization legislation. I quite agree with that sentiment. In fact all eight Democratic members of the Committee on Foreign Relations sent the chairman and ranking member of the Appropriations Committee a letter urging the Committee on Appropriations to defer any action on supplemental aid to El Salvador until the Committee on Foreign Relations had marked up its foreign aid authorization legislation which includes a request for $178.7 million in supplemental military aid.

Unfortunately our request of March 12 was not honored, and the authorization process was once again bypassed. We now find ourselves in a catch-22 situation in which it is argued that we should not legislate on an appropriations measure, but are denied an opportunity to consider the proper legislative vehicle, which is the foreign aid authorization legislation. In the past 2 years, three appropriations bills—two supplementals and the first continuing resolution for fiscal 1984—contained waivers dispensing with the need for prior authorizations. Despite pleas from Chairman PERCY and myself, no time was ever found in the Senate's calendar to consider S. 1347, the International Security and Development Cooperation Act of 1983 which was reported out by our committee last May. Absent floor consideration of the authorization bill, the Senate only had available to it the appropriation vehicle through which it could debate and address the issues involved in Central America.

Sadly today we find ourselves in precisely the same situation. This supplemental appropriations legislation is before the full Senate while simultaneously the authorizing committee is marking up the fiscal 1984 supplemental and fiscal 1985 foreign assistance requests. We cannot be denied our right, nor should we shirk our duty, to debate these legislative issues. If this is to be the only legislation on which we can have these issues considered, then this is the vehicle we will ride. It remains my earnest hope that the Senate will soon insist on its return to regular process—and require that authorization legislation—especially for an area of the world that is of such importance to this country today—must precede any appropriation for these purposes.

Mr. President, I ask that the March 12 letter from all eight committee Democrats to Senators HATFIELD and STENNIS be reprinted in full in the RECORD.

The letter follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., March 12, 1984.

Hon. MARK HATFIELD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, D.C.

Hon. JOHN C. STENNIS,
Ranking Minority Member, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR SENATORS HATFIELD AND STENNIS: As members of the Committee on Foreign Relations which has primary responsibility for authorizing foreign assistance funds, we are concerned about a possible decision by your Committee to appropriate an additional $93 million in military aid for El Salvador. If approved by Congress, such an increase would raise the current level of military aid by almost 150 percent.

Last spring the Committee on Foreign Relations recommended a fiscal 1984 ceiling on Salvadoran military aid of $76.3 million. Although that recommendation, contained in S. 1347, the International Security and Development Cooperation Act of 1983, did not become law, the concept of capping military aid to El Salvador was adopted by the Congress as a whole when we passed the continuing resolution last November which cappped such aid at $64.8 million—a level even lower than that recommended by this authorizing Committee.

On March 27th our Committee will consider a fiscal year 1984 supplemental request for $178.7 million in military aid for El Salvador. This authorization legislation should be permitted to move forward on the expedited basis both House and Senate authorizing Committees have adopted. In our view, additional appropriations for military aid, prior to our Committee's consideration of the Administration's supplemental request, is an intrusion in the regular process and a back door method of funding that denies Congress and the American public the full and open examination this request certainly deserves. Accordingly, we urge your Committee to defer such action until the authorization process has been completed.

Sincerely,
Joe Biden, Claiborne Pell, Paul E. Tsongas, Alan Cranston, John Glenn, Christopher J. Dodd, Paul Sarbanes, Edward Zorinsky.●

● Mr. THURMOND. Mr. President, I support the compromise reached between the Reagan administration and Congress for approximately $62 million in emergency aid to El Salvador. Security assistance is required in El Salvador in order for the Government there to mount a successful counterinsurgency effort and allow democratic reforms to go forward as planned.

The United States convince the people of El Salvador that we are a dependable ally, sincerely interested in providing necessary assistance and comprehensive solutions to the economic, political, social, and security problems plaguing their country. If the U.S. Congress appears less than fully supportive of the El Salvadoran Government, it will encourage those who seek to achieve political power by means of force to continue their campaign of terror and destruction.

Contrary to the assertions of those who oppose this additional funding, failure to provide the requested emergency aid to El Salvador will not be interpreted as a protest against political repression or as a plea for the respect of human rights. Failure to appropriate the emergency aid will signal to friends and adversaries alike the lack of resolve by the United States in fulfilling its responsibilities in the Western Hemisphere. The United States will be perceived as a nation unwilling to assist other countries, no matter how just their cause or deserving the people, if any fault can be found with the conduct of their government affairs.

Mr. President, I am convinced that this additional funding is necessary to aid those in El Salvador who are fighting for their freedom. Communist inspired insurgents, aided by Nicaragua, Cuba, and the Soviet Union, must not be allowed to succeed in their quest for power through violence. In order for the forces of reason and moderation to succeed in their efforts to restore peace, freedom and economic stability to El Salvador, this additional emergency aid is vital, and I hope Congress will promptly approve it.●

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent there now be a period for the transaction of routine

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morning business not past 11 p.m. in which Senators may speak.

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

MESSAGES FROM THE HOUSE

At 11:30 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker appoints Mr. LANTOS a conferee in the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 979) to amend and reauthorize the Export Administration Act of 1979, vice Mr. YATRON, resigned.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4072) to provide for an improved program for wheat; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DE LA GARZA, Mr. FOLEY, Mr. JONES of Tennessee, Mr. BROWN of California, Mr. ROSE, Mr. HARKIN, Mr. PANETTA, Mr. HUCKABY (on all matters, except those relating to section 103 and title II of the Senate amendments and modifications thereof committed to conference), Mr. WHITLEY, Mr. EVANS of Illinois, Mr. BEDELL (in lieu of Mr. HUCKABY on matters solely relating to section 103 and title II of the Senate amendments and modifications thereof committed to conference), Mr. MADIGAN, Mr. MARLENEE, Mr. COLEMAN of Missouri, Mr. STANGELAND, Mr. ROBERTS (on all matters, except those relating to sections 502 and 503 of the Senate amendments and modifications thereof committed to conference), Mr. JEFFORDS (in lieu of Mr. ROBERTS on matters relating solely to sections 502 and 503 of the Senate amendments and modifications thereof committed to conference), and for consideration of title V of the Senate amendments and modifications thereof committed to conference: Mr. FASCELL, Mr. HAMILTON, Mr. BONKER, Mr. GEJDENSON, Mr. KOSTMAYER, Mr. ROTH, and Mr. BEREUTER.

At 3:24 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5154. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes.

The message also announced that the House has agreed to the following resolution, which it communicates to the Senate:

H. Res. 474. Resolution relative to the death of the Honorable Edwin B. Forsythe, a Representative from the State of New Jersey.

MEASURE REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated.

H.R. 5154. An act to authorize appropriations to the national Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The President pro tempore (Mr. THURMOND) announced that on today, March 29, 1984, he signed the following enrolled bill and joint resolutions, which had previously been signed by the Speaker of the House of Representatives:

H.R. 3249. An act to charter the National Academy of Public Administration;

H.J. Res. 432. Joint resolution designating the week of April 8 through 14, 1984, as "Parkinson's Disease Awareness Week"; and

H.J. Res. 493. Joint resolution making an urgent supplemental appropriations for the Department of Health and Human Services for the fiscal year ending September 30, 1984.

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-2908. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, informational copies of 41 proposed lease prospectuses; to the Committee on Environment and Public Works.

EC-2909. A communication from the Chairman of the U.S. International Trade Commission, transmitting a draft of proposed legislation to provide a partial exemption for the International Trade Commission from the Paperwork Reduction Act, in connection with the requirement to obtain Office of Management and Budget clearance for each questionnaire proposed for investigation and research studies under section 332 of the Tariff Act of 1930; to the Committee on Finance.

EC-2910. A communication from the Assistant Secretary of State (Legislative and Intergovernmental Affairs), transmitting, pursuant to law, notice that the President intends to exercise his authority to authorize additional economic support and assistance for Grenada to be derived from funds statutorily earmarked for Lebanon; to the Committee on Foreign Relations.

EC-2911. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report containing an analysis and description of services performed by full-time USG personnel as of September 30, 1983, for which reimbursement is provided; to the Committee on Foreign Relations.

EC-2912. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1983; to the Committee on Governmental Affairs.

EC-2913. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of the reports submitted by the General Accounting Office during February 1984; to the Committee on Governmental Affairs.

EC-2914. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of the financial statements of the Minority Printing Clerk, House of Representatives, for the fiscal years ending September 30, 1982 and 1981; to the Committee on Governmental Affairs.

EC-2915. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of the financial statements of the Majority Printing Clerk, House of Representatives, for the fiscal years ending September 30, 1982 and 1981; to the Committee on Governmental Affairs.

EC-2916. A communication from the Secretary of Education, transmitting, pursuant to law, a report on the program audits of 321 projects funded by the authority of part A of the Indian Education Act of 1972; to the Select Committee on Indian Affairs.

EC-2917. A communication from Judge Dennis J. Stewart, of Kansas City, Mo., transmitting, pursuant to law, acceptance of his appointment as a judge of the Bankruptcy Court; to the Committee on the Judiciary.

EC-2918. A communication from the Deputy Administrator of the Veterans' Administration, transmitting, pursuant to law, notice of delay in the submission of their annual report under the Freedom of Information Act; to the Committee on the Judiciary.

EC-2919. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, the annual report on extraordinary contractual actions to facilitate the national defense for calendar year 1983; to the Committee on the Judiciary.

EC-2920. A communication from the Administrator of the Veterans' Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide uniform allowances to Veterans' Administration law enforcement personnel; to the Committee on Veterans' Affairs.

EC-2921. A communication from the Deputy Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to Egypt for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-2922. A communication from the Acting Assistant Secretary of the Army (Installations and Logistics), transmitting, pursuant to law, a report on the conversion of the custodial services function at Tripler Army Medical Center, Hawaii, to performance by contract; to the Committee on Armed Services.

EC-2923. A communication from the Principal Deputy Assistant Secretary of the Navy (shipbuilding and Logistics), transmitting, pursuant to law, a report on conversion

of the food service function at the Naval Hospital, Beaufort, S.C., to performance under contract; to the Committee on Armed Services.

EC-2924. A communication from the Chairman and Chief Executive Officer of the Consolidated Rail Corporation, transmitting, pursuant to law, the annual report of the Corporation for calendar year 1983; to the Committee on Commerce, Science, and Transportation.

EC-2925. A communication from the Acting Assistant Secretary of Energy (Conservation and Renewable Energy), transmitting, pursuant to law, notice of a delay in the submission of an update of its comprehensive program management plan for wind energy systems; to the Committee on Energy and Natural Resources.

EC-2926. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Status of the Great Plains Coal Gasification Project"; to the Committee on Energy and Natural Resources.

EC-2927. A communication from the Assistant Secretary of the Interior transmitting a draft of proposed legislation to entitle certain U.S. citizens and nationals domiciled in Guam, American Samoa, or the Northern Mariana Islands and citizens of the Northern Mariana Islands to document vessels under the laws of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

EC-2928. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a listing of defense articles, services, and training provided to Chad up to a total of $25,000,000 under the authority of certain Presidential determinations; to the Committee on Foreign Relations.

EC-2929. A communication from the Administrator of the Agency of International Development, transmitting, pursuant to law, the annual report on the Foreign Service minority recruitment program for fiscal year 1983; to the Committee on Foreign Relations.

EC-2930. A communication from the Associate Director of the Office of Personnel Management, transmitting, pursuant to law, the 1982 and 1983 annual reports on the Federal equal opportunity recruitment program; to the Committee on Governmental Affairs.

EC-2931. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, a report stating that the Commission's internal accounting system conforms to the standards and principles prescribed by the Comptroller General under section 112 of the Accounting and Auditing Act of 1950; to the Committee on Governmental Affairs.

EC-2932. A communication from the Chairman of the Board of Directors of the Tennessee Valley Authority, transmitting, pursuant to law, the annual report of the Authority under the Government in the Sunshine Act for calendar year 1983; to the Committee on Governmental Affairs.

EC-2933. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the refugee resettlement program for fiscal year 1983; to the Committee on the Judiciary.

EC-2934. A communication from Judge Antonio I. Hernandez Rodriguez, of Puerto Rico, transmitting, pursuant to law, acceptance of his appointment as a judge of the bankruptcy court; to the Committee on the Judiciary.

EC-2935. A communication from Judge Herbert, of the southern district of Ohio, eastern division, transmitting, pursuant to law, acceptance of his appintment as a judge of the bankruptcy court; to the Committee on the Judiciary.

EC-2936. A communication from the Director of the Community Relations Service, Department of Justice, transmitting, pursuant to law, the annual report on the activities of the Community Relations Service for fiscal year 1983; to the Committee on the Judiciary.

EC-2937. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the annual report on the number of waivers granted and a summary of the reasons for waiving the grounds of inadmissibility in certain cases under section 207(c)(3) of the Immigration and Nationality Act for fiscal year 1983; to the Committee on the Judiciary.

EC-2938. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend and amend programs under the Older Americans Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2392. A bill to authorize the President to appoint Donald D. Engen to the Office of Administrator of the Federal Aviation Administration (Rept. No. 98-371).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

H.R. 71. An act to authorize and direct the Secretary of the Interior to engage in a special study of the potential for ground water recharge on the High Plains States, and for other purposes (Rept. No. 98-372).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 361. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 71; to the Committee on the Budget.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURDICK:

S. 2488. A bill to terminate the effect of provisions of the Voting Rights Act of 1965 that require bilingual ballots and election materials; to the Committee on the Judiciary.

By Mr. WEICKER (for himself, Mr. DIXON, Mr. KASTEN, Mr. RUDMAN, Mr. NICKLES, Mr. SASSER, Mr. DANFORTH, Mr. CHILES, Mr. MOYNIHAN, Mr. HATCH, Mr. PRYOR, Mr. ABDNOR, Mr. BAUCUS, Mr. BOREN, Mr. HUDDLESTON, Mr. HECHT, Mr. FORD, Mr. HEFLIN, Mr. LEAHY, Mr. PELL, Mr. SARBANES, Mr. NUNN, and Mr. D'AMATO):

S. 2489. A bill to amend the Small Business Act to enhance competition in Government procurement; to the Committee on Small Business.

By Mr. STAFFORD (for himself, Mr. PELL, Mr. QUAYLE, Mrs. HAWKINS, Mr. KENNEDY, Mr. RANDOLPH, Mr. SARBANES, and Mr. EAGLETON):

S. 2490. A bill to amend and extend the Library Services and Construction Act; to the Committee on Labor and Human Resources.

By Mr. STAFFORD (for himself, Mr. HATCH, Mr. QUAYLE, Mr. PERCY, Mr. EVANS, Mr. WEICKER, and Mr. LEAHY):

S. 2491. A bill to establish a system for the consolidation of student loans under title IV of the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself and Mr. MATSUNAGA):

S. 2492. A bill to amend title XX of the Social Security Act to increase funding under the social services block grant program; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 2493. A bill to extend for four years the temporary suspension of duty on tartaric acid and certain tartaric chemicals; to the Committee on Finance.

By Mr. STAFFORD:

S. 2494. A bill to make certain amendments to the Act of September 30, 1950; to the Committee on Labor and Human Resources.

By Mr. HUMPHREY:

S. 2495. A bill to provide a user fee for customs services provided at certain small airports; to the Committee on Finance.

By Mr. QUAYLE (for himself, Mr. STAFFORD, Mr. HATCH, and Mrs. HAWKINS):

S. 2496. A bill to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. TSONGAS:

S. 2497. A bill for the relief of Kil Joon Yu Callahan; to the Committee on the Judiciary.

By Mr. TOWER (for himself, Mr. BOREN, Mr. EAST, and Mr. PERCY):

S. 2498. A bill to amend section 1034(h) of the Internal Revenue Code of 1954 in the case of members of the Armed Forces stationed overseas or required to reside in Government quarters; to the Committee on Finance.

By Mr. STEVENS (for himself and Mr. PACKWOOD):

S. 2499. A bill to authorize the appropriation of funds for certain maritime programs for fiscal year 1985; to the Committee on Commerce, Science, and transportation.

By Mr. TRIBLE:

S. 2500. A bill to amend the Federal Financing Bank Act of 1973 to insure the proper budgetary treatment of credit transactions of Federal agencies; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. QUAYLE:

S. 2501. A bill to amend the Public Health Service Act to provide for health care cost containment through the use of competitive medical plans and preferred provider arrangements, and for other purposes; to the Committee on Labor and Human Resources.

S. 2502. A bill to amend the Social Security Act to provide for health care cost containment through the use of preferred pro-

vider arrangements; to the Committee on Finance.

S. 2503. A bill to provide for studies and projects relating to health care consumer information; to the Committee on Labor and Human Resources.

S. 2504. A bill to establish an Institute for Health Care Technology Assessment; to the Committee on Labor and Human Resources.

By Mr. GORTON (for himself, Mr. BOSCHWITZ, Mr. MATHIAS, and Mr. KASTEN):

S. 2505. A bill to provide a right of first refusal for metropolitan areas before a professional sports team is relocated, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEVIN:

S.J. Res. 269. A joint resolution designating the week beginning September 23, 1984, as "National Adult Day Care Center Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. TOWER:

S. Res. 360. Resolution to amend Rule XV of the Standing Rules of the Senate to provide that no amendment that is not germane or relevant to the subject matter of a bill or resolution shall be in order unless such amendment has been submitted at the desk at least 48 hours prior to consideration; to the Committee on Rules and Administration.

By Mr. McCLURE from the Committee on Energy and Natural Resources:

S. Res. 361. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 71; to the Committee on the Budget.

By Mr. LAUTENBERG (for himself, Mr. DIXON, Mr. METZENBAUM, Mr. SARBANES, Mr. BRADLEY, Mr. RIEGLE, Mr. MITCHELL, and Mr. DODD):

S. Res. 362. Resolution to express the sense of the Senate that Congressional hearings be held regarding the activities of the Department of Transportation with respect to the sale of the Consolidated Rail Corporation; the Committee on Commerce, Science, and Transportation.

By Mr. BAKER (for Mr. BRADLEY (for himself and Mr. LAUTENBERG)):

S. Res. 363. Resolution relative to the death of the Honorable EDWIN B. FORSYTHE, of New Jersey; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURDICK:

S. 2488. A bill to terminate the effect of provisions of the Voting Rights Act of 1965 that require bilingual ballots and election materials; to the Committee on the Judiciary.

TERMINATING THE PRINTING OF BILINGUAL BALLOTS AND ELECTION MATERIALS

Mr. BURDICK. Mr. President, today I am introducing legislation to remove from Federal statutes the law requiring election ballots and materials to be printed in languages other than English. I believe this statute represents a classic case of over-reaching by the Federal Government.

As my colleagues know, I am a strong supporter of a constitutional amendment to make English the official language of the United States—Senate Joint Resolution 167. Its primary effect would be to maintain and foster the unity of this country. Let there by no mistake about it, while this unifying effect may not be reflected immediately by directly altering peoples' lives, it is the supreme goal of this amendment and should be the ultimate goal for all legislation.

It is appropriate to pause and reflect, for a moment, on the goal of Cecil John Rhodes when he established the Rhodes scholarships. He died in 1902 and his will stated:

> I desire to encourage and foster an appreciation of the advantages which will result from the union of the English-speaking peoples throughout the world, and to encourage in the students from the United States of America an attachment to the country from which they have sprung without I hope withdrawing them or their sympathies from the land of their adoption or birth.

Two important points can be gathered from Rhodes' words. First, he assumed that the students of the United States would speak English. We ought to make sure that this assumption can still be made today, and that is will be accurate.

Second, Rhodes sought to unite the English-speaking countries of the world. Before this lofty goal can be reached, our country itself must be a unified English-speaking country.

With these thoughts in mind, let us look at the legislation I have introduced today. It simply terminates the effect of provisions of the Voting Rights Act of 1965 that require bilingual ballots and election materials. It would not prohibit States and localities from printing bilingual or multibilingual ballots; however, the Federal Government would no longer require such ballots and materials.

Arguably, the constitutional amendment—Senate Joint Resolution 167—which I support would prohibit miltilingual ballots. The amendment's sponsor, Senator HUDDLESTON, so indicates, and I support this intent. However, in the absence of clear legislative intent, the constitutional establishment of English as the official language may not have this prohibitive effect. Under this interpretation, the legislation I am proposing would still be necessary to invalidate the bilingual ballot section of Federal law.

Furthermore, in view of the significant burden of enacting a constitutional amendment, I believe we need this legislation now. The reasons that I gave to support the goal that all people in this country speak English apply equally to the voting booth. Single language ballots are merely a practical extension of a common language policy.

There are those who would claim that the effect of single language ballots would be disfranchisement of a significant constituency. They furthermore would point out that this constituency is predominantly inclined to support the political party to which I belong. My response to such contentions is twofold. First, on the contrary, mine is an attempt to bring these non-English-speaking citizens full force into the system. English is the language of politics and public debate. In order to cast informed votes, and in fact, in order to have an effective impact on public policy as voter, candidate, or elected official, one must speak English.

Second, and for similar reasons, efforts which would allow non-English-speaking citizens to get along in this society are themselves disfranchising. In fact, bilingual ballots promote exactly that. The supposed beneficiaries can get along with bilingual ballots, but they do not become full participants in the process. In the long run, the result is much more damaging than the short-term price of forcing, if you will, everyone to know English.

As William Raspberry put it in his piece in the Washington Post:

> No doubt the Federal rules that required multilingual ballots, mandatory bilingual education and other similar concessions to America's newest immigrants were well-intentioned. But such misguided compassion runs a serious risk of making entry into the American mainstream more difficult, not less.

Remember, by this legislation, we are not forcing anything on our constituencies. Rather, we are refusing to force an ill-advised policy of tremendous expense on them. For example, in the general election of 1980, the counties of the State of California spent $862,756 on bilingual ballots, with costs reaching more than $50 per bilingual ballot request in many counties. While the cost of English ballots is usually less than $2 per registered voter, non-English ballots range from $6 upwards. In one case, a county spent $6,619 producing foreign language ballots and not a single one was used.

Finally, let us look to the communities themselves where this Federal mandate is imposed on the people. Last election day, the voters in America's most tolerant city, San Francisco, petitioned the Congress and the President to repeal the requirement of bilingual ballots. "Proposition O," which was a nonbinding referendum opposing the printing of bilingual ballots, passed by 62 percent—and came close to winning even in Chinatown and San Francisco's heavily Hispanic mission district. That movement has spread from San Francisco to other counties, other cities, and now the citizens of California are busy qualifying a statewide initiative to let Washington know

how they feel about voting in foreign languages.

We would do well to listen to these people and let them know that if they want to have multilingual ballots, so be it. But we are not going to require them.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2488

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no provision of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) that requires ballots or other materials relating to the electoral process to be made available in a language other than English shall apply with respect to any election taking place on or after the date of the enactment of this Act.

By Mr. WEICKER (for himself, Mr. DIXON, Mr. KASTEN, Mr. RUDMAN, Mr. NICKLES, Mr. SASSER, Mr. NUNN, Mr. DANFORTH, Mr. CHILES, Mr. D'AMATO, Mr. MOYNIHAN, Mr. HATCH, Mr. PRYOR, Mr. ABDNOR, Mr. BAUCUS, Mr. BOREN, Mr. HUDDLESTON, Mr. HECHT, Mr. FORD, Mr. HEFLIN, Mr. LEAHY, Mr. PELL, and Mr. SARBANES):

S. 2489. A bill to amend the Small Business Act to enhance competition in Government procurement; to the Committee on Small Business.

SMALL BUSINESS COMPETITION ENHANCEMENT ACT OF 1984

● Mr. WEICKER. Mr. President, today I am introducing the "Small Business Competition Enhancement Act of 1984" along with Senators DIXON, KASTEN, RUDMAN, NICKLES, SASSER, DANFORTH, CHILES, MOYNIHAN, HATCH, PRYOR, ABDNOR, BAUCUS, BOREN, HUDDLESTON, HECHT, FORD, HEFLIN, LEAHY, PELL, and SARBANES.

When enacted, this bill will substantially increase opportunities for the competitive award of Federal procurement contracts, especially for those contracts—worth billions of dollars annually—awarded for spare parts and the support equipment re-required to maintain the Defense Department's numerous weapons systems. The legislation also would encompass the procurement of major systems by Federal civilian agencies. Specifically, the Small Business Competition Enhancement Act of 1984 strongly encourages competition in two key ways. First, it integrates into the planning and design cycle of a major systems contract, requirements that will make it easier for procuring agencies to competitively award the spare and repair parts contracts that will be needed to maintain the system during its service life—usually a period spanning 10 or more years, such upfront planning for competition has great potential for savings with minimal investments of time and money by the procuring agencies.

Second, the bill eliminates several of the most persistent obstacles to competition present in the procurement pactices and procedures of many executive agencies; practices which especially burden small businesses that attempt to do business with the Government. For example, many prospective contractors are confronted with prequalification requirements—conditions that must be met before the offer will even be considered by the procuring agency. A solid case can be made for some of these prequalification requirements. Yet, at the same time, since such requirements present substantial hurdles to the entry of new competitors, the bill requires that the procuring agency justify their use, specify the standards to be met, and give a new competitor the chance to show that its product can make the grade.

Mr. President, we are all too aware of the so-called spare parts problem within the Department of Defense. For almost 1 year, it has received seemingly continuous attention in the media, and has done much to erode public confidence in DOD's stewardship of the vast sums appropriated to the Department to maintain and enhance our national defense posture. We have all heard about the Allen wrenches, claw hammers, stool caps, nuts, bolts, and transistors offered to the military services at prices most people believe to be exorbitant. The spare parts problem has been subjected to very careful review and analysis by the committees of this Congress, by the General Accounting Office, by the military services themselves, as well as by the Department of Defense Inspector General's Office and the Office of the Secretary of Defense. The extensive record developed convinces me that DOD's spare parts problem is unquestionably a combination of many interrelated problems. But at the same time, it is a very real group of problems to which we must address ourselves. By most accounts, the current spare parts dilemma is the third such recurrence within the Department of Defense. If the failure of the past remedial actions tells us anything, it is that the improvements must be institutionalized. Therefore, Mr. President, I believe that enactment of carefully drafted legislation is the best way to make certain that the well-intentioned administrative solutions stay in place.

Further, Mr. President, it must be recognized that the current "spare parts dilemma" is but the most recent manifestation of congressional concern about the Federal procurement system; a system through which, in recent years, we have annually expended one-fifth of the Federal budget. Because procurement, and the "spare parts problem" has captured our attention, I believe that we owe it to ourselves and to the American people to grapple with the problem and offer a comprehensive legislative proposal for its solution. Mr. President, that is the basic promise of the "Small Business Competition Enhancement Act of 1984": It attacks a fundamental element of the overall "problem"—the lack of competition.

The executive and legislative analyses of the "spare parts problem" have confirmed that adequate competition is lacking, due to poor procurement planning and a myriad of obstacles to impede the entry of new competitors to the Federal marketplace, especially small business competitors. Such obstacles result not only in the increased likelihood of higher prices for items procured by Federal agencies, but also contributes to the decline of the Nation's defense industrial base, which has been a major concern to the Department of Defense and to the Congress.

Mr. President, the "Small Business Competition Enhancement Act of 1984" is the successor to S. 1730, the "Small Business Competition in Contracting Act of 1983", introduced by Senator DIXON last August. S. 1730 helped to identify the problems addressed in the legislation we are introducing today. I commend Senator DIXON for his leadership in this area. I look forward to working with him in getting this "second generation" bill enacted into law.

Mr. President, at this point, let me briefly summarize the extensive record reviewed by the committee, and its staff, in developing the "small business competition enhancement act", over a 5-month period. DOD's spare parts problem has generated a wealth of analytical materials from extensive congressional hearings in both Houses, GAO investigations, and the reviews undertaken by the Department of Defense, its Inspector General's Office, and the individual military services.

Several Senate committees have held hearings on the spare parts issue: Armed Services Committee, 2 days; Governmental Affairs Committee, 2 days; and the Subcommittee on Defense of the Appropriations Committee, 3 days. In addition, the Committee on Small Business held 4 days of field hearings on "Obstacles to Small Business Participation in Federal Procurement". Sessions were held in Nashville, Tenn.; in Madison, Wis.; in Chicago, Ill., and in Oklahoma City, Okla.

Extensive hearings have also been held by various committees of the House of Representatives. The House Armed Services Committee held 7 days of hearings, during which many small business witnesses described the obstacles to completion now inherent in the system. The Governmental Operations Committee held an oversight hearing

on the management of DOD's high dollar spare parts breakout program, and also issued a report, "Failure to Implement the Defense Department's High dollar Spare Parts Breakout Program is Costly". The House Small Business Committee also held 2 days of oversight hearings at which one Small Business witness after another described the obstacles they faced in trying to compete in DOD's spares market.

Mr. President, I cite the congressional inquiries to date, to illustrate the wealth of information from which this legislation had its genesis. At this point, I ask unanimous consent that the legislation, a detailed description of the problems addressed and the solutions proposed in S. 2489, as well as the entire text of the bill be printed in the RECORD.

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

S. 2489

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Small Business Competition Enhancement Act of 1984".

PURPOSES

SEC. 2. The purposes of this Act are to—

(1) eliminate Federal procurement procedures and practices which discourage or prevent participation by new competitors for Government contracts, especially small business concerns;

(2) use Federal contracting opportunities as a means to expand our Nation's industrial base, and thereby enable it to respond more quickly to the increased demands of the defense and civilian agencies in times of national emergency;

(3) reduce the number of noncompetitive contract awards; and

(4) foster increased small business and small disadvantaged business participation in the Federal procurement process.

PLANNING FOR FUTURE COMPETITION

SEC. 3. Section 15 of the Small Business Act is amended by adding at the end thereof the following:

"(m) To encourage the competitive acquisition of requirements to maintain a major system during its service life, the head of the Federal agency with responsibility for that system shall ensure that—

"(1) the following are accorded weight as evaluation considerations in any competitive solicitation for the award of any development contract for a major system, to the maximum extent practicable considering the purposes for which the system is being procured:

"(A) Proposals to incorporate in the design of the major system components which are currently available with the supply system of the Federal agency responsible for the major system, available elsewhere in the national supply system, or commercially available from more than one source; and

"(B) Proposals to incorporate in the design of the major system components whose associated technical data will permit the agency to competitively acquire components that are likely to be required in substantial quantities during the system's service life; and

"(2) the following are accorded substantial weight as evaluation considerations in any competitive solicitation for the award of any production contract for such major system:

"(A) Proposals to identify components in the system that are likely to be required in substantial quantities during the systems's service life and which provide for a predetermination as to whether the technical data associated with such components will be restricted for further use;

"(B) Separately priced options for the purchase or licensing of such restricted technical data by the Federal agency so as to permit the competitive acquisition of requirements for such components; and

"(C) Proposals to expand the participation of small and small disadvantaged business concerns in meeting the requirements of the prime contractor.

The foregoing evaluation considerations also shall be considered as negotiation objectives in making a noncompetitive award of a development contract or a production contract for a major system. The application of any of the requirements specified in paragraph (2) (A) or (B) of this subsection may be waived if the contracting officer determines in writing that such requirement would not be applicable to the production contract or otherwise would not be in the best interests of the Government in attaining the purposes for which the system is being procured, stating the reasons therefor. Such determination shall be made a part of the contract file.".

ENCOURAGING NEW COMPETITORS TO BROADEN THE INDUSTRIAL BASE

SEC. 4. (a) Section 15 of the Small Business Act is amended by adding at the end thereof the following new paragraph:

"(n)(1) Before a Federal agency may establish any prequalification requirement, the Federal agency shall—

"(A) prepare a written justification stating the reasons for the restriction and why free and open competition is not feasible;

"(B) specify in writing and make available upon request all standards which a prospective contractor, or its product, must meet in order to become qualified, such standards being limited to those least restrictive to attain the objective stated as the justification for the restriction;

"(C) provide a prompt opportunity for a prospective contractor to demonstrate its ability to meet the standards specified for qualification, utilizing qualified personnel and facilities of the agency or another agency obtained through interagency agreement, or the services of a private contractor: *Provided,* That any testing and evaluation services provided by a private contractor should, whenever possible, be provided by a contractor other than a contractor who could reasonably be expected to benefit from an absence of additional qualified sources and such contractor shall be required to adhere to any restrictions on technical data asserted by the prospective contractor seeking qualification; and

"(D) inform the prospective contractor promptly as to whether qualification has been attained, or in the event qualification has not been attained, information sufficient to specifically inform the prospective contractor why qualification was not attained.

"(2) Before a Federal agency may enforce any existing prequalification requirement on an offeror or its product, the Federal agency shall, upon request, comply with the requirements of paragraph (1) of this subsection. A Federal agency need not delay a procurement action in order to provide a prospective contractor with an opportunity to demonstrate its ability to meet the standards specified for qualification.

"(3) In the event that the number of currently qualified sources or qualified products available to actively compete for anticipated future requirements is fewer than five, the Federal agency shall—

"(A) periodically publish notice in the Commerce Business Daily soliciting additional sources or products to seek qualification; and

"(B) waive or otherwise bear the cost of conducting the specified testing and evaluation, but excluding the costs associated with producing the item or establishing the production, quality control, or other system to be tested and evaluated, for a small business concern or a product manufactured by a small business concern, ultimately determined to be qualified.

The Federal agency may request a certification from a prospective contractor seeking the waiver or reimbursement of testing and evaluation costs as to its status as a small business concern, and, in good faith, rely thereon. Nothing herein shall prohibit a Federal agency from funding, either before or after testing, some or all of the costs incurred by a small business concern in producing the product to be tested. The Federal agency may fund some or all of the cost of production and qualification for additional small business sources or the products manufactured by such sources beyond the five if the Federal agency determines that such additional qualified sources or products will expand the industrial mobilization base or is likely to result in cost savings from increased competition for future requirements sufficient to amortize the costs incurred by the Federal agency.".

(b)(1) Section 8(e) of the Small Business Act is amended—

(A) by inserting before the semicolon at the end of subparagraph (3)(A) a comma and "and includes, as appropriate, agency nomenclature, National Stock Number or other part number, and system application, all amplified by a brief description relating to the item's form, fit or function, physical dimensions, predominant material of manufacture, or similar information to assist a prospective contractor to make an informed business judgment as to whether a solicitation should be requested";

(B) by redesignating subparagraphs (B) and (C) of paragraph (3) as subparagraphs (C) and (E), respectively;

(C) by inserting after subparagraph (A) of paragraph (3) a new subparagraph (B) as follows:

"(B) a procurement history and forecast of requirements, to the extent available, including—

"(i) date of last award and price thereof, number of units and unit price, time for performance, and whether the last contract was awarded competitively;

"(ii) aggregate dollar value and number of units procured during the last two fiscal years; and

"(iii) number of additional requirements (expressed in the same unit term as the procurement history) estimated for procurement during the remainder of the current fiscal year and each of the two succeeding fiscal years;";

(D) by inserting after subparagraph (C) of paragraph (3), as redesignated, a new subparagraph (D) as follows:

"(D) notations as to whether—

"(i) the solicitation will reference technical data which a prospective contractor will be required to obtain from other governmental sources prior to submitting an offer; and

"(ii) a prospective offeror or its product must be prequalified in order to have its offer considered for award and identify the office from which the standards specified for prequalification may be obtained;"; and

(E) by redesignating paragraph (6) as paragraph (7) and inserting a new paragraph (6) as follows:

"(6) In order to further carry out the requirements of this subsection and section 223(a) of the Act of October 24, 1978 (Public Law 95-507, 15 U.S.C. 637b), each Federal agency shall—

"(A) publicly post in either full text or abstract format any solicitation which would have been synopsized in the Commerce Business Daily if it had equalled or exceeded the applicable dollar threshold for such publication, and

"(B) reasonably make available to any small business concern, or to the authorized representative of such concern, the complete solicitation package for any solicitation posted in abstract format and permit the copying thereof.

A Federal agency may require the payment of a fee, not exceeding the actual cost of duplication.".

(2) Section 8(d)(1) of the Small Business Act is amended by adding at the end thereof the following new sentence: "It is further the policy of the United States that small business concerns, and small business concerns owned and controlled by socially and economically disadvantaged individuals, shall have the maximum practicable opportunity to participate in the performance of contracts and subcontracts for appropriate portions of subsystems, assemblies, components, and related services for major systems.".

(3) Section 8(d)(3)(A) of the Small Business Act is amended by adding at the end thereof the following new sentence: "It is further the policy of the United States that small business concerns, and small business concerns owned and controlled by socially and economically disadvantaged individuals, shall have the maximum practicable opportunity to participate in the performance of contracts and subcontracts for appropriate portions of subsystems, assemblies, components, and related services for major systems.".

TECHNICAL DATA MANAGEMENT TO FOSTER FUTURE COMPETITION

SEC. 5. (a) Section 15 of the Small Business Act is amended by adding at the end thereof the following—

"(o) To foster competition for the acquisition of requirements to maintain a major system during its service life, the head of the Federal agency with responsibility for the system shall insure that the initial and all subsequent production contracts contain appropriate provisions related to technical data, including—

"(1) specifying the technical data deliverable under the contract, and a delivery schedule therefore, including options for deferred delivery or multiple deliveries;

"(2) establishing criteria for determining the acceptability of technical data to be delivered under the contract;

"(3) establishing separate payment lines relating to the delivery of technical data under the contract and authorizing the withholding of payments for failure to make timely deliveries of acceptable data;

"(4) specifying the respective rights of the Government and a contractor or subcontractor regarding technical data to be submitted under the contract, including therein a definition of the phrase 'developed at private expense';

"(5) identifying, in advance of delivery, technical data which is to be delivered with restrictions on the Government's rights in such data;

"(6) requiring the contractor to prepare or cause to be prepared in advance of delivery, and retain, a justification for any restriction to be asserted by the contractor or any subcontractor limiting the Government's rights in such data;

"(7) authorizing the Government to disclose limited rights data to a contractor retained by the Government solely for the purpose of reviewing the justification for the limitation placed on the data, and requiring such contractor to strictly adhere to any restrictions placed on the data;

"(8) specifying liquidated damages to be paid to the Government by the contractor or by a subcontractor in the event that the Government's challenge to a limitation on the Government's rights in technical data asserted by the contractor or a subcontractor is sustained;

"(9) prohibiting a contractor from requiring a subcontractor or the Government to pay a fee, royalty, or other charge for the subcontractor's use of any technical data, except that protected by patent, in the performance of a contract to furnish a component or other requirement directly to the Government, if the same technical data was furnished or otherwise made available by the contractor to the subcontractor for the performance of a contract between them;

"(10) prohibiting the contractor from limiting, either directly or indirectly, the Government's right to purchase directly from a subcontractor any component or other requirement which the subcontractor had previously furnished to the contractor without restriction;

"(11) ascertaining and documenting the identity of the manufacturer of a component by requiring the contractor, and each subcontractor at every tier, to annotate engineering drawings with such information; and

"(12) requiring the contractor, and each subcontractor at every tier, to maintain a listing of the subcontractors and suppliers from whom it has purchased, or solicited to purchase, components included in the major system and granting to the Government the right to obtain a copy thereof.

The application of any of the provisions specified in this subsection may be waived if the contracting officer determines in writing that any such provision would not be applicable to the production contract, or otherwise would not be in the best interests of the Government in attaining the purposes for which the system is being procured, stating the reasons therefor. Such determination shall be made part of the contract file.".

(b)(1) Within one year after the date of enactment of the Small Business Competition Enhancement Act of 1984, each Federal agency shall develop a plan for the management of technical data received under contracts for the development, production, modification, or maintenance of major systems within its jurisdiction. Among other matters, the management plan shall address—

(A) inventory of existing data;

(B) procedures for indexing, storing, and updating items of technical data entered into the system;

(C) techniques for verifying contractor-imposed limitations on the Government's rights to make future use of the data in competitive acquisitions; and

(D) procedures to assure that agency procurement officials and qualified prospective contractors will have timely access to complete and current technical data for the competitive acquisition of requirements for the maintenance of the system during its service life.

(2) Within 5 years after the date of enactment of the Small Business Competition Enhancement Act of 1984, each Federal agency shall complete implementation of the management plan required by paragraph (1), and include the technical data for each currently operational major system within its jurisdiction.

(3) Not later than eighteen months after the enactment of this section, the Comptroller General of the United States shall transmit to the Congress a report evaluating the plans of selected Federal agencies for the management of technical data for major systems within their jurisdiction. The report shall include an evaluation of the plans of the Department of Defense, the Department of Energy and the Department of Transportation, and the National Aeronautics and Space Administration.

VALIDATING PROPRIETARY DATA RESTRICTIONS

SEC. 6. Section 15 of the Small Business Act is amended by adding at the end thereof the following:

"(p)(1) In order to competitively procure the maximum number of components needed to maintain a major system during its service life, a review of the validity of any restriction on the Government's rights in technical data furnished under contract shall be initiated by the contracting officer, if the contracting officer, an agency advocate for competition, or an authorized representative of the Administration determines such a review is warranted.

"(2) Upon the request of the contracting officer, the contractor shall submit its justification for the asserted restriction on the Government's rights in such data, certifying to the current validity of the asserted restriction within—

"(A) 60 days, if the contract contains a provision that requires the preparation and retention of a written justification for any restriction limiting the Government's rights in technical data to be delivered under the contract, or

"(B) 180 days, if the contract does not contain such a provision.

"(3) Upon a failure to submit any justification, as required by paragraph (2) of this subsection, the contracting officer shall, after notice to the contractor, promptly cancel the restriction on the Government's rights in technical data for which justification had been requested.

"(4) If after review of the justification submitted pursuant to paragraph (2) of this subsection, the contracting officer determines that the justification for the restrictions on the Government's rights in the data does not adequately support the restrictions, the asserted limitation on the technical data and the justification therefor shall be promptly subjected to technical

review and audit by qualified personnel of the agency or another Federal agency obtained through interagency agreement, or a private contractor who is capable of providing an impartial review and who shall be required to adhere to any asserted restrictions on technical data.

"(5) If after reviewing the findings of the technical review and audit, it is determined that the limitation on the Government's rights in the data warrants challenge, the contracting officer shall issue a final decision pertaining thereto which shall be subject to the provisions of the Contract Disputes Act (41 U.S.C. 601 et seq.).

"(6) If the Government's challenge to the restriction on the Government's rights in technical data as certified pursuant to paragraph (2) of this subsection is sustained, upon final disposition—

"(A) the restriction on the Government's rights in technical data shall be cancelled; and

"(B) the contractor shall be liable to the Government for—

"(i) the liquidated damages specified in the contract; and

"(ii) the Government's cost of technically evaluating and auditing the asserted restriction, and the fees and other expenses, as defined in section 2412(a)(2)(A) of title 18, United States Code, incurred by the Government in challenging the asserted restriction, if the asserted restriction, as certified, is found not to be substantially justified, unless special circumstances would make such awards unjust.".

BREAKOUT PROCUREMENT CENTER REPRESENTATIVES

SEC. 7. Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end thereof the following:

"(q)(1) The Administration shall assign to each major procurement center a breakout procurement center representative, with such assistance as may be appropriate, who shall be an advocate for the competitive procurement of the center's requirements and be responsible for executing the functions described under paragraph (2). Any breakout procurement center representatives appointed under the authority of the preceding sentence shall be distinct from and in addition to any procurement center representatives who may be, from time to time, assigned by the Administration to various procurement centers for the purpose of advocating increased small business participation.

"(2) The breakout procurement center representative is empowered to—

"(A) participate as a regular member of any provisioning conference, or similar evaluation session relating to maintaining a major system during its service life, during which determinations are made as to whether requirements are to be procured through other than free and open competition;

"(B) review, at any time, restrictions on competition previously imposed on requirements through acquisition method coding or similar procedures, and to request prompt reevaluation of such limitations on competition by agency personnel;

"(C) review restrictions on competition arising out of restrictions on the Government's rights in technical data and, when appropriate, recommend that the contracting officer initiate a review of the validity of such an asserted restriction;

"(D) obtain from any governmental source technical data suitable for the preparation of a competitive solicitation package for any requirement previously procured noncompetitively due to the nonavailability of unrestricted technical data and make it available for validation by appropriate procurement center personnel; and

"(E) have access to the unclassified procurement records and other data of the procurement center so as to facilitate effective discharge of the foregoing functions and to permit the preparation of complete and accurate reports to the Administration.

"(3)(A) Each Federal agency having one or more major procurement centers shall assign technical advisors to each major procurement center to which the Administration has assigned a breakout procurement center representative.

"(B) Technical advisors assigned under this paragraph shall be—

"(i) full-time employees of such agency;

"(ii) colocated with the assigned breakout procurement center representative; and

"(iii) fully qualified, technically trained, and familiar with the supplies and services procured by the major procurement center.

At least one such technical advisor position shall be classified as requiring an accredited engineer.

"(C) The primary duty of a technical advisor assigned under this paragraph shall be to assist the breakout procurement center representative for the center to which such advisor is assigned in carrying out his functions.

"(4) There are authorized to be appropriated to the Administration such sums as may be necessary to carry out the provisions of this subsection.".

DEFINITIONS

SEC. 8. Section 3 of the Small Business Act is amended by adding at the end thereof the following:

"(j) For the purpose of this Act and section 5(b) of the Small Business Competition Enhancement Act of 1984, the term—

"(1) 'component' means any individual part, subassembly, assembly, or subsystem integral to a major system, which may be replaced during the service life of the system. The term includes spare part and replenishment spare part. The term does not include packaging or labeling associated with shipment or identification of a 'component';

"(2) 'major procurement' center means a procurement center that awarded contracts for components other than commercial items totaling at least $150,000,000 in the preceeding fiscal year;

"(3) 'major system' means a combination of elements that will function together to produce the capabilities required to fulfill a mission need. The elements may include hardware, equipment, software or any combination thereof, but excludes construction or other improvements to real property. A system shall be considered a 'major system' if: (a) the Department of Defense is responsible for the system and the total expenditures for research, development, test and evaluation are estimated to be more than $75,000,000 (based on fiscal year 1980 constant dollars) or an eventual total expenditure for procurement of more than $300,000,000 (based on fiscal year 1980 constant dollars); or (b) a civilian agency is responsible for the system and total expenditures for the system are estimated to exceed $250,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a 'major system' established by the agency pursuant to Office of Management and Budget (OMB) Circular A-109, entitled 'Major Systems Acquisitions', whichever is greater, or (3) any system designated a 'major system' by the head of the agency responsible for the system;

(4) 'technical data' means recorded information, regardless of form or characteristic, of a scientific or technical nature. It documents research, experimental, development or engineering work or is usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design-type documents; or computer printouts. Examples of technical data include research and engineering data, engineering drawings and assocaited lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications and related information. Technical data does not include computer software, financial, administrative, cost or pricing, and management data, or other information incidental to contract administration. 'Technical data', as herein defined, does not include technical data for commercial products or components thereof developed at private expense.".

EFFECTIVE DATE

SEC. 9. (a) Except as provided in subsection (b), the amendments made by this Act shall take effect upon the expiration of 180 days following the date of enactment of this Act.

(b) The amendment made by section 7 and the provisions of section 5(b) of this Act shall take effect on the date of enactment of this Act.

PLANNING FOR FUTURE COMPETITION

Current Problem.—Inadequate consideration is given to the competitive procurement of "downstream" or future requirements—spare parts, support equipment, and services to maintain a major system during its service life—during the planning for, and award of contracts for the design and production of major systems.

Proposed Solutions of the Weicker/Dixon Bill.—Requires agencies to pay greater attention to the competitive procurement of "downstream requirements" when they make awards of design and production contracts; and

Provides strong incentives to major contractors by linking contract award decision to the degree that their proposals enhance the opportunities for competition of "downstream requirements," such as:

(a) use of components whose associated technical data will be available to compete for future requirements;

(b) use of components currently available within the government supply system or commercially available from multiple sources;

(c) predetermination of technical data rights for components that will be needed in substantial quantities during the system's life;

(d) separately priced options to purchase technical data legitimately restricted; and

(e) incentives to encourage the participation of small and small disadvantaged businesses.

ENCOURAGING NEW COMPETITORS TO BROADEN THE INDUSTRIAL BASE

Current Problem.—Small business contractors confront many obstacles to even entering the government market. Two of the most persistent are:

Prequalification requirement (e.g. Qualified Products Lists), which must be met

before the contractor's offer will even be considered; and

Unrestricted access to timely information about contracting opportunities, in adequate detail to make an informed business judgment as to whether to compete.

Proposed Solutions of the Weicker/Dixon Bill.—

If an agency uses a prequalification requirement, it must:

(a) prepare a written justification;

(b) specify standards to become "qualified";

(c) promptly provide the opportunity to qualify; and

(d) provide test results, including reasons for failure to qualify.

To encourage additional small business competitors and to expand the industrial base, an agency imposing a prequalification requirement must also do the following for as long as the number of "qualified" sources remains less than five:

(a) periodically advertise for additional sources through Commerce Business Daily (CBD) notices;

(b) underwrite or waive testing costs for a small business concern that attains qualifications.

Specifies improvements so as to enhance the quality of CBD notices to assist a small business to make an informed judgment to enter competition including:

(a) Additional descriptive detail about what is being bought;

(b) procurement history and forecast to give a "long" view of the market; and

(c) notations giving advance warning of prequalification requirements or solicitations lacking complete technical data packages.

Requires agencies to post full text, or abstracts, of contracting opportunities below the $10,000 threshold for publication in CBD.

TECHNICAL DATA MANAGEMENT TO FOSTER FUTURE COMPETITION

Current Problem.—The competitive procurement of future spare parts requirements for components to maintain systems is impossible without current, complete, and unrestricted technical data for the component to be purchased. All too often, agency contracts for major systems fail to specify the major contractor's responsibility concerning the delivery of technical data. Yet, very substantial sums are paid to the contractor for such data often without delivery schedules beneficial to the government, or even acceptance criteria.

Further, agencies lack effective management systems for making use of the vast amounts of technical data furnished to them under major system contracts. All to often necessary data, which has been furnished to the Government, simply cannot be located.

Proposed Solutions of the Weicker/Dixon Bill.—Requires that the agency include adequate data management provisions in its contracts for major systems, such as:

(a) listing of data deliverable;

(b) criteria for acceptance of data;

(c) separate payment provisions, thus allowing withholding of payments for inadequate performance;

(d) predetermination of rights in technical data;

(e) justification of restrictions on Government's rights in technical data, prior to delivery; and

(f) identification of the actual manufacturer of a component to encourage future "breakout."

Requires agencies to develop and implement a comprehensive and integrated plan for the management of the vast amounts of technical data received under major system contracts, and requires that GAO review the adequacy of those plans.

VALIDATING PROPRIETARY DATA RESTRICTIONS

Current Problems.—Contractors have the right to restrict the Government's use of technical data for the purposes of competitive procurements, if the data delivered under the contract was developed at the contractor's private expense. The contractor has a recognized property right in such proprietary data. Recognizing that a contractor has much to gain financially by being the "sole source" for a component covered by such a data restriction, an improved system for promptly validating such claims and imposing penalties that are effective deterrents to "over-restricting" by contractors is needed to eliminate this obstacle to competition.

Under present procurement regulations, if the Government determines that a contractor has improperly asserted a limitation on technical data, the only available remedy is the cancellation of the unsupportable restriction. Experience has shown that the Government rarely challenges contractor's claims of proprietary data because the costs of such challenge outweight the perceived benefit of a successful challenge.

Proposed Solutions of the Weicker/Dixon Bill.—Establishes a procedure for promptly and effectively reviewing and validating the proprietary data claims asserted by contractors, including:

(a) requiring preparation of a justification for the limitation being asserted;

(b) contractor certification as to the current validity of proprietary data claims when questioned;

(c) use of a private contractor to promptly review the technical justification for a questionable limitation, when government personnel are not readily available to perform the "data checker" function; and

(d) challenge of a questionable proprietary data claim, under the safeguards of the Contract Disputes Act.

Provides a series of penalities, in addition to cancellation of the restrictions, if a board of contract appeals or a court determines that the contractor's proprietary data claim is unwarranted, including payment of:

(a) liquidated damages, as negotiated as part of the contract; and

(b) the Government's costs of checking the data and mounting the legal challenge, if the contractor's asserted restriction is not found to be "substantially justified" (the Equal Access to Justice Act standard).

BREAKOUT PROCUREMENT CENTER REPRESENTATIVES

Current Problem.—On a test basis, the Small Business Administration (SBA) has placed a Breakout Procurement Center Representative (BPCR) at three of the Air Logistics Centers of the Air Force Logistics Command. The principal function of the BPCR is to identify spare parts that are being procured on a non-competitive or sole-source basis and "break-out" these items to competition whenever possible. Essentially, they are SBA advocates for competition. The General Accounting Office has reviewed the pilot program and verified the competition and the savings being generated through the efforts of the BPCRs. The results from FY 83 suggest that the program should be significantly expanded: 1,634 items broken-out and savings of $35,796,000. In testimony before Congress, GAO, SBA and OFPP acknowledge that BPCRs have a direct effect on competition and can easily exercise similar reviews with similar results at many Federal installations.

Proposed Solutions of the Weicker/Dixon Bill.—

Provides for BPCRs in each major procurement center;

Specifies the functions and authorities of the BPCR; and

Requires the Small and Disadvantaged Business Utilization Officer in each agency to provide technical advisors to assist each BPCR assigned to a major procurement center within that agency.●

● Mr. WEICKER. Mr. President, I am completely confident that our Nation's small business concerns have the capability to provide the Government with the equality products required, in a timely fashion, at competitive prices. I know that they can meet the demands of defense procurement agencies, if given a fair chance to compete. American small businesses have the technical skills, innovation, management, and vitality that makes them the key feature of our Nation's economic fabric. They can, and do, bring the same qualities to the Federal procurement marketplace.

Because of my belief in the capabilities of our Nation's small businesses to compete very effectively, the Small Business Competition Enhancement Act of 1984 does not include any new small business set-aside programs or call for the expansion of any existing ones. The bill's purpose, pure and simple, is to increase competition.●

● Mr. DIXON. Mr. President, last August I introduced S. 1730, the Small Business Competition in Contracting Act of 1983. Thirty-two of my colleagues have joined me as cosponsors of this legislation.

S. 1730 addresses several of the obstacles to competition that the small business community faces when it tries to compete for the more than $150 billion the Federal Government spends each year purchasing goods and services from the private sector. S. 1730 has become a focal point for the Congress, Federal agencies, and the contracting community. It highlights the difficulties faced by small businesses.

We all know that small business has the desire and the capability to provide quality products and services to the Government expeditiously and at competitive prices. There are, however, a number of Federal procurement laws, procedures, and agency practices that make it difficult, if not impossible, for many small businesses to fairly and fully compete for Government contracts.

During the past several months, within the Senate Small Business Committee, Senator WEICKER has provided significant guidance and leadership by focusing our review on these obstacles which impede competition

by small businesses. Our committee has already held four field hearings: One chaired by my good friend from Tennessee, Senator SASSER; one, by my good friend from Wisconsin, Senator KASTEN; one, by my good friend from Oklahoma, Senator NICKLES; and, I chaired a hearing in Chicago. Two full committee hearings are scheduled for early April here in Washington.

Building on all of these hearings, and relying on the outstanding staff work of Bill Montalto and Alan Chvotkin of the Small Business Committee, Senator WEICKER and I have developed what we consider to be an improved, "second generation" version of S. 1730. It is also solidly based on an analysis of the wealth of information in congressional and executive branch studies relating to procurement issues.

The new bill, which we are introducing today, addresses the same problems we sought to solve in introducing S. 1730, but does so in a more comprehensive way. This approach will not significantly alter the procurement system. It will, in fact, enhance competition.

I have recently spoken to the small business groups which originally supported S. 1730, indicating my support for the "new generation" bill. I have also contacted all 32 cosponsors of my original bill, urging them to join with Senator WEICKER and me, as we introduce this legislation.

I feel very strongly that this "new generation" version of S. 1730 will provide small businesses throughout our country with the means to compete by bringing to an end the Government's past reliance on sole-source contracts.●

● Mr. KASTEN. Mr. President, I am proud to be an original cosponsor of the Small Business Competition Enhancement Act of 1984.

This bill represents a substantial refinement of S. 1730, the Small Business Competition in Contracting Act of 1983, which I cosponsored. It is the result of hard work and the careful review of recommendations made by small businessmen and others with practical experience in contracting problems. I think it represents an effective approach to solving some immediate as well as long-term procurement problems, and I urge my colleagues to give the measure strong support.

We in Congress face two major challenges today. One is to find ways of cutting Federal spending, because we all understand the harm that needless spending causes our economy. Another is to keep the private sector of the economy strong, because there is where our permanent jobs are created. Moreover, we need to focus on ways to promote small business development, because small firms have provided virtually all new jobs in this country for the past 3 years. Without a healthy private sector, we cannot afford the defense, health, education or other programs we need or want.

A bill, therefore, that can cut spending at the same time it helps small businesses is certainly worth enacting. That is exactly the effect of this new legislation.

We all remember the spare parts scandal of a few months ago, where the Defense Department ended up paying outrageous sums for spare parts and tools that anyone could buy at a hardware store for a tiny fraction of the price. There was a temptation at the time to pin the blame for this wasteful spending on individuals in Government or business. The real culprit, though, is a procurement process that discourages competition and breeds high prices. Small businesses do not find it worthwhile to wade through miles of redtape and confusing regulations to bid on Government contracts, and the Government buys items in such large lots that little attention is paid to the need for cost controls on spare parts.

This bill helps remedy that situation. It streamlines procurement, encourages small business participation in contracts, and makes a concerted effort to identify likely sources of savings in Federal procurements. The Small Business Administration, in a pilot program, has already shown we can save as much as 40 percent on spare parts costs just through competition, and the legislation we introduce today will go a long way in realizing such savings.

This measure is the result of hard work and careful analysis, and it represents the thinking of small businessmen as well as Government experts. Nationwide hearings on the procurement problem, including one I held in Madison, Wis., in November, produced the recommendations and ideas that are incorporated in this bill.

The scandalous waste of taxpayer money is a problem that all Americans justifiably want stopped. The Small Business Competition Enhancement Act of 1984 goes a long way toward addressing the problem, and I intend to push vigorously for its enactment.●

● Mr. NICKLES. Mr. President, I join my colleagues, Senators WEICKER and DIXON, in introducing S. 2489, the Small Business Competition Enhancement Act of 1984. The bill addresses a number of concerns with regard to the procurement process of the Federal Government, particularly in the Department of Defense.

This past January I held a hearing in Oklahoma City and reviewed some of the obstacles facing small business with regard to Federal procurement. There, I found a strong desire to enter the Federal procurement process on the part of the businesses testifying. However, because of expansive paperwork and qualification requirements, they were prevented from doing so in many instances.

The Small Business Competition Enhancement Act of 1984 will open future procurement associated with major systems to more businesses, expand the base of contractors competing for the procurement dollar, make available technical data to contractors necessary for manufacturing replacement parts and equipment, and allow for the review of certain data which has been labeled as proprietary. Far too much of our Federal procurement is done on a sole-source basis. The major emphasis of this legislation is to broaden the base of qualified contractors and place more of our Federal contracts into open competition.

When we are faced with such monstrous deficits we need to take a hard look at the way we do business. With nearly one-fifth of the Federal budget devoted to procurement, major savings can be achieved through proper management of this part of Federal spending. The bill focuses upon that portion of Federal procurement which is contained in Defense. The recently reported President's Private Sector Survey on Cost Control, the Grace Commission, recommended similar changes in the procurement process as under this legislation. By increasing competition for spare parts we can effectively reduce the amount of funds appropriated for procurement.

I anticipate this legislation will receive wide-spread support and will be scrutinized by several committees of the Congress before it is enacted into law. While the problems associated with Federal procurement are substantial, they are not unconquerable. With this and other proposed reforms along with effective administration and management, we can reduce our cost of doing business in the Federal Government. I encourage my colleagues to join our efforts to pass this needed revision of our procurement process.●

● Mr. SASSER. Mr. President, I rise to lend my support to the legislation introduced today by the chairman of the Small Business Committee, Senator WEICKER, and my good friend from Illinois, Senator DIXON. This bill marks another significant step forward in addressing the many obstacles facing small businesses eager to do business with the Federal Government.

I have been actively involved in the effort to increase small business participation in the Federal procurement process for several months. I joined as an original cosponsor of S. 1730, a very important measure introduced by Senator DIXON earlier this session. In addition, I chaired field hearings of the Small Business Committee in Nashville, Tenn., last fall examining impediments facing small firms wanting

to become involved in the Federal procurement process.

The legislation I am cosponsoring today builds upon these important first steps. This legislation incorporates many of the points raised in S. 1730, but goes further as we offer refinements to the proposals contained in that measure. The Senator from Illinois is to be commended for his active participation on this issue at an early date. He played a major role in galvanizing the small business community around the procurement issue and did a masterful job of focusing on the issues of greatest importance in this debate.

The specifics of the bill we introduce today address many of the concerns raised during the field hearings on procurement which I chaired last fall. Many of the small business owners who testified at those hearings pointed out that a major obstacle to small business participation in Government procurement is the lack of consideration given to competitive procurement needs during the design and development stage of Government projects. In other words, nobody in Government is thinking about competitive bidding on spare parts needs and the like when a contract is first planned. Our legislation takes direct steps to rectify this glaring omission, in part through incentives to contractors to enhance the opportunities for competition on downstream requirements.

In addition, witness after witness testified that a major problem they faced in obtaining Government contracts is the lack of access to timely information on procurement bids. S. 1730 contained several proposals to get more detailed information out to small business firms interested in contracting. I am pleased that the legislation we introduce today retains this theme. The provisions in our legislation on this topic underscore the crucial importance of getting adequate information on bids out to interested firms in a timely manner.

One area where I have received numerous comments from small firms interested in procurement contracts is the issue of accountability. Many small business owners contend that all the legislation in the world will not improve their situation unless Government agencies are held accountable for efforts to bring in small business contractors. Again, the bill we introduce today takes some important steps in this direction. Of particular significance in this vein are the provisions of the bill pertaining to Breakout Procurement Center representatives.

In conclusion, Mr. President, I am pleased to see the effort to bring more small firms into the Federal procurement process take another step forward today. The issues raised in S. 1730 serve as an excellent springboard to this new legislation. I look forward to continued cooperation between all interested parties in our efforts to address one of the most serious concerns in the small business community; increased small business participation in the Federal procurement process.●

● Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of S. 2489, the Small Business Competition Enhancement Act of 1984. This measure is an improved version of a bill I cosponsored during the first session of this Congress, S. 1730. I believe S. 2489, when enacted, will make a major improvement in the manner in which both civilian agencies and the Department of Defense procure spare parts, support equipment and services. I urge my colleagues to support this bill.

This bill provides remedies for problems many small businesses encounter when they attempt to compete for Federal Government procurements. It provides an advantage to a prime contractor on a major system who is willing to allow open competition for replenishment spare parts for the system.

It addresses the use of prequalification requirments as barriers to competition—more about this point later. It requires major systems contractors to sell technical data to the procuring agency, so competitive replenishment spare parts procurements can be undertaken.

It establishes a requirement that proprietary data claims be validated and justified, and establishes a system of financial disincentives for asserting unfounded claims for proprietary rights to data. Finally, it expands the Small Business Administration's Breakout Procurement Center representatives program and sets forth these representatives' authority and responsibility as advocates for competition in procurement.

Rather than go through these provisions in detail, I want to tell you why we need this measure. It is unfortunately too easy to find horror stories in spare parts procurement. I want to relate an experience of mine in this area, an experience which had a happy ending both for the small business concerned and for the U.S. taxpayer.

This story involves overpricing of spare parts, but rather than retell the financial details, I want to describe for you the procedural barriers which this one small business faced, and explain how this measure, S. 2489, would have prevented it from happening had it been law at the time.

A small New York firm, B. H. Aircraft Co., Ind., of Farmingdale, Long Island, was excluded from an Air Force spare parts procurement because B. H. was not an engineering qualified source. After a long struggle, B. H. was found qualified, and won a contract which saved the U.S. taxpayer many millions of dollars.

S. 2489 would correct this problem by requiring that, if an agency employs a prequalification requirement such as the Air Force's engineering qualified source process, it must do the following things: First, prepare a written justification for the requirement; second, establish specific standards to be met to become qualified; third, provide a prompt and open opportunity to attempt to become qualified; and fourth, return test results in a timely manner, setting forth specifically why a contractor failed to qualify, in the event of such a failure.

In the B. H. Aircraft case, this small business was first encouraged to submit a bid, but was then told their bid would not be accepted because they were not an engineering qualified source. When they enquired what actions they would have to take to become qualified, they suffered a long delay. Apparently, no written standards had ever been established, so the contracting office had to contact the original equipment manufacturer to ask their opinion on the proper qualification process.

When the original equipment manufacturer, who was a competitor for the contract upon which B. H. Aircraft sought to bid, replied to the request from the Air Force, the Air Force chose to establish a more demanding standard than the original equipment manufacturer recommended. This standard required an extensive and intensive testing procedure for the item being procured, a process which could not be completed before the competition in question ended with a contract award to one of the two qualified sources. This tactic effectively closed the procurement to B. H. Aircraft.

Fortunately, through great personal effort by the officers of B. H. Aircraft and through my personal involvement, the Air Force was persuaded to re-examine its decision and, ultimately, to allow B. H. to compete for the contract, which they won.

This was an extraordinary effort, a bureaucratic odyssey which most small businesses would not consider attempting and which even fewer could complete. This single example of one of the barriers facing a small business attempting to compete for Federal procurements is illustrative of a whole class of such experiences. No small businessman should be forced to face the difficulties B. H. Aircraft faced and overcame. This measure would prevent new instances of abuse of the prequalification requirement to prevent other businesses from competing for award of certain contracts.

I could provide other examples from my experience. Unfortunately, these examples are many and few ended as happily for the small business involved

and the U.S. taxpayer as did the B. H. Aircraft matter. I will not take the Senate's time with such a recounting, because I am certain my colleagues have had similar experiences and can provide their own lengthy lists of constituents who have encountered these barriers and who were turned back by them. I hope this personal experience will help my colleagues reach the conclusion I have reached, that urgent action to break down these barriers is necessary and that this measure is the tool we need to achieve this goal.

I want to underline the reasons why we must act now why this measure is vital. First, this measure is fair, It allows small businesses to compete fairly in a marketplace which is characterized by sole source or restrictive procurements. Second, this measure improves competition. Competition enhances the strength and diversity of our industrial base and holds down prices and costs. Finally, it will save taxpayer dollars. Increased competition produces lower prices for the Government and lower expenditure levels for the Treasury while we are attempting to reduce the Federal deficit.

In closing, I again urge my colleagues to review this measure and join me in supporting it and securing its rapid passage.●

By Mr. STAFFORD (for himself, Mr. PELL, Mr. QUAYLE, Mrs. HAWKINS, Mr. KENNEDY, Mr. RANDOLPH, Mr. SARBANES, and Mr. EAGLETON):

S. 2490. A bill to amend and extend the Library Services Construction Act; to the Committee on Labor and Human Resources.

LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS OF 1984

● Mr. STAFFORD. Mr. President, today, on behalf of myself and Senators PELL, QUAYLE, HAWKINS, KENNEDY, RANDOLPH, SARBANES, and EAGLETON, I am pleased to introduce the Library Services and Construction Act Amendments of 1985.

These amendments are the product of hearings held by the Subcommittee on Education, Arts and Humanities and reflect the input of many citizens interested in the expansion and improvement of library services.

Two goals lie at the heart of this legislation: First, to expand access to library services for those populations who have experienced barriers to access in the past; and second, to assist libraries in coping with the revolution in information technology.

Mr. President, when President Eisenhower signed the Library Services and Construction Act in 1956, 960 counties in this country were without public libraries. Furthermore, only six States offered grants to aid local libraries, and only one in six Americans had ready access to a public library.

The Library Services and Construction Act, responding to the need to establish library services in unserved areas, has succeeded remarkably, in contrast to 1956, roughly 95 percent of the population has access to local library services. Book mobiles and mail services have extended the reach of local libraries, and various transportation services have opened up library doors to those who were isolated from libraries either by geographic location or physical handicap. Additionally, library services are no longer confined to the traditional structure; programs have been developed in such diverse sites as nursing homes, prisons, State hospitals and other facilities.

These accomplishments are the product of a cooperative partnership involving Federal, State, and local efforts. The Federal share represents a small portion of the total national expenditure on libraries, estimated at between 5 and 8 percent.

The history of this legislation reflects a growing understanding that underserved populations can be as difficult to reach in urban as in rural areas. As Edwin Holmgren of New York Public Library has aptly stated:

> In a big city like New York, the barriers to access tend not to be those of distance, as in rural areas, but rather poverty, illiteracy, age and lack of a common language or culture.

Amendments to this legislation over the past 20 years have tried to address urban isolation and the needs of multilingual, illiterate, and elderly populations. This has been accomplished while preserving much of the rural emphasis that characterized LSCA from the beginning. The amendments require equal consideration of large urban areas and small towns. They serve to insure the maximization of existing resources, by requiring that scarce and expensive resources be shared.

Still another challenge is emerging, one that this legislation seeks to meet head on. That challenge is the explosive growth in information technologies. Libraries are natural consumers of these new technologies, but as is the case with all of us, they will need to proceed thoughtfully in making investments in these expensive services. These amendments seek to assist in that endeavor.

Included in this reauthorization is a new title that will make grants available to Indian tribes living on or near reservations.

Mr. President, the bill that I am introducing today with Senators PELL, QUAYLE, HAWKINS, KENNEDY, RANDOLPH, SARBANES, and EAGLETON, preserves the flexibility that has made this program popular with State and local governments. The Library Services and Construction Act has been and continues to be a productive Federal investment in our Nation's libraries. It has been a catalyst for expansion and improvement and it will continue to promote these goals as we approach the 21st century.

Public libraries are charged with the responsibility of preserving our Nation's history and making it readily available to all of our citizens. It is a vital task in a nation founded on individual freedoms, that places a premium on education for all Americans.

I commend these amendments to the attention of my colleagues and ask unanimous consent that this legislation and a section-by-section analysis be printed in the CONGRESSIONAL RECORD.

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

S. 2490

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

SHORT TITLE; FINDINGS

SECTION 1. (a) This Act may be cited as the "Library Services and Construction Act Amendments of 1984".

(b) The Congress finds that—

(1) the role of libraries has expanded to include (A) providing programs to meet the needs of special segments of the population, including librarian training and outreach programs, and (B) sharing resources and materials among a wide variety of libraries;

(2) it has become necessary to expand the role of libraries as information centers for their communities, utilizing improved and new technologies and resources to meet the increasing need for information services and educational resources of Americans in a rapidly changing economy;

(3) funding for construction of new libraries and renovation of existing libraries is essential to ensure continuation of library services for the public;

(4) attention should be paid to the needs of small and rural community libraries and information centers because these facilities are often underfunded and understaffed and as a consequence cannot adequately serve the needs of the community; and

(5) the scope and purpose of the Library Services and Construction Act should therefore be revised to include a more comprehensive range of programs which may receive funds thereunder and to ensure the extension of services to minorities and other populations that would otherwise be unable to use regular library facilities.

DECLARATION OF PURPOSE

SEC. 2. (a) Section 2(a) of the Library Services and Construction Act (hereafter in this Act referred to as "the Act") is amended to read as follows:

"SEC. 2. (a) It is the purpose of this Act to assist the States in the extension and improvement of public library services to areas and populations of the States which are without such services or to which such services are inadequate. It is the further purpose of this Act to assist with (1) public library construction and renovation; (2) improving State and local public library services for older Americans and Indian tribes, handicapped, institutionalized, and other disadvantaged individuals; (3) strengthening State library administrative agencies; (4) promoting interlibrary cooperation and resource sharing among all types of libraries;

(5) strengthening major urban resource libraries; and (6) increasing the capacity of libraries to keep up with rapidly changing information technology.".

(b) Section 2(b) of the Act is amended by inserting "and Indian tribes" before the period at the end of the second sentence.

DEFINITIONS; ADMINISTRATIVE AMENDMENT

SEC. 3. (a) Section 3 of the Act is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) 'Secretary' means the Secretary of Education.";

(2) by inserting after the first sentence in paragraph (2) the following new sentence: "Such term includes remodeling to meet standards under the Act of August 12, 1968, commonly known as the 'Architectural Barriers Act of 1968', remodeling designed to conserve energy and renovation or remodeling to accommodate new technologies.";

(3) by inserting "the Northern Mariana Islands," after "the Virgin Islands," in paragraph (7);

(4) by striking out the parenthetical in paragraph (9) and inserting in lieu thereof the following: "(including mentally retarded, hearing impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired persons who by reason thereof require special education)"; and

(5) by adding at the end thereof the following new paragraph:

"(15) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, as determined by the Secretary after consultation with the Secretary of the Interior.".

(b) The Act is amended—

(1) by striking out "Commissioner" each place it appears and inserting in lieu thereof "Secretary"; and

(2) by striking out "Commissioner's" each place it appears and inserting in lieu thereof "Secretary's".

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. (a) Section 4(a) of the Act is amended to read as follows:

"SEC. 4. (a) There are authorized to be appropriated—

"(1) for the purpose of making grants as provided in title I, $75,000,000 for fiscal year 1985, $80,000,000 for fiscal year 1986, $85,000,000 for fiscal year 1987, $90,000,000 for fiscal year 1988, and $95,000,000 for fiscal year 1989;

"(2) for the purpose of making grants as provided in title II, $50,000,000 for each of the fiscal years 1985, 1986, 1987, 1988, and 1989; and

"(3) for the purpose of making grants as provided in title III, $18,000,000 for fiscal year 1985, $21,000,000 for fiscal year 1986, $24,000,000 for fiscal year 1987, $27,000,000 for fiscal year 1988, and $30,000,000 for fiscal year 1989.

There shall be available for the purpose of making grants under title IV for each of the fiscal years 1985, 1986, 1987, 1988 and 1989, 1 per centum of the amount appropriated pursuant to each of paragraphs (1), (2), and (3) for each such fiscal year.".

(b) Section 4 of the Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are first available for obligation.

"(2) In order to effect a transition to the advance funding method of timing appropriation action, the provisions of this subsection shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.".

ALLOTMENTS TO STATES AND INDIAN TRIBES

SEC. 5. Section 5 of the Act is amended—

(1) by inserting "and Indian tribes" after "states" in the heading of such section;

(2) by striking out "paragraph (1), (2), (3), or (4)" each place it appears in subsection (a) and inserting in lieu thereof "paragraph (1), (2), or (3)";

(3) by inserting "the Northern Mariana Islands," after "the Virgin Islands," each place it appears in subsection (a)(3);

(4) in subsection (a)(3), by inserting "and" at the end of subparagraph (B), by striking out "; and" at the end of subparagraph (C), and inserting in lieu thereof a period, and by striking out subparagraph (D); and

(5) by adding at the end thereof the following new subsection:

"(c)(1) From the sums available pursuant to the last sentence of section 4(a) for any fiscal year, the Secretary shall allot an equal amount to each Indian tribe. Grants from such allotted amounts shall be made to Indian tribes which have submitted approved applications under section 403.

"(2) Any allotted funds for which an Indian tribe does not apply, or applies but does not qualify, shall be reallocated by the Secretary among Indian tribes which have submitted approved plans under section 404. In making such allocations (A) no funds shall be allocated to an Indian tribe unless such funds will be administered by a librarian, and (B) the Secretary shall take into account the needs of Indian tribes for such allocations to carry out the activities described in section 402(b).".

PLANS AND PROGRAMS

SEC. 6. Section 6 of the Act is amended—

(1) by striking out "STATE" in the heading of such section;

(2) by striking out "titles I, II, III, and IV" in subsection (a) and inserting in lieu thereof "titles I, II, and III";

(3) by striking out clause (4) of subsection (b) and inserting in lieu thereof the following:

"(4) provide that priority will be given to programs and projects—

"(A) that improve access to public library resources and services for the least served populations in the State, including programs for individuals with limited English-speaking proficiency, handicapping conditions and programs and projects in urban and rural areas;

"(B) that serve the elderly;

"(C) that are designed to combat illiteracy; and

"(D) that increase services and access to services through effective use of technology.";

(4) by adding at the end thereof the following new subsection:

"(g)(1) Any Indian tribe desiring to receive its allotment under section 5(c)(1) shall submit an application to the Secretary in accordance with section 403.

"(2) Any Indian tribe desiring to receive an additional allocation under section 5(c)(2) shall submit a plan in accordance with section 404.".

PAYMENTS

SEC. 7. Section 7 of the Act is amended—

(1) by striking out "TO STATES" in the heading of such section;

(2) by striking out "paragraph (1), (2), (3), or (4)" in subsection (a) and inserting in lieu thereof "paragraph (1), (2), or (3)";

(3) by striking out "and title IV" in subsection (b)(1);

(4) by inserting "and the Northern Mariana Islands" after "American Samoa," in subsection (b)(1);

(5) by inserting "the Northern Mariana Islands," after "the Virgin Islands," in subsection (b)(2); and

(6) by adding at the end thereof the following new subsection:

"(C) From the sums available pursuant to the first sentence of section 4(a), the Secretary shall pay to each Indian tribe which has an approved application under section 403 an amount equal to such tribe's allotment under section 5(c)(1) and shall pay to each Indian tribe which has an approved plan under section 404 an amount equal to such tribe's additional allocation under section 6(g)(2), except that such additional allocation shall not exceed 80 percent of the cost of carrying out such plan.".

GRANTS FOR LIBRARY SERVICES

SEC. 8. Section 101 of the Act is amended to read as follows:

"GRANTS TO STATES FOR LIBRARY SERVICES

"SEC. 101. The Secretary shall carry out a program of making grants from sums appropriated pursuant to section 4(a)(1) to States which have had approved basic State plans under section 6 and have submitted annual programs under section 103—

"(1) for the extension of public library services to areas and populations without such services and the improvement of such services to areas and populations to ensure that such services are adequate to meet user needs and to make library services accessible to individuals who, by reason of distance, residence, handicap, age, literacy level, or other disadvantage, are unable to receive the benefits of public library services regularly made available to the public;

"(2) for adapting public library services to meet particular needs of individuals within the States;

"(3) for assisting libraries to serve as community information referral centers;

"(4) for assisting libraries in providing literacy programs for adults and school dropouts in cooperation with other agencies and organizations, if appropriate;

"(5) for strengthening State library administrative agencies; and

"(6) for strengthening major urban resource libraries.".

USES OF FEDERAL FUNDS

SEC. 9. Section 102(a)(1) of the Act is amended by inserting "assist libraries to serve as community information referral centers and to" after "designed to".

STATE LIBRARY SERVICE PROGRAM

SEC. 10. Section 103 of the Act is amended—

(1) by inserting after "handicapped" in clause (3) the following: "and institutionalized individuals";

(2) by redesignating clauses (4) and (5) as clauses (5) and (6), respectively, and inserting after clause (3) the following:

"(4) describe the uses of funds for programs for the elderly, including (A) the training of librarians to work with the elderly; (B) the conduct of special library programs for the elderly, particularily for the elderly who are handicapped; (C) the purchase of special library materials for use by the elderly; (D) the payment of salaries for elderly persons who wish to work in libraries as assistants on programs for the elderly; (E) the provision of in-home visits by librarians and other library personnel to the elderly; (F) the establishment of outreach programs to notify the elderly of library services available to them; and (G) the furnishing of transportation to enable the elderly to have access to library services;"; and

(3) by adding at the end thereof the following new sentence: "The amount which a State is required to expend pursuant to clause (3) of this section shall be ratably reduced to the extent that Federal allocations to the State are reduced.".

CONSTRUCTION: USE OF FUNDS

SEC. 11. (a) Section 202 of the Act is amended by striking out the second sentence and inserting in lieu thereof the following: "Such grants shall be used for the construction (as defined in section 3(2)) of public libraries.".

(b)(1) Section 202 of the Act is further amended by inserting "(a)" after "Sec. 202." and by adding at the end thereof the following new subsections:

"(b) For the purposes of subsection (a), the Federal share of the cost of construction of any project assisted under this title shall not exceed one-third of the total cost of such project.

"(c) If, within 20 years after completion of construction of any library facility which has been constructed in part with funds made available under this title—

"(1) the recipient (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

"(2) the facility ceases to be used as a library facility, unless the Secretary determines that there is good cause for releasing the institution from its obligation.

the United States shall be entitled to recover from such recipient (or successor) an amount which bears the same ratio to the value of the facility at that time (or part thereof constituting an approved project or projects) as the amount of the Federal grant bore to the cost of such facility (or part thereof). The value shall be determined by the parties or by action brought in the United States district court for the district in which the facility is located.".

(2) Subsection (c) of section 202 of the Act as added by the amendment made by paragraph (1) shall apply to any facility constructed prior to or after the date of enactment of this Act with funds made available under title II of the Act.

INTERLIBRARY COOPERATION AND RESOURCE SHARING

SEC. 12. (a) The heading of title III of the Act is amended by inserting "AND RESOURCE SHARING" after "INTERLIBRARY COOPERATION".

(b) Section 301 of the Act is amended—

(1) by striking out "section 6 and" and inserting in lieu thereof "section 6," and

(2) by inserting before the period at the end thereof a comma and the following: "and have submitted long-range and annual programs which are directed toward eventual compliance with the requirements of section 304".

(c) Section 303 of the Act is amended by inserting "shall comply with the requirements of section 304," after "by regulation and" in the second sentence.

(d) Title III of the Act is further amended by adding at the end thereof the following new section:

"RESOURCE SHARING

"SEC. 304. (a) The long-range program and annual program of each State shall include a statewide resource sharing plan.

"(b) In developing the State basic and long-range programs, the State Library agency with the assistance of the State advisory council on libraries shall consider recommendations from current and potential participating institutions in the interlibrary and resource sharing programs authorized by this title.

"(c) The State's long-range program shall identify interlibrary and resource sharing objectives to be achieved during the period covered by the basic and long-range plans required by section 6. The long-range program may include—

"(1) criteria for participation in statewide resource sharing to ensure equitable participation by libraries of all types that agree to meet requirements for resource sharing;

"(2) an analysis of the needs for development and maintenance of bibliographic access, including data bases for monographs, serials, and audiovisual materials;

"(3) an analysis of the needs for development and maintenance of communications systems for information exchange among participating libraries;

"(4) an analysis of the needs for development and maintenance of delivery systems for exchanging library materials among participating libraries;

"(5) a projection of the computer and other technological needs for resource sharing;

"(6) an identification of means which will be required to provide users access to library resources, including collection development and maintenance in major public, academic, school, and private libraries serving as resource centers;

"(7) a proposal, where appropriate, for the development, establishment, demonstration, and maintenance of intrastate multitype library systems;

"(8) an analysis of the State's needs for development and maintenance of links with State and national resource sharing systems; and

"(9) a description of how the evaluations required by section 6(d) will be conducted.

"(d) Libraries participating in resource sharing activities under this section may be reimbursed for their expenses in loaning materials to public libraries.".

LIBRARY SERVICES FOR INDIAN TRIBES

SEC. 13. Title IV of the Act is amended to read as follows:

"TITLE IV—LIBRARY SERVICES FOR INDIAN TRIBES

"FINDINGS AND PURPOSE; AUTHORIZATION OF GRANTS

"SEC. 401. (a) The Congress finds that—

"(1) most Indian tribes receive little or no funds under titles I, II, and III of this Act;

"(2) Indian tribes and reservations are generally considered to be separate nations and seldom are eligible for direct library allocations from States;

"(3) the vast majority of Indians living on or near reservations do not have access to adequate libraries or have access to no libraries at all; and

"(4) this title is therefor required specifically to promote special efforts to provide Indian tribes with library services.

"(b) It is therefor the purpose of this title (1) to promote the extension of public library services to Indian people living on or near reservations; (2) to provide incentives for the establishment and expansion of tribal library programs; and (3) to improve the administration and implementation of library services for Indians by providing funds to establish and support ongoing library programs.

"(c) The Secretary shall carry out a program of making grants from allotments under section 5(c)(1) to Indian tribes that have submitted an approved application under section 403 for library services to Indians on or near reservations.

"(d) The Secretary shall carry out a program of making special project grants from funds available under section 5(c)(2) to Indian tribes that have submitted approved plans for the provision of library services as described in section 404.

"USE OF FUNDS

"SEC. 402. (a) Funds made available by grant under subsection (c) or (d) of section 401 may be used for—

"(1) inservice or preservice training of Indians as library personnel;

"(2) purchase of library materials;

"(3) conduct of special library programs for Indians;

"(4) salaries of library personnel;

"(5) construction, purchase, renovation, or remodeling of library buildings and facilities;

"(6) transportation to enable Indians to have access to library services;

"(7) dissemination of information about library services;

"(8) assessment of tribal library needs; and

"(9) contracts to provide public library services to Indians living on or near reservations or to accomplish any of the activities described in paragraphs (1) through (8).

"(b) Any tribe that supports a public library system, shall continue to expend from Federal, State, and local sources an amount not less than the amount expended by the tribe from such sources for public library services during the second fiscal year preceding the fiscal year for which the determination is made.

"(c) Nothing in this Act shall be construed to prohibit restricted collections of tribal cultural materials with funds made available under this Act.

"APPLICATIONS FOR LIBRARY SERVICES TO INDIANS

"SEC. 403. Any Indian tribe which desires to receive its allotment under section 5(c)(1) shall submit an application which contains such information as the Secretary may require by regulation.

"PLANS FOR LIBRARY SERVICES TO INDIANS

"SEC. 404. Any Indian tribe which desires to receive a special project grant from funds available under section 5(c)(2) shall submit a plan for library services on or near an Indian reservation. Such plans shall be submitted at such time, in such form, and contain such information as the Secretary may require by regulation and shall set forth a

program for the year under which funds paid to the Indian tribe will be used, consistent with—

"(1) a long-range program, and

"(2) the purposes set forth in section 402(a).

COORDINATION WITH PROGRAMS FOR INDIANS

"SEC. 405. The Secretary shall coordinate with the Secretary of the Interior programs under this title with the programs assisted under the various Acts and programs administered by the Department of the Interior that pertain to Indians.".

SCORPIO

SEC. 14. Section 5(d) of the National Commission on Libraries and Information Science Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) The Librarian of Congress shall permit the Commission to access the Subject Content Oriented Retriever for Processing Information On-Line (SCORPIO).".

SECTION-BY-SECTION ANALYSIS OF THE LIBRARY SERVICES AND CONSTRUCTION ACT REAUTHORIZATION

SECTION 1

This section gives the title of the Act "Library Services and Construction Act Amendments of 1984" and gives the Congressional findings relative to the Act. Those findings are as follows: The role of libraries has expanded to include providing programs to meet the needs of special populations, to help establish networks and share resource materials among a wide variety of libraries; the role of libraries as information centers should be expanded to meet the increasing needs of their communities for informational and educational resources, and the scope and purpose of the Library Services and Construction Act (LSCA) should be expanded to include a broader range of programs which may receive funds and to ensure services to populations which might otherwise be without library services.

SECTION 2

This section amends the declaration of policy to state that it is the purpose of the Act: to assist the states in extending services to areas and populations without such services, including the elderly and Indian tribes; to assist with library construction and renovation; to improve library services for special populations such as the handicapped and institutionalized; to assist in strengthening state library administrative agencies; to promote interlibrary cooperation and resource-sharing; and to strengthen major urban resource libraries.

SECTION 3

This section amends the definitions section to include the Northern Mariana Islands; to change Commissioner to Secretary of Education; to add to the definition of construction "remodeling to meet the standards under the Architectural Barriers Act of 1968, remodeling designed to conserve energy, and renovation or remodeling to accommodate new technologies". It also amends the definitions to include "Indian tribe" which is defined as "any Indian tribe, band, nation, or organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, as determined by the Secretary of the Interior."

SECTION 4

This section authorizes the following appropriations: For Title I, $75 million for fiscal year 1985, $80 million for fiscal year 1986, $85 million for fiscal year 1987, $90 million for fiscal year 1988, and $95 million for fiscal year 1989; or Title II, $50 million for fiscal years 1985–1989; for Title III, $18 million for fiscal year 1985, $21 million for fiscal year 1986, $24 million for fiscal year 1987, $27 million for fiscal year 1988, and $30 million for fiscal year 1989. For Title IV, a set-aside equal to 1 percent of that appropriated for Titles I, II, and III is authorized. This section also adds a provision to place the LSCA program on a forward funded basis beginning in fiscal year 1985.

SECTION 5

This section amends the allotments to include allotments for Indian tribes. Each tribe is entitled to receive an equal amount of money based on the total appropriations for any fiscal year. If an Indian tribe does not apply for its allotment, that money will be retained by the Secretary and used to make discretionary grants on a competitive basis. Competitive grants require that the funds be administered by a librarian.

SECTION 6

This section amends requirements for state plans and programs to include priority for projects that improve access to library facilities for the least served populations in the state (including those of limited English speaking ability and programs and projects in both urban and rural areas) and for programs that serve the elderly, combat illiteracy, and that increase user access through effective use of technology. The section further specifies that any Indian tribe wishing to receive an allotment must submit an application to the Secretary of Education. In order to receive a discretionary grant, an Indian tribe must submit a long-range plan.

SECTION 7

This section mandates that the Secretary pay each Indian tribe which has an approved application an amount equal to that tribe's allotment. If an Indian tribe receives an additional discretionary grant, Federal monies shall not exceed 80 percent of the cost of carrying out this plan.

SECTION 8

This section amends Section 101 of LSCA, "Grants to States for Library Services." Grants to states may be used for extending library services to meet special needs of individuals in the state, to assist libraries to serve as community information referral centers, to provide literacy training for the public, and to improve and strengthen library administrative agencies and major urban resource libraries.

SECTION 9

This section amends Section 102 of LSCA to include using Federal funds to assist libraries in serving as community information referral centers.

SECTION 10

This section amends Section 103 of LSCA, "State Library Service Programs." The allowable uses of Federal funds to provide programs for the elderly are outlined in this section. Legitimate expenses include: training librarians to work with the elderly; conducting special library programs for the elderly; purchasing special library materials; paying salaries for elderly people to work in libraries in programs for the elderly; providing in-home visits by librarians; establishing outreach programs to notify the elderly of library services available to them; and furnishing transportation to enable the elderly to have access to library services.

The section also ratably reduces the amount of money the State must expend for handicapped and institutionalized persons if Federal allocations to the state are reduced.

SECTION 11

This section amends the use of library funds for the purposes of construction as defined in Section 3. The Federal share of the cost of construction shall not exceed one-third of the total cost of the construction project. If within twenty years after the completion of construction of a library facility which has been constructed with funds from LSCA, the facility is no longer used as a library, the U.S. government is entitled to recover an amount which bears the same ratio to the value of the facility at that time as the amount of Federal grant was to the cost of the facility. The value of the building shall be determined by the parties involved or by the appropriate United States District Court. This amendment applies to any facility constructed with funds from Title II prior to or after the date of enactment of this bill.

SECTION 12

This section amends the resource sharing title of LSCA. The new name of the title is "Interlibrary Cooperation and Resource Sharing". The annual and long-range state plans will need to identify interlibrary and resource sharing objectives to be achieved during the period covered by the plans and may include the following: criteria for participation in statewide resource sharing to ensure inclusion of libraries of all types; analysis of the needs for the development and maintenance of bibliographic access; analysis of the needs for the development and maintenance of communications systems for information exchange among participants; analysis of the needs of the development and maintenance of delivery systems for exchanging library materials; a projection of hardware and software needs for the operation of the resource sharing system; a mechanism to identify users and help provide them access to library resources; a proposal for the development, establishment and maintenance of intrastate multitype library systems; analysis of the needs for the development and maintenance of multistate and national resource sharing systems; and a description of the methods for periodic evaluations of the state's success in meeting the requirements listed.

Non-profit and academic libraries participating in resource-sharing activities may be reimbursed for their expenses in loaning materials to public libraries.

SECTION 13

This section amends Title IV of LSCA to read "Title IV—Library Services for Indian Tribes." The Congress finds that this title is needed because most Indian tribes receive little or no funds under other titles of the Act, Indian tribes are generally considered to be separate nations and are seldom eligible for direct allocations from states, and the majority of Indians living on or near reservations have little or no access to libraries at all.

The purpose of this title is to promote the extension of library services to Indian peoples living on or near reservations; to provide incentives for encouraging the establishment of tribal library programs; and to

improve the administration and implementation of library services of Indian tribes by providing funds to establish and support ongoing library programs.

Funds may be used for: inservice or preservice training of Indians as library workers; purchase of library materials; conduct of special library programs for Indians; salaries of library workers; construction, purchase, renovation, or remodeling of library buildings and facilities; transportation to enable Indians to have access to library services; dissemination of information about library services; assessment of tribal library needs; and contracts to provide public library services to Indians living on or near reservations or to accomplish any of the activities described above.

If tribes currently support public library systems, they must continue to expend the same amount of money in support of those services. Special collections of tribal cultural materials may be established and restricted.

Plans for discretionary grants must contain whatever information the Secretary of Education requires by regulation and shall also set forth a program for one year under which funds will be used consistent with a long-range program as well as the allowable expenditures.

The Secretary of Education shall consult with the Secretary of the Interior for the purposes of coordinating programs under this title with the programs assisted under the various Acts and programs administered by the Department of the Interior that pertain to Indians.

SECTION 14

This section allows the National Commission on Libraries and Information Science to access the Library of Congress's computerized SCORPIO.●

● Mr. PELL. Mr. President, I want to take this occasion to express my very strong support for the legislation which is being introduced today to reauthorize the Library Sciences and Construction Act (LSCA). The measure will extend the important grant programs that serve our Nation's public libraries for another 5 years through fiscal year 1989.

The Library Services and Construction Act, which I have been proud to support throughout four Senate terms, is without doubt the single most important source of Federal assistance for our public libraries. It has successfully provided this support to the States through a system of formula grants and, though this adds up to only a small percentage of all library aid, moneys have been targeted toward particularly critical areas. These areas have traditionally included underserved groups such as the handicapped, the disadvantaged and those people who speak English as a second language. Federal funds for strengthening these services are authorized through title I of the LSCA and a sum of $75 million is being recommended. It is important that we continue this Federal responsibility because local jurisdictions alone cannot finance programs which will insure access to library services for these special population groups.

Libraries in major metropolitan areas have also benefited from LSCA funds. These urban libraries have been particularly hard hit by inflation resulting in reduced open hours and severe restrictions on the ability to purchase new books. Urban library services have also been cut back by municipalities as residents have fled to the suburbs and the local tax base has subsequently eroded.

Title II of the LSCA authorizes grants for the construction and renovation of library buildings. Regrettably, no funds have been appropriated under this title since 1973, save for a one-time appropriation of $50 million in 1983 as part of the emergency jobs bill. I am especially hopeful that the funds for title II that are authorized in this bill will be appropriated this year. The need for financial assistance for public library construction and renovation is acute. The funds appropriated for this purpose in 1983 were a beginning, but only a fraction of the potential projects could be carried out with those funds. It is my understanding that over $400 million is the investment needed today to alleviate overcrowding and bring existing library facilities up to date. I am prepared to support a renewed effort in this area, and am delighted that $50 million is authorized in this legislation specifically for library construction projects for each year that this legislation covers.

Funds for Interlibrary Cooperation, under title III, have become especially critical as libraries convert their record systems over to computer-based technology. These funds allow libraries to share information throughout their nationwide network. Libraries are our most important resource for the dispersal of public information, and it is title III that helps insure the most efficient distribution of this information to the broadest population. The amount of $18 million is being authorized for title III in fiscal year 1985—a sum that will help bring interlibrary cooperation fully into the computer age.

This bill will renew our Government's commitment to a healthy, vital, and accessible public library system across the country. Libraries have been described as our most important education resource in the Nation—second only to the classroom. For this reason alone, this bill deserves our support. I am delighted to join with my colleague from Vermont, Senator STAFFORD, in cosponsoring this legislation.●

● Mr. SARBANES. Mr. President, I am pleased to be a sponsor of this legislation reauthorizing the Library Services and Construction Act for fiscal years 1985 through 1989. The local library provides a unique and vital service to many communities in Maryland and throughout the Nation by providing a multitude of resources and programs to all citizens, usually at no cost. The American public library was created and nourished by such basic ideas as the rights of individuals to think, to believe, to strive for intellectual development, to participate in the political process and to improve job capabilities. Senator Jacob Javits, a historic friend of libraries, said that "our libraries are cathedrals of the mind which we can afford to ignore only at the peril of losing our intellectual and creative identity." I am proud to join in reaffirming our Federal commitment to libraries today.

We in Maryland are fortunate to have some of the best libraries in the country. The branch library system established in Baltimore, home of the Enoch Pratt Free Library, one of the most renowned public municipal libraries in the world, served as an important model to Andrew Carnegie in his philanthropic efforts to establish branch libraries in many areas of the Nation. Carnegie later funded a system of small, horse-drawn book wagons based in Hagerstown that served many parts of western Maryland; and we have had a strong library outreach system throughout the State since these early beginnings. Some of the innovative adult education and literacy programs which serve the people of Baltimore were highlighted by Ms. Jane Heiser, a librarian at the Enoch Pratt Library, when she testified before the Senate Subcommittee on Education, Arts, and the Humanities last week; and I am proud to note the leadership that Maryland has provided in these and other areas of library service.

The Library Services and Construction Act reauthorization which I have joined in sponsoring today would increase funding for library services, library construction, and interlibrary cooperation during the next 4 years. Title I, Library services, would be strengthened to meet the increasing demand for literacy programs, language services, rural outreach program, and resources geared to the handicapped and elderly. Title II would provide for library construction funds, and title III would increase funding for interlibrary loan programs by about 20 percent. This additional funding for title III is crucial for our smaller towns and cities, which often depend on State and regional interlibrary cooperation to fill particular readers' request.

I strongly support our Federal commitment to libraries, which is so important in initiating innovative programs and in providing the incentive for many additional State and private contributions to our public libraries. The amount of money provided by the Federal Government represents a small but important percentage of li-

brary budgets, and we must maintain this Federal involvement. In Maryland, Federal funds have provided library services to the blind and physically handicapped, persons who are homebound, to those in hospitals and prisons, and residents of rural areas; and I urge my colleagues to support this important legislation.●

By Mr. STAFFORD (for himself, Mr. HATCH, Mr. QUAYLE, Mr. PERCY, Mr. EVANS, Mr. WEICKER, and Mr. LEAHY):

S. 2491. A bill to establish a system for the consolidation of student loans under title IV of the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

STUDENT LOAN CONSOLIDATION ACT OF 1984

Mr. STAFFORD. Mr. President, on behalf of myself, Senator HATCH, Senator QUAYLE, Senator PERCY, Senator EVANS, Senator LEAHY and Senator WEICKER, I introduce today legislation to reauthorize loan consolidation opportunities under the guaranteed student loan program. My colleagues will recall that congressional authority for a loan consolidation program expired November 1 of this past year, and I urge my colleagues to work with me for expeditious approval of the measure I introduce today.

Mr. President, let me take a moment to refresh the memories of my colleagues concerning the loan consolidation program, which was first authorized in the 1980 education amendments and has really only begun in the past year and a half. During consideration of the Higher Education Act Amendments of 1980, the administrative and procedural complexities that often accompany repayment to different lenders from whom a student borrows under our numerous Federal loan programs was extensively discussed. Consequently, Congress created a program to allow borrowers with threshold levels of debt to consolidate loans from different lenders into a single loan with a single monthly payment. The Student Loan Marketing Association, know concisely as Sallie Mae, was the only lender authorized to make consolidation loans and was authorized to set the borrower interest rate at 7 percent, irrespective of the composition of a borrower's loan portfolio. In an attempt to reduce loan default rates, Congress authorized Sallie Mae to offer to eligible borrowers an extension of the repayment period from 10 to 20 years. In addition Sallie Mae could offer graduated and income-sensitive repayment schedules, an authority which was the crux of Sallie Mae's program.

Mr. President, borrower response to the consolidation program has been substantial over the last 2 years; Sallie Mae has consolidated some $395 million in loans from approximately 32,000 borrowers. Yet accompanying this dramatic response have been numerous and growing concerns about the program's cost and its effectiveness in responding to the goals Congress originally set. Most troublesome, Mr. President, was the discount borrowers with 9 percent loans could receive when these loans were incorporated into a 7 percent consolidation loan, an advantage not given to other student loan borrowers. Obviously, this factor increased Federal costs substantially and represented an unwarranted level of Federal beneficence to borrowers already receiving the additional subsidy that accompanies graduated payments and extended repayment.

Second, Mr. President, the consolidation program offered by Sallie Mae was not necessarily targeted to those for whom Congress originally intended the benefits, those unduly burdened with debt and likely to default. Indeed, data from recent evaluations of the consolidation program indicate that nearly 20 percent of the borrowers in the program had salaries in excess of $30,000. With this level of salary, only borrowers with extremely high levels of debt are likely to default. At a time when we are faced with stricter and stricter budget constraints, we must focus the benefits of loan consolidation on those borrowers who truly need them.

Mr. President, this is exactly what the bill I introduce today is designed to do: target assistance on borrowers who are most likely to default, those with greatest financial need. As with the previous program and similar to H.R. 4350, which has passed the House of Representatives, this legislation would permit borrowers with guaranteed student loans, national direct student loans, and PLUS/ALAS loans to consolidate loans under any of these programs into one loan which is held by one lender. Likewise, eligible borrowers would be able to receive a reduction in initial monthly payments by negotiating with a lender a graduated repayment plan and an extension of the repayment period beyond 10 year currently authorized in law. Like the House-passed bill, this legislation would reduce the cost to the Federal Government by increasing the borrower interest rate on consolidation loans from 7 percent to 9 percent and by lowering the Federal special allowance subsidy factor received by the lender from 3.5 to 3 percent.

Yet, Mr. President, this legislation differs from that passed by the House in two substantial and important ways. First, State agencies and State designated secondary markets are authorized as eligible lenders of consolidation loans. The success of the GSL program rests largely on a decentralized system of lenders and guarantee agencies offering an array of opportunities at the local level. Yet the previous consolidation program limited borrower participation to one, centralized institution, Sallie Mae, here in Washington. Limiting this monopoly and expanding lender opportunities to local banks—as the House bill does—and to State agencies and secondary markets will create expanded opportunities for borrowers and will open the program up to healthy competition.

Mr. President, over the past few months there has been considerable debate over the inclusion of State agencies and secondary markets as eligible consolidation lenders. The administration has expressed its concern that allowing States, which generally must rely on the use of tax-exempt bonds to fund their operations, to offer consolidation loans would permit an inappropriate drain on the Federal Treasury. Yet the threat of revenue loss due to increased bond issuance by the States is matched by the serious policy implications of concentrating loan consolidation in the hands of a few lenders. Thus, the legislation I introduce allows the State agencies and secondary markets to consolidate loans, yet does not allow them to do so with the proceeds from tax-exempt bonds issued subsequent to the passage of this bill. States are, therefore, permitted to get into the program through the use of revenue from bonds already issued and the income from which is already not subject to taxation. Any expansion of a loan consolidation program by the States would require the pursuit of other methods of financing, something several States have already pursued for their secondary market activities.

Mr. President, I would strongly prefer to include the State agencies and secondary markets as lenders with no restrictions on their use of tax exempt bonds for this purpose. Yet, in face of the vehement objections of the administration over unrestricted state tax-exempt authority and in light of the possibility of a veto for a bill including such authority, I offer this compromise provision as part of the Stafford bill. And I offer it for the sake of the thousands of student borrowers now faced with unrealistically burdensome levels of debt. Consolidation opportunities have not existed for some three months, Mr. President, and in the interest of fairness, I strongly urge my colleagues to work with me to ensure expeditious passage of this legislation.

Second, Mr. President, this bill liberalizes the debt threshold to allow borrowers with $5,000 in debt from one or more lenders to qualify for the program. Mr. President, in one of this Nations's largest States more than three quarters of the loans in default came from borrowers with less than $7,500 in debt. Under the previous consolida-

tion program, borrowers with less than $7,500 in debt could consolidate loans only if they had $5,000 in debt from more than one lender. Thus, it appears that a number of those likely to default were not included under the previous program. They are included in the program I am outlining today.

Third, Mr. President, the crux of this bill and its major difference from H.R. 4350, my proposal today requires borrowers to undergo a financial eligibility or needs test, the concept of which is quite simple. If a borrower's salary or income exceeds his or her debt by a certain percentage, the borrower would not qualify for consolidation.

After graduation and 4 months into the 6-month grace period, the borrower would be eligible for consolidation if, after having met the minimum debt requirements, his or her annual salary is not more than twice the amount of outstanding student debt the borrower wishes to consolidate. To assist borrowers with children, the salary amount is reduced by $1,000 for each dependent child.

If eligible, a borrower could then negotiate with Sallie Mae, a bank holding one of the borrower's loans, or the borrower's State agency or secondary market, a graduated repayment scheme—reducing payments in the first years and increasing them in later years—and could extend the repayment period from 10 to 11.5 years. So that some loan principal is retired in the early years, initially a borrower must make at a minimum a monthly payment equal to 110 percent of the interest which would accrue in 1 month on the consolidation loan. According to CRS estimates, which I will include for the record at the end of my statement, a borrower with a $15,000 annual income and $12,500 in student debt could reduce, under a graduated repayment scheme, his or her monthly payment from $145—under a 10-year repayment—to $103, offering substantial relief for this borrower. Similarly, a borrower with a $15,000 income and $20,000 in debt could reduce monthly payment from $232 (under a 10-year repayment) to $165.

Mr. President, 3½ years into repayment, those who qualified initially for the consolidation program would be subject to a second needs test along the same format, except that the annual salary would be the adjusted gross income on the borrower's most recent Federal income tax return, reduced by $1,000 for each dependent. This salary figure would be divided in two for married couples who file jointly and who both have consolidation loans under the GSL program.

Those who fail to have at this point an income/debt ratio—eligibility index—below the 200 percent would simply stay on their original 11.5 year plans while those below this level would qualify for further extension of the repayment period, the length of which would depend on the magnitude of the income/debt ratio. A borrower with a ratio below 120 could, for example, qualify for a total repayment period equal to 20 years.

Mr. President, let me give a specific example to show how this would work. Let us assume that a borrower graduates from college with $20,000 in debt and a $15,000 annual salary. According to this bill's first needs test, this borrower, with an eligibility ratio of 1.33, would be eligible for consolidation, a graduated repayment plan, and an extension of the repayment period from 10 to 11.5 years. Under the bill's minimum payment provisions the borrower would have to make monthly payments of at least $165 over the next 3.5 years. These payments would, of course, probably increase over time in conjunction with the repayment plan negotiated with the lender. Without consolidation, the borrower would have to make $262 monthly payments over 10 years.

Three and one-half years into repayment, the borrower would be required to undergo a second needs test. At a minimum, the borrower would have retired $630 over the first 3 years, leaving $19,370 in debt. Of course, most borrowers would have retired considerably more, consistent with the repayment plan negotiated with the lender. For the sake of this example, let us assume the borrower had retired the minimum required in law and had $19,370 in debt. If the borrower had a salary of $23,243 at this point, his eligibility index would be below 120, and the borrower would be entitled to an extension of the repayment period from 11.5 to 20 years. Equal monthly payments of $188 would be required for the duration of the loan. This figure is slightly more than the $165 minimum required in the original repayment plan, is probably less than most borrowers would have negotiated, and is certainly less than the monthly payment required in the middle and latter years under the original graduated repayment plan.

Mr. President, I have stated today that the thrust of this bill is to target the benefits of consolidation on those with a justifiable need for additional benefits. Obviously, this additional assistance—the extension of repayment and a slower rate of payment on principal—costs the Federal Government some money. Yet, Mr. President, in this legislation, the increased cost of the loan extension is more than balanced by savings derived from the decrease in special allowance mandated for consolidation loans, the increase in borrower interest rate, and a reduction in default claims, the program's primary goal.

Indeed, assuming a modest increase in consolidation volume over the next 5 years, the Congressional Budget Office estimates that the savings of the Stafford bill to the Federal Government over this period is some $24 million. Surely, the promotion of responsible repayment, the reduction of monthly payments for needy borrowers, and a decrease in program costs is in the national interest.

Mr. President, the loan consolidation bill I introduce today is simple and equitable. It moves loan consolidation in line with Congress original goals; it helps the unduly burdened borrower—perhaps a recent graduate with a low to moderate income—and it excludes from the program borrowers for whom the benefits of consolidation are nothing more than an inappropriate and unneeded gift from the Federal Treasury.

Mr. President, excellence in education, equity in learning, and the ability to aspire to our farthest and highest goals remain primary national intersts. Most of the education programs funded at the national level respond to the needs of the needy, the handicapped and others who have in the past been unable to obtain access to aspiration. Indeed, our Federal guaranteed student loan program is based on that premise. The bill I introduce today continues this philosophy of Federal assistance for those in need to the period in which the beneficiaries of Federal assistance begin to repay the American people for the gift of learning. This proposal is needed, it is responsible, and it is fair. I strongly urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of this bill, a section by section analysis of its provisions, and Congressional Research Service estimates of its effect be included in the RECORD.

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

S. 2491

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

SHORT TITLE

Section 1. This Act may be cited as the "Student Loan Consolidation Act of 1984".

STUDENT LOAN CONSOLIDATION

Sec. 2. (a) Part B of title IV of the Higher Education Act of 1965 (hereafter in this Act referred to as "the Act") is amended by inserting after section 428B the following new section:

"CONSOLIDATION LOANS

"Sec. 428C. (a)(1) For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to student loans made, insured, or guaranteed under this part or made under part E of this title, the Secretary or a State or nonprofit private institution or organization with which the Secretary has an agreement

under section 428(b) shall enter into agreements in accordance with subsection (b) with the following eligible lenders:

"(A) the Student Loan Marketing Association;

"(B) agencies described in subparagraphs (D) and (F) of section 435(g)(1); and

"(C) eligible lenders described in subparagraphs (A), (B), (C), and (E) of such section.

"(2) Except as provided in section 429(e), no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2). Loans covered by such a certificate that is issued by a State or nonprofit private institution or organization shall be considered to be insured loans for the purposes of reimbursements under section 428(c), but no payment shall be made with respect to such loans under section 428(f) to any such State, institution, or organization.

"(3) For the purpose of this section—

"(A) the term 'eligible borrower' means a borrower who—

"(i) has an outstanding indebtedness, at the time of application for a consolidation loan, to one or more lenders or programs under this title of not less than $5,000;

"(ii) has not during the previous 4 months carried at an eligible institution at least one-half the normal full-time academic workload;

"(iii) if in repayment status, is not delinquent with respect to any required payment on such indebtedness by more than 90 days;

"(iv) is not a parent borrower under section 428(a)(1); and

"(v) certifies, subject to the penalties prescribed by section 490(a), that the borrower is not currently receiving compensation for employment for which the total annualized monthly rate of pay of the borrower is in excess of 200 per centum of the outstanding principal balance of all such loans; and

"(B) the term 'total annualized monthly rate of pay' means the gross rate of pay received by the borrower in the month preceding the month for which the determination under divison (v) of clause (A) of this paragraph is made minus $85 for each child claimed as a dependent multiplied by 12.

"(4) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except with respect to loans received under this title after the date of receipt of the consolidation loan. For the purpose of computing the outstanding indebtedness of such an individual, only loans received after such date shall be taken into account.

"(b)(1) Any lender described in clause (A), (B), or (C) of subsection (a)(1) who wishes to make consdolidation loans under this section shall enter into an agreement with the Secretary or a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b) which provides—

"(A)(1) that, in the case of lenders described in subsection (a)(1)(C), the lender will make a consolidation loan to any eligible borrower on request of that borrower, if the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, and will make such loans to other eligible borrowers only to the extent permitted by the Secretary in an agreement under subsection (d);

"(ii) that, in the case of lenders described in subsection (a)(1)(B), the lender will make, subject to the availability of funds allocated for such purpose, a consolidation loan to any eligible borrower—

"(I) who is, or was at the time of receiving a loan which is selected for consolidation, a resident of the State of such lender; or

"(II) who received loans under this title while attending an institution of higher education in the State of such lender,

except that the lender may elect to limit further the availability of its loans under this section to those borrowers for whom the lender is the holder of a loan selected for consolidation; or

"(iii) that, in the case of the Student Loan Marketing Association, the lender will make a consolidation loan to any eligible borrower on request of that borrower;

"(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c);

"(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the maximum principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(3) (A) (i), and (ii) which is equal to the sum of the unpaid principal and accured unpaid interest of all loans received by the eligible borrower under this title which are selected by the borrower for consolidation;

"(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

"(E) that, in the case of any lender whose primary source of funds for making, purchasing, or otherwise acquiring loans under this part is the proceeds of bonds or other obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, such lender will not in any fiscal year make, purchase, or otherwise acquire consolidation loans in an amount which exceeds 15 per centum of the total amount of the principal outstanding on all loans under this title held by such lender as of the last day of the preceding fiscal year, except that any such lender who has not made, purchased, or acquired loans from such proceeds prior to October 1, 1983, may make, purchase, or otherwise acquire consolidation loans in the period beginning on October 1 of the fiscal year during which such lender initially issues bonds or other obligations for the purpose of making, purchasing, or otherwise acquiring loans under this part and ending September 30 in the subsequent fiscal year in an amount which does not exceed 15 percent of the aggregate amount of such bonds or other obligations initially issued;

"(F) that, in the case of any lender, such lender will not make consolidation loans under this part from the proceeds of bonds or other obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, issued subsequent to the enactment date of the Student Loan Consolidation Act of 1984; and

"(G) such other terms and conditions as the Secretary or State or nonprofit private institution or organization (whichever is party to the agreement) may specifically require of the lender to carry out this section.

"(2) The Secretary shall issue a certificate of comprehensive insurance coverage under section 429(b) to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. A State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b) may issue a certificate of comprehensive insurance coverage to a lender if the lender has entered into an agreement under paragraph (1) of this subsection. The Secretary shall not issue such a certificate under this paragraph to a lender described in clause (B) or (C) of subsection (a)(1) if the Secretary determines that such lender has reasonable access in its State, for the purpose obtaining such a certificate, to a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b). In either case, such certificate shall, at a minimum, provide—

"(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured against loss of principal and interest by the issuer of such certificate;

"(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated (i) that the loan is a legal, valid, and binding obligation of the borrower; (ii) that each loan was made and serviced in compliance with applicable laws and regulations; and (iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

"(C) the effective date and expiration date of the certificate;

"(D) the aggregate amount to which the certificate applies;

"(E) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of such certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

"(F) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

"(3) A consolidation loan made pursuant to this section shall be insurable under a certificate issued pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under applicable law, create a binding obligation, endorsement may be required;

"(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section and contains notice of the possibility of a revised repayment schedule under paragraph (2) of such subsection;

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(i) during which the borrower is pursuing a full-time course of study at an eligible institution, is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

"(ii) not in excess of two years during which the borrower is serving an internship, the successful completion of which is re-

quired in order to receive professional recognition;

"(iii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled; or

"(iv) which is a single period, not in excess of 12 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment; and

that any such period shall not be included in determining the repayment period provided pursuant to subsection (c)(2) of this section;

"(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

"(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

"(c)(1) Consolidation loans made under this section shall bear interest at the rate of 9 per centum per annum on the unpaid principal balance of the loan, except that, if the consolidation loan is used for the purpose of discharging liability on a loan made pursuant to section 428B, the consolidation loan shall bear interest at a rate per annum on such unpaid balance which is equal to the highest applicable interest rate under section 427A on any loan which is selected for consolidation by the borrower. For the purposes of payment of special allowances under section 438(b)(2), the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.

"(2) (A) Except as otherwise provided in subparagraphs (B), (C), and (D), the lender of a consolidation loan may, to the extent authorized by its certificate of insurance issued under subsection (b) (2) (as approved by the insurer of such loan) and with the agreement of the borrower, establish initial repayment schedules for borrowers in such manner as will promote the payment of such schedule. Such initial repayment schedules shall require repayment over a period of not to exceed 11 years and 6 months, and may include graduated and income-sensitive repayment schedules.

"(B) An initial repayment schedule established under subparagraph (A) shall, at a minimum, require repayment in monthly installments, the smallest of which (except for the final installment) shall not be less than the greater of—

"(i) $50, or

"(ii) 110 per centum of the interest which would accrue in one month on the total amount of the consolidation loan originally obtained by the borrower.

"(C) Such initial repayment schedule for a borrower shall continue to be effective unless the borrower demonstrates, pursuant to the requirements of subparagraphs (D) and (E), to the lender that the borrower's eligibility index, determined on the basis of the dependent-adjusted gross income on the borrower's Federal income tax return for the taxable year preceding the year in which the determination under this subparagraph is made, is less than or equal to 200.

"(D) If the borrower furnishes the demonstration of eligibility required by subparagraph (C), the borrower is entitled to a revised repayment schedule to become effective 3 years and 6 months after the date on which the borrower commences repayment of the consolidation loan, requiring payment in equal monthly installments, not to exceed an additional—

"(i) 16 years and 6 months in the case of a borrower whose eligibility index is less than or equal to 120;

"(ii) 14 years and 6 months in the case of a borrower whose eligibility index is more than 120 but less than or equal to 150;

"(iii) 12 years and 6 months in the case of a borrower whose eligibility index is more than 150 but less than or equal to 180; and

"(iv) 10 years and 6 months in the case of a borrower whose eligibility index is more than 180 but less than or equal to 200.

"(E) Each lender under this section shall, 3 years and 3 months after the borrower commences repayment of the consolidation loan, notify the borrower of the possibility of a revised repayment schedule including—

"(i) information on the borrower's outstanding balance 3 years and 6 months after the borrower commences repayment of the consolidation loan;

"(ii) an explanation of the method of calculating the eligibility index under this paragraph; and

"(iii) a description of the penalties imposed for failure to comply with section 490 of this part.

"(F) For the purpose of this paragraph—

"(i) the term 'eligibility index' means the number which results from dividing—

"(I) the dependent-adjusted gross income on the borrower's Federal income tax return for the taxable year preceding the year in which the determination under this subparagraph is made, by

"(II) the outstanding balance of the consolidation loan 3 years and 6 months after the borrower commences repayment of the consolidation loan,

and multiplying the quotient by 100; and

"(ii) the term 'adjusted gross income' has the same meaning given that term under section 62 of the Internal Revenue Code of 1954.

"(iii) the term 'dependent-adjusted gross income' means the adjusted gross income of a borrower, minus $1,000 for each child claimed as a dependent in the taxable year preceding the year in which the determination under subparagraph (E) is made, except that if a borrower files jointly with a spouse and both spouses hold consolidation loans under this section, then the dependent-adjusted gross income figure for each spouse is—

"(I) the adjusted gross income of the borrower and the spouse filing jointly minus $1,000 for each child claimed as a dependent in such taxable year;

"(II) divided by 2.

"(3) Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D), discharged the liability of the borrower on the loans selected for consolidation.

"(4) No origination fee or insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the issuer of the certificate of insurance with respect to any such loan.

"(d)(1) If, within 18 months after the effective date of this section, an eligible lender described in subsection (a)(1)(B) for a State has not entered into an agreement with the Secretary or a State or nonprofit private institution or organization for purpose of making consolidation loans under this section, the Secretary may, after a hearing and upon a determination of need therefore, enter into an agreement for the purposes of making consolidation loans to eligible borrowers in such State with an eligible lender described in clause (B) or (C) of subsection (a)(1) from another State.

"(2) Notice of the hearing required by paragraph (1) of this subsection shall be sent to the Governor of the affected State and the eligible lenders described in subsection (a)(1)(B) for that State. At any such hearing representatives of such Governor and lenders may present evidence and testimony and examine witnesses, and full consideration shall be given to the views of such Governor and lenders with respect to the interests of the eligible borrowers in that State and with respect to the impact on programs of such lenders of allowing a lender described in clause (B) or (C) of subsection (a)(1) from another State to make consolidation loans pursuant to an agreement under this subsection in such State.

"(3) An agreement under this subsection may contain such terms and conditions as the Secretary may specifically require of the lender to carry out this section.

"(4) The requirements of paragraphs (1) and (2) of this subsection shall not apply if, in any State, an eligible lender described in subsection (a)(1)(B) from another State is functioning as a secondary market described in subparagraph (D) or (F) of section 435 (g)(1) prior to the date of enactment of the Student Loan Consolidation Act of 1984 and such lender agrees to make consolidation loans to eligible borrowers in such State.

"(e) The authority to make loans under this section expires at the close of September 30, 1986. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b). Loans made under this section shall not be considered to be new loans made to students for purposes of section 424(a).".

(b)(1) Section 427(a) of the Act is amended by striking out "A loan" and inserting in lieu thereof "Except as provided in section 428C, a loan".

(2) Section 435(g)(1) of the Act is amended—

(A) by striking out "section 439 (o) and (8)" in subparagraph (G) and inserting in lieu thereof "sections 428C and 439(q)"; and

(B) by striking out "section 428(j)" in subparagraph (H) and inserting lieu thereof "sections 428(h) and 428C".

(3) Section 438 of the Act is amended—

(A) in subsection (b)(5)(A)(ii), by inserting ", 428C," after "428B";

(B) in subsection (c)(2), by striking out "section 428B and section 439(o)" and inserting in lieu thereof "sections 428B and 428C".

(4) Section 439(d)(1)(C) of the Act is amended by striking out "428(A), and except with respect to loans under section 439(o)," and inserting in lieu thereof "428A, and except with respect to loans under section 428C,".

(c) Section 438(b)(2) of the Act is amended—

(1) in subparagraph (A), by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)";

(2) In subparagraph (B)(i), by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraphs (A) and (B)"; and

(3) by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

"(B) In the case of loans made in accordance with sections 428C and 439(o), the applicable per centum to be added under clause (iii) of subparagraph (A) shall be 3 per centum.".

(d) The Secretary of Education shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this section and shall report to the Congress not later than June 30, 1986, on the findings and recommendations required by this subsection.

SUMMARY OF THE STUDENT LOAN CONSOLIDATION ACT OF 1984

Section 1 of the bill cites the Act as the "Student Loan Consolidation Act of 1984."

Section 2(a) amends part B of title IV of the Higher Education Act by inserting a new section, 428C, after section 428B of the Act.

Section 428C(a)(1) authorizes the Secretary or guarantee agencies to enter into agreements to make consolidation loans with Sallie Mae, State agencies or nonprofit agencies designated by the State as the single agency (435(g)(1)((D)), state secondary markets (435(g)(1)(F)), and banks, pension funds, insurance companies and other eligible lenders (435(g)(1)(A), (B), (C), and (E).

Section 428C(a)(2) provides that such loans must be covered by a properly issued certificate of insurance. The subsection also specifies that loans covered by a certificate of insurance issued by a guarantee agency shall be considered to be insured loans for the purpose of Federal reimbursement under section 428(c). The subsection also provides that no administrative cost allowance will be paid with respect to such loans.

Section 428C(a)(3)(A) defines the term "eligible borrower" to mean a borrower who (i) has an outstanding indebtedness of not less than $5,000, (ii) has not during the previous four months carried at an eligible institution at least one-half the normal full-time academic work-load, (iii) is not delinquent on student loan payments, (iv) is not a parent borrower under PLUS/ALAS, and (v) is not employed in a job for which the annualized monthly rate of pay exceeds 200 percent of the balance of the loan.

Section 428C(a)(3)(B) defines "total annualized monthly rate of pay" to be the gross rate of pay received by the borrower in the month preceding the initial eligibility test minus $85 for each child claimed as a dependent, multiplied by 12.

Section 428C(a)(4) terminates an individual's eligibility for a consolidation loan after receiving one, unless after receiving the loan the individual receives new GSLs or NDSLs. In this case, the renewed eligiblity extends only to the new loans.

Section 428C(b)(1) specifies the access requirements placed on various categories of lenders.

Section 428C(b)(1)(A)(i) specifies that banks wishing to consolidate loans must make a consolidation loan to any eligible borrower if the lender holds or insures an outstanding loan of the borrower. The provision also requires that loans be made to other eligible borrowers only to the extent permitted by the Secretary in an agreement under this section.

Section 428C(b)(1)(A)(ii) specifies that state direct lenders and secondary markets and non-profit entities designated by a state will make consolidation loans only to borrowers who (I) are residents of the state of the lender or were at the time of receiving a loan selected for consolidation residents of the state of the lender or (II) who received student loans while attending school in the state of the lender. This requirement is subject to the availability of funds allocated for the purpose of making consolidation loans and permits lenders to limit the availability of their loans to borrowers for whom the lender is the holder of the loans selected for consolidation.

Section 428C(b)(1)(A)(iii) specifies that Sallie Mae will make a consolidation loan to any eligible borrower on request of the borrower.

Section 428C(b)(1)(B) provides that each consolidation loan made will bear interest and be subject to repayment in accordance with the new section 428C(c).

Section 428C(b)(1)(C) provides that consolidation loans will be made notwithstanding the specified GSL maximum loan limits. The subsection also provides that the loans will not be less than the specified minimum consolidation amounts and will equal the sum of the unpaid principal and accrued interest on all loans selected for consolidation.

Section 428C(b)(1)(D) provides that the proceeds of each consolidation loan will be paid to the holders of the student loans consolidated so as to discharge these loans.

Section 428C(b)(1)(E) provides that lenders who fund their operations primarily from the proceeds of tax-exempt bonds shall not, in any fiscal year, make, purchase, or acquire consolidation loans in an amount which exceeds 15 percent of the total amount of loan principal held by such lender as of the last day of the preceding federal fiscal year. An exception is granted to such lenders who have never purchased loans, allowing them to within their first two federal fiscal years of operation make consolidation loans equal to 15 percent of the volume of bonds initially issued.

Section 428C(b)(1)(F) mandates that the proceeds of tax-exempt bonds issued subsequent to date of enactment of this bill cannot be used to make consolidation loans.

Section 428C(b)(1)(G) provides that the Secretary (in the case of FISL guarantees) and state guarantee agencies (in the case of state guarantees) may include other terms and conditions with lenders in guarantee agreements.

Section 428C(b)(2) provides that the Secretary shall issue a certificate of comprehensive insurance coverage to lenders if the Secretary determines that the lender does not have reasonable access in its state to a guarantee agency. The subsection also provides that state guarantee agencies or nonprofit organizations may offer a comprehensive certificate of insurance coverage to lenders subject to guarantee agreements.

Section 428C(b)(2)(A) provides that for both FISL and guarantee agency guarantees, the comprehensive certificate of insurance shall provide that all consolidation loans made by the lender will be insured against lost of principal and interest by the guarantor.

Section 428C(b)(2)(B) provides that the certificate will provide that the consolidation loan will not be insured unless the lender has determined that the loans being consolidated are (i) legal, binding loans; (ii) were made and serviced in accordance with applicable laws and regulations; and (iii) in the case of GSLs, FISLs, and PLUS/ALAS loans, that insurance is in place on the loans.

Section 428C(b)(2)(C) provides that the certificate will include the effective date and the expiration date of the certificate.

Section 428C(b)(2)(D) provides that the certificate will include the aggregate amount to which the certificate applies.

Section 428C(b)(2)(E) provides that the certificate will provide that if the lender for which the certificate is issued terminates its program of consolidation loans, that the lender inform the issuer.

Section 428C(b)(2)(F) provides that the certificate will include the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans.

Section 428C(b)(3) provides that a consolidation loan shall be insurable only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan of changes in his or her address.

Section 428C(b)(3)(A) provides that consolidation loans are insurable only if the loan is made without security and without a co-signer, unless the borrower is a minor and the note would not be legally enforceable without a co-signer.

Section 428C(b)(3)(B) provides that consolidation loans are insurable only if the note provides for the payment of interest and repayment of principal in accordance with this section.

Section 428C(b)(3)(C) provides that consolidation loans are insurable only if the note provides that periodic payments need not be paid, but interest will accrue, during any period when (i) the individual is enrolled in school as a full time student pursuant to a graduate fellowship program approved by the Secretary or is in rehabilitation training; (ii) the individual is serving an internship, but not in excess of two years; (iii) the individual is temporarily totally disabled, or is unable to secure employment by reason of the care required by a spouse who is so disabled, but not in excess of three years; or (iv) if the individual is unemployed, but not for more than 12 months.

Section 428C(b)(3)(D) provides that consolidation loans are insurable only if the note entitles the borrower to accelerate repayment without penalty.

Section 428C(b)(3)(E) provides that consolidation loans are insurable only if the note (i) contains a notice of the system of disclosure to credit bureau organizations under section 430(b)(2) and (ii) provides that the lender will provide information on the repayment status of the note to credit bureau organizations on the request of the borrower.

Section 428C(c)(1) specifies that the interest rate on consolidation loans shall be 9 percent, except that consolidation loans including a PLUS/ALAS loan shall be at the highest applicable interest rate of the PLUS/ALAS loan (either 12 or 14 percent).

Section 428C(c)(2)(A) specifies that, to the extent authorized by its certificate of insurance and approved by the issuer of such certificate, the lender of a consolidation loan shall establish an 11.5 year initial repayment schedule, which may include a variety of repayment terms, including graduated and income sensitive repayment schedules.

Section 428C(c)(2)(B) specifies that the initial repayment schedule shall, at a minimum, require monthly payments of $50 or 110 percent of the interest which would accrue in one month on the total amount of the consolidation loan originally obtained by the borrower, whichever is greater.

Section 428C(c)(2)(C) specifies that the initial repayment shall continue to be effec-

tive unless the borrower demonstrates, 3.5 years into repayment and subject to the requirements of subparagraphs (D) and (E), to the lender that the borrowers "eligibility index" (ratio of income to debt) at this time is less than or equal to 200 (percent).

Section 428C(c)(2)(D) provides that the borrower is entitled to a revised repayment schedule, effective 3 years and six months after the date the borrower begins repayment of the consolidation loan if the borrower demonstrates eligibility.

Section 428C(c)(2)(D)(i) limits the length of a revised repayment schedule to an additional 16.5 years in the case of a borrower whose eligibility index is less than or equal to 120.

Section 428C(c)(2)(D)(ii) limits the length of a revised repayment schedule to an additional 14.5 years in the case of a borrower whose eligibility index is between 120 and 150.

Section 428C(c)(2)(D)(iii) limits the length of a revised repayment schedule to an additional 12.5 years in the case of a borrower whose eligibility index is between 150 and 180.

Section 428C(c)(2)(D)(iv) limits the length of a revised repayment schedule to an additional 10.5 years in the case of a borrower whose eligibility index is between 180 and 200

Section 428C(c)(2)(E) requires, three years and three months after the borrower commences repayment of the consolidation loan, the lender to notify the borrower of the possibility of a revised repayment schedule.

Section 428C(c)(2)(E)(i) requires that the notification of a revised repayment schedule include a description of the perjury penalties imposed for failure to provide accurate information as required by Section 409 of the Higher Education Act.

Section 428C(c)(2)(E)(ii) requires that the notification of a revised repayment schedule include an explanation of the method for calculating a borrower's eligibility index.

Section 428C(c)(2)(F)(i) defines the term "eligibility index" to mean the number resulting from dividing the dependent adjusted gross income figure on the borrower's Federal income tax return for the taxable year preceding the year in which the borrower wishes to consolidate loans by the outstanding balance of the consolidation loan 3.5 years after the borrower commenced repayment of that loan.

Section 428C(c)(2)(F)(ii) defines the term "adjusted gross income" the same as the meaning given the term under section 62 of the Internal Revenue Code of 1964.

Section 428C(c)(2)(F)(iii) defines the term "dependent-adjusted gross income" as the adjusted gross income of the borrower minus $1,000 for each child claimed as a dependent in the taxable year preceding the year in which eligibility for both spouses hold consolidation loans under this section, then the dependent-adjusted gross income figure for each spouse is the adjused gross income of the borrower and the spouse filing jointly minus $1,000 for each child claimed as a dependent, divided by 2.

Section 428C(c)(3) provides that repayment will begin within 60 days after all holders of the notes consolidated have discharged the liability of the borrower on the consolidation loans

Section 428C(c)(4) provides that no origination fee or insurance premium shall be charged to the borrower and no insurance premium shall be payable by the lender to the insurer.

Section 428(d)(1) provides that if an eligible state-based lender has not enterd into an agreement to make consolidation loans within 18 months, the Secretary may, after a hearing and a determination of need, enter into an agreement to make consolidation loans with either a state agency or nonprofit lender in another state or with a bank or other profit-making lender in another state.

Section 428(d)(2) specifies the procedures for the hearing required under section 428)c)(d)(1). Notice of the hearing shall be sent to the Governor of the affected state and to non-profit lenders in such state. At the hearing, representatives of the Governor and these lenders may present evidence and testimony and examine witnesses. The views of the Governor and lenders with respect to the impact of allowing out-of-state lenders into the state shall be given full consideration at the hearing.

Section 428(d)(3) specifies that any agreement to allow outside consolidation lenders into a state may contain additional terms and conditions.

Section 428(d)(4) exempts from the hearing requirements of Section 428(d)(1) any agency or secondary market from another state operating as a secondary market in such state prior to the date of enactment of the Student Loan Consolidation Act of 1984

Section 428C(e) states that the authority to make consolidation loans expires on September 30, 1986. The subsection also provides that nothing in this section shall be construed to authorize the Secretary to issue rules or regulations covering the terms or conditions of the agreements and certificates required for the program. The subsection also specifies that loans made under this section will not be considered new loans for purposes of section 424(a), the scope and duration of the federal loan insurance program.

Section 2(b)(1) amends section 427(a), relating to Eligibility of Student Borrowers and Terms of Federally Insured Student Loans, is amended to make a technical and conforming change.

Section 2(b)(2)(A) amends section 435(g)(1), relating to Definitions, to make a technical and conforming change.

Section 2(b)(2)(B) amends section 435(g)(1) to make a technical correction and a technical and conforming change.

Section 2(b)(3)(A) amends section 438(b)(5)(A)(ii), relating to Special Allowances, to make a technical and conforming change.

Section 2(b)(3)(B) amends section 438(c)(2) to make a technical and conforming change.

Section 2(b)(4) amends section 439(d)(1)(C), relating to Sallie Mae, to make a technical and conforming change.

Section 2(c) amends section 438(b)(2) by adding a new paragraph 439(b)(2)(B), relating to special allowances, to specify that, except for small lenders defined below, the special allowance on consolidation loans shall be 3 percent.

Section 2(d) directs the Secretary of Education to conduct an evaluation of the loan consolidation program and to report to Congress no later than June 30, 1986.

TABLE 1.—COMPARISON OF MONTHLY PAYMENTS UNDER LOAN CONSOLIDATION PROPOSAL AND CURRENT LAW FOR $12,500 IN STUDENT LOANS

Repayment plan	Payment period (months)	Gross annual income	Outstanding debt	Eligibility index [1]	Monthly payment	Monthly payment a percent of gross monthly income	Remaining repayment period (months) [2]	Total repayment period	
								Months	Years
Consolidation—Minimum payment [3] [4]	1	$15,000	$12,500	120	$103	8.3			
No consolidation [4]	1	15,000	12,500	NA	145	11.6	120	120	10.0
Consolidation:									
Straight line (case 1)	42	24,212	12,106	[5] 200	149	7.4	126	168	14.0
Straight line (case 2)	42	30,265	12,106	250	177	7.1	96	138	11.5
No consolidation	42	24,212	9,069	NA	145	7.2	78	120	10.0

[1] Eligibility index equals gross annual income divided by outstanding debt.
[2] Repayment period remaining excludes payment made during month 1 and 42.
[3] Minimum payment based on 110 percent of monthly interest during 1st 42 mo. of repayment.
[4] Based on a fixed borrower rate of 7 percent for nonconsolidated loans and 9 percent for consolidated loans (excluding ALAS loans).
[5] Assumes threshold for eligibility is set at up to 200. Borrowers whose incomes exceeded their debt by more than 200 percent would have their total repayment set at 11.5 yr.

TABLE 2.—COMPARISON OF MONTHLY PAYMENTS UNDER LOAN CONSOLIDATION PROPOSAL AND CURRENT LAW FOR $16,000 IN STUDENT LOANS

Repayment plan	Payment period (months)	Gross annual income	Outstanding debt	Eligibility index [1]	Monthly payment	Monthly payment a percent of gross monthly income	Remaining repayment period (months) [2]	Total repayment period	
								Months	Years
Consolidation—Minimum payment [3] [4]	1	$15,000	$16,000	94	$132	10.6			
No consolidation [4]	1	15,000	16,000	NA	185	14.8	120	120	10.0
Consolidation:									
Straight line (case 1)	42	23,244	15,496	[5] 150	160	8.3	174	216	18.0
Straight line (case 2)	42	38,740	15,496	250	227	7.0	96	138	11.5
No consolidation	42	23,244	11,608	NA	185	9.6	78	120	10.0

[1] Eligibility index equals gross annual income divided by outstanding debt.
[2] Repayment period remaining excludes payment made during month 1 and 42.
[3] Minimum payment based on 110 percent of monthly interest during 1st 42 mo. of repayment.
[4] Based on a fixed borrower rate of 7 percent for nonconsolidated loans and 9 percent for consolidated loans (excluding ALAS loans).
[5] Assumes threshold for eligibility is set at up to 200. Borrowers whose incomes exceeded their debt by more than 200 percent would have their total repayment set at 11.5 yr.

TABLE 3.—COMPARISON OF MONTHLY PAYMENTS UNDER LOAN CONSOLIDATION PROPOSAL AND CURRENT LAW FOR $20,000 IN STUDENT LOANS

Repayment plan	Payment period (months)	Gross annual income	Outstanding debt	Eligibility index [1]	Monthly payment	Monthly payment a percent of gross monthly income	Remaining repayment period (months) [2]	Total repayment period	
								Months	Years
Consolidation—Minimum payment [3] [4]	1	$15,000	$20,000	75	$165	13.2			
No consolidation [4]	1	15,000	20,000	NA	232	18.6	120	120	10.0
Consolidation:									
Straight line (case 1)	42	23,244	19,370	[5] 120	188	9.7	198	240	20.0
Straight line (case 2)	42	48,425	19,370	250	284	7.0	96	138	11.5
No consolidation	42	23,244	14,510	NA	232	12.0	78	120	10.0

[1] Eligibility index equals gross annual income divided by outstanding debt.
[2] Repayment period remaining excludes payment made during month 1 and 42.
[3] Minimum payment based on 110 percent of monthly interest during 1st 42 mo. of repayment.
[4] Based on a fixed borrower rate of 7 percent for nonconsolidated loans and 9 percent for consolidated loans (excluding ALAS loans).
[5] Assumes threshold for eligibility is set at up to 200. Borrowers whose incomes exceeded their debt by more than 200 percent would have their total repayment set at 11.5 yr.

Mr. HATCH. Mr. President, I am pleased to join with Senator STAFFORD today in placing before the Senate a bill to make it possible for students who must make as many as five or six monthly payments on their guaranteed loans to consolidate those payments into one single monthly payment. Authority to consolidate loans expired on November 1, 1983.

Since that time, Mr. President, I have received a large number of letters from students in Utah and elsewhere who have just completed their education and are now entering the workplace.

A typical letter is one I recently received from a young man in my home State of Utah who has accumulated six guaranteed student loans calling for a total of about $300 in monthly repayments divided between six lenders. As with most graduates in his chosen field, he will take employment at the entry level which will pay him an annual salary about equal to the amount of loan principal he owes. With the authority contained in the bill we are introducing, his monthly payments will be reduced about half, thus making it possible for him to achieve such other worthwhile goals as getting married, buying a home, and starting a family.

Mr. President, the Student Loan Consolidation Act of 1984 has sufficient safeguards to protect the Government from loss as well as insure that State direct lenders and secondary markets and nonprofit entities designated by a State will make consolidation loans only to borrowers who are residents of the State of the lender or who received loans while attending school in the State of the lender, or were at the time of the loan.

It can be argued, Mr. President, that because the loan repayment period must obviously be extended and other service costs accommodated during this repayment period, the cost to the Federal Government will be increased in the early years of repayment.

While this is probably true in a simple mathematical sense, in my judgment over the long term this bill will cause a dramatic decrease in the number of defaulted loans or students going into bankruptcy to get out from under burdensome payments they are unable to make, thus actually resulting in a lower cost of the program to the taxpayer.

At the present time, Mr. President, many bright and capable students are discouraged from preparing for teaching because the notoriously low entering salaries of teachers simply mitigate against the possibility of repaying four or five GSL's. It is my feeling that this bill will bring some measure of relief in this regard.

The State higher education agency in Utah has reviewed this bill, as has the State guarantee agency, and share my view that it is a good bill and one that will, with carefully crafted constraints, restore the authority for eligible lenders to make consolidation loans. Mr. President, I urge my colleagues to support this measure.

By Mr. MOYNIHAN (for himself and Mr. MATSUNAGA):

S. 2492. A bill to amend title XX of the Social Security Act to increase funding under the social services block grant program; to the Committee on Finance.

INCREASE IN FUNDING UNDER THE SOCIAL SERVICES BLOCK GRANT PROGRAM

● Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation increasing the authorization for the title XX social services block grant to $3 billion in fiscal year 1985, $3.2 billion in fiscal year 1986, and $3.3 billion in fiscal year 1987. This is a modest increase, yet a decidedly necessary one to restore, in part, funds for day care for children of low-income families and foster care for children suffering from abuse and neglect. Increased funding will support the development of services geared to the growing number of teenage mothers. The increased funding also will support a wide range of services for the Nation's elderly, such as homemaker and residential care, protective and health services, and Meals on Wheels.

Title XX was created in 1975 as a response to the unmet but growing plight of those of us most in need: children, the elderly, the disabled, and the jobless. In 1984, their needs are ever more pressing. In the past 8 years, the title XX program has become the cornerstone of funding for social services at the State and local level.

It has become increasingly clear in the past 3 years, as funds for title XX were reduced, that few States have been able to fill the gap left by these Federal cuts. Actual dollars appropriated for title XX in 1983 were $25 million less than in 1980, while the cost of living has increased by 21 percent. The regrettable result—an indisputable decline in the level and quality of social services provided to the needy throughout our Nation.

The availability of day care services has diminished substantially since the 1981 budget cuts. Day care is the largest single type of service purchased with funds from the social services block grant—over 21 percent of the block grant is directed toward day care. Yet, the funding cuts have forced 32 States providing title XX to reduce the number of children in child care. Ten States have been forced to reduce the number of low-income working families eligible for title XX child care. In my own State of New York more than 94,000 children received day care funded by title XX in 1980. By 1983, 12,062 fewer children were being served—a nearly 13-percent reduction in day care services. Thousands of children are left alone, or have been transferred to less supportive child care arrangements.

Federal assistance for social services under title XX of the Social Security Act has never been adequate. Even in 1980, when title XX funds were at their highest level, subsidized child care was provided for only 750,000 children. Demographic projections, moreover, indicate an even greater need for critical child care services in the future: Over the past 20 years, the number of women in the paid work force has increased from 23 million in 1960 to 43 million in 1980. By 1990, that figure will rise to more than 60 million. Clearly this extraordinary increase in working women will result in

a large increase in the number of children needing day care.

Mr. President, title XX helps children—and in 1984, there are more children who need help from title XX than ever before. Recently, the House Select Committee on Children, Youth, and Families released a study showing that one of five children in America, and one of two black children, now live in poverty-stricken families. The services supported by title XX are the only alternatives for these poor families, and the only alternative for millions of children.

Title XX supports programs geared toward pregnant teenagers and teen parents, through day care, job training, and counseling services. The increase in teenage pregnancy in the past two decades—a trebling of out-of-wedlock births between 1960 and 1980—is compelling. The majority of these mothers do not finish high school, severely restricting their employment opportunities and increasing the likelihood of welfare dependency. A 1981 survey of New York City highlights the problems of teenage mothers: fully 90 percent of young mothers aged 15 to 17 were unemployed 9 months after delivery of their first child. Without jobs, 66 percent were forced to receive public assistance. Although five of six teenage mothers surveyed wanted to return to school or get a job, nearly half could not do so because child care services were not available. The income levels for these teenage mothers who did find jobs is but half that of women giving birth in their twenties or after.

In point of fact, teenage mothers require a range of support services far more extensive than those currently provided under the title XX program. However, the modest increase requested in this legislation will serve to supplement existing State and local efforts. Six hundred thousand babies are born to teenage girls each year. There is a crying need for Federal assistance to help provide services to these girls and their children.

Cuts in title XX also have affected, seriously, our growing population of senior citizens. In the last 20 years, the portion of the American population 65 and older grew twice as fast as the rest of the population. Title XX funds for services to the elderly have declined over the past few years. Nineteen States have been forced to reduce or eliminate homemaker and chore services for the elderly. Twenty States have cut or reduced community health and protective care for needy elderly Americans. Ten States have eliminated or reduced the number of meals served under the congregate and more delivered meals program. These cuts, moreover are shortsighted even in strict fiscal terms, because these services help many older citizens to stay in their own homes and out of expensive nursing homes. And the needs of this group will continue to grow, as the number of elderly grows from over 25 million in 1980 to over 51 million in 2020.

Mr. President, this legislation is supported by a wide range of child welfare and advocacy groups including:

American Federation of State and Municipal Employees.
League of Women Voters of the United States.
Service Employees International Union.
City of New York.
Wider Opportunities for Women.
National Association of County Organizations.
American Humane Association.
American Academy of Child Psychiatry.
Pioneer Women.
Friends Committee.
Network.
American Association of University Women.
Child Welfare League.
Project on Equal Education Rights of the NOW Legal and Education Defense Fund.
Women's Equity Action League.
United Church of Christ.
Americans for Democratic Action.
Federation of Organizations for Professional Women.
Camp Fire, Inc.
National Commission on Working Women.
Office of Public Policy, Women's Division, United Methodist Church.
National Education Association.
National Organization for Women.
National Board, Y.M.C.A. of the U.S.A.
Children's Foundation.
Children's Defense Fund.
Association of Junior Leagues.
Center for Community Change.
International Ladies Garment Workers Union.
United Food and Commercial Workers.
United Automobile Workers.
National Women's Political Caucus.
Church of the Brethren.
Older Women's League.
Full Employment Action Council.
Industrial Union Department, AFL-CIO.
Lutheran Council of the U.S.A.
National Federation of Temple Sisterhood.
National Federation of Business and Professional Women's Clubs, Inc.
Communications Workers of America.
Parents Without Partners.
Machinists.
Aerospace Workers.
National Association for the Education of Young Children.
Save the Children/Southern State Program.
League of United Latin American Citizens.

I urge my colleagues to join me in support of this measure, increasing the authorization of the title XX social services block grant. The situation of millions of poor and needy people in this country is a desperate one. We face a situation in which one of three white children and three of four black children can expect to spend some of their childhood in single-parent homes. I ask my colleagues, as the Nation asks us, "Who will care for these children?"

I urge your support of this measure.

I ask unanimous consent that the full text of the legislation, and an editorial published in the New York Times today, "Who'll Mind America's Children?" be printed in the RECORD.

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

S. 2492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2003 (c) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out "and each succeeding fiscal year." in paragraph (3) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(4) $3,000,000,000 for the fiscal year 1985;

"(5) $3,200,000,000 for the fiscal year 1986; and

"(6) $3,300,000,000 for the fiscal year 1987 and each succeeding fiscal year.".

[From the New York Times Mar. 29, 1984]

WHO'LL MIND AMERICA'S CHILDREN?

To deny the need for a comprehensive childcare policy is to deny the revolution in American life. Yet the Reagan Administration clings to policies that perpetuate the denial. Only Congress seems willing to try to adjust to a new age.

The Congressional Budget Office estimates that by 1990 the majority of America's mothers will hold jobs outside the home, including more than half those with children under 6. One of four children under 10 will be living in a single-parent household and most of their parents will be working, or would be if they could afford child care.

Today, where it exists at all, day care is a hodgepodge of services ill-matched to the need. The Census Bureau estimates that a fourth of the nonworking mothers with children under 6 would take jobs if affordable child care were available. So would nearly half the single mothers and a third of the women in families with incomes under $15,000.

Middle-income taxpayers get the child-care tax credit, but it means little if anything to the poor. Some companies underwrite child-care services, but only where women workers are indispensable. Private firms across the country provide fewer than 1,000 day care centers.

Funds for Federal social service grants to the states have been cut by 25 percent during the Reagan Administration. States are no longer required to match Federal spending, and the allowable child-care expenditures for families on welfare have been reduced.

A House Committee on Children, Youth and Families, led by California's George Miller, has labored diligently to make some sense of Government programs to learn how best to use both tax credits and direct expenditures. "The time has come," Mr. Miller says, "to launch a major national debate on child care." And do something to provide it.●

By Mr. MOYNIHAN:

S. 2493. A bill to extend for 4 years the temporary suspension of duty on tartaric acid and certain tartaric

chemicals; to the Committee on Finance.

EXTENSION OF SUSPENSION OF DUTY ON TARTARIC ACID AND CERTAIN TARTARIC CHEMICALS.

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill to extend the present tariff suspension on four chemicals: tartaric acid, antimony tartrate, cream of tartar, and sodium tartrate. My good friend from New York, Representative WILLIAM GREEN, has introduced the companion measure in the House of Representatives.

The Congress first suspended the duties on these chemicals in December 1982, as a provision of H.R. 4566, the miscellaneous tariff bill. This suspension expires on June 30, 1984. My bill simply would extend the current suspension of duties for another 4 years, until June 30, 1988. Without the extension, the duty rates on the four chemicals will increase to between 5.3 and 6.4 percent ad valorem on June 30, 1984.

Companies using the four chemicals, which include several pharmaceutical corporations in my home State of New York, rely entirely on imports for one simple reason: No one produces these chemicals in the United States. Tartrates are derived from a wine production technique not commonly used in the United States. As a result, we must import these chemicals, mostly from Argentina, Italy, and Spain.

By extending the existing suspension of duties on these chemicals, we will lower the supply costs to companies purchasing these chemicals from abroad. These cost savings, of course, can be passed on to consumers, in the form of lower prices.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That items 907.65, 907.66, 907.68, and 907.69 of subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) are each amended by striking out "6/30/84" and inserting in lieu thereof "6/30/88".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after June 30, 1984.●

By Mr. STAFFORD:

S. 2494. A bill to make certain amendments to the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), and for other purposes; to the Committee on Labor and Human Resources.

IMPACT AID AMENDMENTS OF 1984

● Mr. STAFFORD. Mr. President, today I am pleased to introduce the administration's legislation to make needed changes to Public Law 81-874, the impact aid program.

As my colleagues will recall, in the Omnibus Reconciliation Act of 1981 authorization for so-called b payments under the impact aid program was phased out over a 3-year period. It was the feeling of the Senate at that time and it remains the position of this Senator today that section 3(b) payments were, in the face of the myriad educational priorities we face as a nation, an unnecessary and inappropriate use of this Nation's Federal educational money. Too often, section 3(b) payments have gone to school districts who have no legitimate claim for Federal assistance and whose federally connected "burden" was the provision of jobs and economic opportunity.

Yet, there are circumstances where the presence of the Federal Government does create burdensome demands for those who are charged with educating the children of those connected with the Federal Government. And this Senator will stand steadfastly behind the component of the impact aid program which is designed to alleviate that burden. This component—payments to "a" districts, where the parents of schoolchildren both live and work on Federal property—does direct Federal assistance to truly burdened areas, particularly some of this Nation's large Indian school districts. Obviously, a military, Indian, or low rent housing person who lives and works on Federal property can contribute few funds to school districts which derive the lion's share of their funding from property taxes.

However, Federal assistance under this program should not be provided to schools with children who do not represent a burden to the districts which educate them. The "b" children do not represent such a burden, and Federal payments on their behalf are not justified.

Mr. President, this program just had, unlike our other education programs, a 23-percent increase in its authorization and appropriation level for fiscal year 1984. A complete phaseout of "b" payments would allow more money to become available to the "a" districts which have legitimate claims for Federal assistance. Indeed, Mr. President, some States with the most severe impaction—Alaska, Arizona, California, Florida, Hawaii, Idaho, Maryland, Minnesota, Montana, Nevada, and Wisconsin, to name a few—would receive considerably more support in fiscal year 1985 at level funding if the provisions of this bill are enacted into law and "b" funding is phased out completely.

As I have noted, the Congress has voted to end support for the "b" children after fiscal year 1984. This bill contains conforming and technical changes to bring the impact aid law in line with this legislation action. Specifically, this bill removes from current law provisions which determine amounts of entitlements for "b" children; further, language that includes these children for eligibility and for payments under section 3(d)(2)(B) is removed.

The bill also redefines full entitlement, the maximum payment allowed under the law, for children who reside in federally subsidized, low rent housing with a parent employed on Federal property to be 50 percent of the amount determined under calculations currently prescribed in the program statute.

The bill would make changes affecting preliminary payments under sections 2 and 3. The amount paid to local school districts in preliminary payments, which are made at the beginning of the fiscal year prior to submission of that year's application, would be limited to 75 percent of the amount any "Super a" district received under sections 2 or 3(a) of the program for the previous year and reduced to 50 percent of the amount that and other agency received for the previous year under sections 2 or 3(a). "Super a" districts are those in which at least 20 percent of the total average daily attendance is comprised of "a" children, who reside and whose parents are employed on Federal property or are on active duty in the military. This will remove 3(b) payments from the base for computing preliminary payments for the subsequent year and reduce the amounts of preliminary payments to lightly impacted districts whose level of funding may change significantly from year to year. Both changes will help to minimize the risk of overpayments.

The bill would replace the tiered payment schedule in the current law, which has not been implemented in recent years, with a simple formula for making section 3(a) payments. The formula first would provide to each "Super a" district, a payment of 100 percent of entitlement. Any other LEA would receive a pro rata share of its full entitlement based on the funds remaining available after "Super a" districts are paid. Section 3 payments would be limited to those which are at least $5,000. In addition, the bill would repeal certain "hold harmless" and other allocation provisions which would become meaningless after elimination of the tiered payment schedule.

For the disaster assistance program, the bill would raise the threshold of eligibility under the program statute to $10,000 or 5 percent of prior year operating expenditures, whichever is less. The current threshold has been made unrealistically low by inflation, and the administrative costs required to provide Federal assistance at that level are not warranted. The proposed

change has been in effect, through appropriations bill language, since fiscal year 1981. In addition, the bill would make a technical change in the current law to permit the Department to provide funds for repairs caused by disasters occurring after September 30, 1983.

Finally, the bill would repeal "hold harmless" provisions enacted under the Education Amendments of 1974. These provisions were intended to help school districts adjust to the effects of declining enrollments caused by decreases in Federal activity. The affected districts have now had sufficient time to adapt to these enrollment reductions, making the "hold harmless" provisions unnecessary.

Mr. President, as my colleagues are aware, the impact aid program, by virture of an amendment offered in this body last year, is authorized through the 1985 fiscal year. Yet there are a number of education programs—including the Vocational Education Act, the Library Services and Construction Act, the Adult Education Act, and others—which demand our immediate attention. Indeed, the Education Subcommittee has been extremely busy in moving forward their reauthorizations. But in spite of the time constraints felt by the subcommittee, I have scheduled a hearing to consider impact aid this year and intend to pursue the concerns of Senate members by moving a 5-year reauthorization bill through the subcommittee, the full Labor and Human Resources Committee, and the Senate. It is my hope that the bill I introduce today will serve as a vehicle for addressing the concerns of Members, and I strongly urge my colleagues to support it.

Mr. President, I would like to once again acknowledge the efforts of Secretary Bell in developing the legislation I introduce today. The provisions of this legislation go a long way in bringing the impact aid program in line with the valid need to assist unduly burdened school districts, and I commend the Secretary and the administration for their initiative in proposing these much needed changes.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis of its provisions be printed in the RECORD.

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

S. 2494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Impact Aid Amendments of 1984".

ENTITLEMENTS

SEC. 2. Section 3(d)(1) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) (hereinafter referred to as "the Act") is amended—

(1) in subparagraph (A) by striking out "plus the sum of the products obtained with respect to such agency under clauses B(iii), B(iv), B(v)"; and

(2) in subparagraph (B)—

(A) by striking out clauses (iii), (iv), and (v);

(B) by adding "and" at the end of clause (i); and

(C) by striking out the comma at the end of clause (ii) and inserting in lieu thereof a period.

SEC. 3. Section 3(d)(2) of the Act is amended—

(1) in paragraph (B)(iii) by striking out "either subsection (a) or subsection (b), or both;" and inserting in lieu thereof "subsection (a);";

(2) in subparagraph (B)(iv)(II) by striking out "either subsection (a) or subsection (b), or both," and inserting in lieu thereof "subsection (a),"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) The amount of the entitlement of any local educational agency under this section for any fiscal year with respect to children who reside on Federal property defined in clause (C) of section 403(l) of the Act for whom a determination is made under subsection (a) shall be the amount determined under paragraph (l) with respect to such children for such fiscal year multiplied by 50 per centum.".

PAYMENT AMOUNTS

SEC. 4. Section 5 of the Act is amended—

(1) in subsection (b)(2)—

(A) by striking out "section 2 or 3," and inserting in lieu thereof "section 2 or 3(a),"; and

(B) by striking out "to such agency of not less than 75 per centum of the amount that such agency received during such preceding fiscal year." and inserting in lieu thereof "(A) to any such agency described in section 3(d)(1)(A) of not more than 75 per centum of the amount that such agency received for such preceding fiscal year, and (B) to any other agency not described in section 3(d)(1)(A) of not more than 50 per centum of the amount that such agency received for such preceding fiscal year.";

(2) by amending subsection (c) to read as follows:

"(c)(1) If the sums appropriated for any fiscal year for making payments on the basis of entitlements established under section 3(a) for that year are not sufficient to pay in full the amounts which the Commissioner estimates all local educational agencies are entitled to receive under such section for such fiscal year, the Commissioner shall first allocate to each local educational agency which is entitled to a payment under section 3(d)(1)(A) an amount equal to 100 per centum of the amount to which it is entitled as computed under that section for such fiscal year.

"(2) From that part of such sums which remains after the allocation required by paragraph (1) for any fiscal year, the Commissioner shall make payments to local educational agencies which are entitled to receive payments under section 3(a) that are ratably reduced based on the ratio of the remainder of the sums appropriated to the total entitlements due such agencies.

"(3) The Commissioner shall make no payment under this subsection to any local educational agency whose total payment for any fiscal year, determined on the basis of entitlements established under section 3(a), fails to exceed $5,000."; and

(3) by striking out subsection (e).

DISASTER ASSISTANCE

SEC. 5. Section 7(a) of the Act is amended—

(1) in paragraph (1)(A) by striking out "after August 30, 1965, and prior to October 1, 1983,"; and

(2) in paragraph (3) by striking out "$1,000 or one-half of 1 per centum" and inserting in lieu thereof "$10,000 or 5 per centum".

HOLD HARMLESS PROVISIONS

SEC. 6. The Education Amendments of 1974 are amended in section 305(b)(2) (as renumbered by section 501(a)(3) of the Education Amendments of 1976; 20 U.S.C. 238 note) by striking out paragraph (2).

EFFECTIVE DATE

SEC. 7. The amendments made by Section 5(1) of this Act shall take effect October 1, 1983; all other amendments made by this Act shall take effect October 1, 1984.

IMPACT AID AMENDMENTS OF 1984 SECTION-BY-SECTION ANALYSIS OF THE BILL

Section 2. Section 2 of the bill would change the statutory entitlements in the program of maintenance and operations assistance to school districts which is authorized under the Act of September 30, 1950 (P.L. 874, Eighty-first Congress) ("the Act").

Section 2 of the bill would make conforming amendments to eliminate the authority to make payments to school districts on behalf of children whose parent either reside on or are employed on Federal property or are on active duty in the military, the so-called "b" children. This conforming change would be made because the authorization for such payments expires at the end of fiscal year 1984.

Section 3. Sections 3 (1) and (2) of the bill would change a special provision of the Act which authorizes increased payments to certain school districts which have a total of 50 percent federally connected students in attendance and which demonstrate financial need. Under the amendment a district's eligibility and the amount of its payment would be based only on the number of so-called "a" children, those whose parents both live and work on Federal property or are on active duty in the military. Current law requires that a district's eligibility and payment be determined on the basis of the combined number of "a" and "b" students. These conforming changes would be made because the authorization for payments on behalf of "b" students expires at the end of fiscal year 1984.

Section 3(3) of the bill would define full entitlement, the maximum payment allowed by law, for children who reside on low-rent federally subsidized housing property to be 50 percent of the amount determined by calculations described in the program statute.

Section 4. Section 4(1)(A) would make a conforming amendment to the provision regarding preliminary payments required by the expiration of the authority to make payments on behalf of "b" students described for sections 3 (1) and (2) of this bill. Section 4(1)(B) of the bill would authorize a preliminary payment of not more than 75 percent of the amount received for the preceding fiscal year to districts with 20 percent or more "a" students, and not more than 50 percent of the amount received for the preceding fiscal year to all other districts. This amendment would minimize the risk of overpayments.

Section 4(2) would eliminate the tiered payment schedule of the Act, which estab-

lishes priorities for making payments, and would replace it with a formula. The proposed formula would provide for first making payments of full entitlement to school districts which have 20 percent or more "a" students. Payments to all other districts would equal each district's pro rata share of the remainder of the funds appropriated. In addition, Section 4(2) would also establish a minimum payment of $5,000 to any school district on the basis of any entitlement determined on the number of "a" children.

Section 4(3) would repeal the hold-harmless provisions and other allocations in section 5(e) of the Act because these provisions would become meaningless after the elimination of the tiered payment schedule under section 4(2) of this bill.

Section 5. Section 5(1) of the bill would change the eligibility dates for the disaster assistance program under the Act to enable the Department to make payments of assistance to school districts which suffer damages as a result of disasters occurring after September 30, 1983. This amendment would overcome existing restrictions on eligibility.

Section 5(2) would raise the threshold of eligibility for disaster assistance from $1,000 or one-half of one percent of the school district's current operating expenditures during the prior fiscal year, to $10,000 or five percent of expenditures, whichever is less. The threshold in the current law is unrealistically low because of inflation. The administrative costs required to provide Federal assistance at this level are not cost effective. The proposed threshold has been in effect since fiscal year 1981 through appropriations legislation.

Section 6. Section 6 of the bill would eliminate two hold-harmless provisions in sections 305(b)(2)(B) and (C) of the Education Amendments of 1974 (P.L. 93-380, as amended). The purpose of the hold-harmless provisions was to provide time for school districts to adjust their budgets to decreases in enrollment caused by declining government activities within their jurisdictions. The districts have made such adjustments during the last ten years since the passage of these provisions and no longer need special support for the 1974-75 decline in enrollments. In addition, these provisions have not been funded in recent years.

Section 7. Section 7 of the bill would make the amendments made by the bill effective October 1, 1984 except that Section 5(1) shall take effect October 1, 1983.●

By Mr. HUMPHREY:

S. 2495. A bill to provide a user fee for customs services provided at certain small airports; to the Committee on Finance.

USER FEE FOR CUSTOMS SERVICES AT CERTAIN SMALL AIRPORTS

● Mr. HUMPHREY. Mr. President, today I am introducing a bill to provide customs service at certain small airports on a user fee basis.

This bill arises out of the plight of several airports facing closure of customs service, an important aspect of airport service. It authorizes the Commissioner of Customs to establish user financed service at nine airports. This demonstration program would not affect nor harm operation of existing service locations.

As we consider this legislation, it is useful to examine the impact of customs closures on airports, and the important link between airports and the surrounding communities. We cannot ignore the genuine risks involved with simple termination of service at small airports.

Lebanon Municipal Airport, located in my State, offers a fine example of the importance of airports to our communities. The airport in Lebanon, N.H., serves many growing communities in New Hampshire and Vermont. It provides access to many businesses located in the upper Connecticut River Valley, as well as Dartmouth College and its important medical center. Also, it accommodates a substantial amount of general and commercial aviation.

Although the number of international flights arriving at Lebanon Municipal Airport is insufficient to establish a Port of Entry (POE), the ability to land at Lebanon is crucial for those businesses traveling regularly from Canada or overseas. The ability for international flights to land at Lebanon airport rests on the availability of customs services to clear personnel for arrival in the United States.

Currently, customs service is provided at Lebanon from the POE at Derby Line, Vt. This is accomplished on an on-call basis through the out-of-port service concept. Parties requesting clearance at Lebanon are required to contact the Derby Line office at least 3 hours in advance of arrival so that an officer can be sent to clear the aircraft and its passengers at Lebanon. The parties requesting clearance are responsible for reimbursing customs for travel and per diem expenses. The Federal Government assumes responsibility for the salary of the customs official.

The present method has proven both costly and ineffective. A customs review of service at Lebanon reported that during a 6-month period in 1983, the net cost incurred by customs was $5,271. On top of these costs, the system placed time consuming burdens on businesses utilizing the airport. The Commissioner's report accurately indicated that providing service was not in the economic interest of the Government.

Although an alternative service system was planned for the airport, none has been implemented. The airport authority has recently completed work on a new terminal. A second runway has been extended and the instrument landing system has been upgraded. The airport now has the capacity to better handle international flights, and the airport administration, along with community, supports continued customs service at the airport.

Bureau of Customs Management Circular 9-0:I:PA, written in June of 1973, details an option which provides for a fair resolution to this problem. It allows for service if salary and expenses of a customs officer are reimbursed in full. We know this simply as a user fee system.

I have been in constant contact with the current users of the customs services at Lebanon airport regarding this matter. They have indicated their willingness to pay the costs associated with provision of services. Under the user fee system established by my bill, the company requesting service would pay a fee directly to the Treasury. Treasury would cover the pro rata share of the salary and benefits of customs officials, as well as any travel or related costs connected with the provision of service. This option enables a twofold benefit: The Federal Government incurs no cost; and service is insured for those flying into this region.

I would also like to note some other factors which may be useful as the Senate evaluates this measure. New Hampshire and South Dakota are the only two States without international landing rights—neither has an airport with international status designation within its boundaries. This is an obvious and unfair disincentive to business development, unjustly impeding further economic progress.

My bill offers a practical solution to this problem. It authorizes nine airports for special customs service, based on the cost-free concept known as user fees. It will permit certain smaller airports to provide continued customs service. Based on my preliminary investigation, users of these services understand and accept their role of covering the costs incurred. In most cases, this presents a less costly alternative than flying to another location.

Finally, you can be assured that my bill does not in any way alter existing customs service. It is simply a demonstration program designed to explore the feasability of establishing user financed operation of customs service at certain smaller airports. I encourage all of my colleagues to support this purposeful legislation, and welcome your assistance in its enaction.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury shall make customs services available and charge a fee for the use of such customs services at—

(1) the airport located at Lebanon, New Hampshire, and

(2) any other airport designated by the Secretary of the Treasury under subsection (c).

(b) The fee which is charged under subsection (a) shall be paid by each person using the customs services at the airport and shall be in an amount equal to the expenses incurred by the Secretary of the

Treasury in providing the customs services which are rendered to such person at such airport (including the salary and expenses of individuals employed by the Secretary of the Treasury to provide such customs services).

(c) The Secretary of the Treasury may designate 9 airports under this subsection. An airport may be designated under this subsection only if—

(1) the Secretary of the Treasury has made a determination that the volume or value of business cleared through such airport is insufficient to justify the availability of customs services at such airport, and

(2) the governor of the State in which such airport is located approves such designation.

(d) Any person who, after notice and demand for payment of any fee charged under subsection (a), fails to pay such fee shall be guilty of a misdemeanor and if convicted thereof shall pay a fine that does not exceed an amount equal to 200 percent of such fee.

(e) Fees collected by the Secretary of the Treasury under subsection (a) with respect to the provision of services at an airport shall be deposited in an account within the Treasury of the United States that is specially designated for such airport. The funds in such account shall only be available, as provided by appropriation Acts, for expenditures relating to the provision of customs services at such airport (including expenditures for the salaries and expenses of individuals employed to provide such services).●

By Mr. QUAYLE (for himself, Mr. STAFFORD, Mr. HATCH, and Mrs. HAWKINS):

S. 2496. A bill to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes; to the Committee on Labor and Human Resources.

ADULT EDUCATION ACT AMENDMENTS OF 1984

Mr. QUAYLE. Mr. President, I am pleased to introduce along with my colleagues, Mr. STAFFORD, Mr. HATCH, and Mrs. HAWKINS, a bill to reauthorize the Adult Education Act through the year 1989. This bill is the administration's proposal for the reauthorization of the Adult Education Act and is part of the administration's commitment to combating the problem of adult illiteracy.

Illiteracy in our country is a costly problem and one that needs to be addressed. All the opportunities for job training or continuing education mean little to a person who cannot read or write. As workers are being retrained to cope with new technologies we are discovering the vast number of Americans who cannot read or write or who have inadequate skills to cope with new workplace technologies.

The Adult Education Act has provided language and math training to over 10 million Americans since its enactment in 1965. Persons who are in need of these basic skills are served on an individual basis, in community organizations, libraries, high schools, and junior colleges. The programs have been flexible enough to provide services to 16 year olds and the elderly, to inner-city unemployed adults and to rural residents. A good percentage of the population served find jobs, or better jobs, and many are removed from welfare. The Adult Education Act also serves a growing number of refugees entering our country with English as a second language (ESL) programs, which help them adjust more quickly to life and employment in America.

I want to commend the administration for their commitment to the reduction of illiteracy. In addition to the reauthorization bill, the President has established an adult literacy initiative to encourage greater participation in literacy activities by the private sector, literacy organizations and citizens volunteering to help tutor adults in the community. The administration has also requested additional funding for the college work/study program to put more college students to work in tutoring positions. With an estimated 23 million functionally illiterate Americans, we need to explore and use every resource available. The administration is committed to increasing the awareness level of the problem of illiteracy and to mustering support from all sectors of our society.

I also want to commend the administration for expanding the eligible population under their reauthorization proposal. Current law states that program participants must be 16 years or older without a high school diploma or certificate of equivalency. The administration's proposal would expand eligibility to any person beyond the age of compulsory school attendance set by the State, without a high school diploma. Currently three States have compulsory school attendance ages of 15, and one has a compulsory school attendance age of 13. Under the present program students aged 13, 14, and 15 would not be eligible; under the proposed bill they could receive services.

This bill also would simplify the requirements for setting up a State advisory council and remove the prescriptive language currently in law. More data collection would be required and minor changes to the funding formula for the territories would be made. The administration is also proposing eliminating the set-asides of 20 percent for institutionalized populations served under the act and of 10 percent for demonstration and teacher training projects. The administration feels the States should have more flexibility in determining how to spend program dollars. They are recommending, however, that the 20 percent limit on the amount spent on GED programs be kept, to insure that program dollars are spent on adults who need more basic training. The administration's bill would also permit for-profit organizations to receive funds, require a 50 percent local adminstrative cost match, eliminate several unfunded sections dealing with special populations which are already served under the law, drop the maintenance of effort requirement and the 90 to 10 percent Federal-State match. Finally, the administration proposes a 5 percent secretary's discretionary fund for national programs in research, development, demonstration, and evaluation. The authorization for this bill is $100 million for fiscal year 1985 and such sums as may be necessary for fiscal years 1986–89.

I am pleased in general with the proposal of the administration to reauthorize the Adult Education Act. However, I have a few concerns about the bill that I would like to see worked out with the administration. One concern is requiring a 50 percent local administrative match for the projects. Many localities are already contributing all they can to adult education programs and the requirement of a 50 percent administrative match may mean the end of the program in some circumstances. Since the administration has increased flexibility in other areas, it seems unnecessary to have such a strict requirement at the local level. I would like to see this provision deleted from the final bill.

I have also heard some concern expressed about the inclusion of for-profit organizations as recipients of program funds. The current system of nonprofit groups offering services has worked well, and they are geared up to handle the demands of adult learners. Bringing in new service providers from the for-profit sector will add to increased start-up costs and may delay the provision of services to adults. Also, the for-profits will have to learn from the beginning how to train adult learners, when the nonprofits are already doing it. If we has several hundred million dollars in this program it might be easier to open it up to for-profit groups. For now, I would like to see the program funds go to nonprofits and instead let the Secretary use the discretionary fund to fund projects involving the for-profit sector.

While there are several other smaller issues that I am concerned over, I want to mention a final one regarding the maintenance of effort provision and the Federal-State match in current law. Already most States are overmatching. In Indiana they are overmatching by 200 percent. Despite this commitment by my State and many others, the maintenance of effort clause has caused problems in years when the State must decrease slightly its commitment due to increased unemployment and the requirement of a balanced budget. I think we need to look closely at the maintenance of effort clause and the match to insure

that when States are significantly overmatching they are not eliminated from the program due to a 1-year drop in maintenance of effort.

I look forward to working with the administration and my good friend from Vermont on this bill and urge my colleagues to support the reauthorization of a vital piece of legislation to millions of Americans.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD.

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

S. 2496

DEFINITIONS

SEC. 2. (a) Section 303(a) of the Adult Education Act (20 (U.S.C. 1201 *et seq.*) (hereinafter referred to as "the Act") is amended to read as follows:

"(a) The term 'adult' means a person who is beyond the age of compulsory school attendance under State law.".

(b) Section 303(b) of the Act is amended to read as follows:

"(b) The term 'adult education' means instruction or services below the college level for adults who do not have—

"(1) the basic skills to enable them to function effectively in society; or

"(2) a certificate of graduation from a school providing secondary education (and who have not achieved an equivalent level of education).".

(c) Section 303(g) of the Act is amended to read as follows:

"(g) The term 'State' includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

(d) Section 303(j) of the Act is amended by striking out "section 801(e)" and inserting in lieu thereof "section 1001(e)".

STATE GRANTS

SEC. 3. Section 304 of the Act is amended to read as follows:

"GRANTS TO STATES

"SEC. 304. The Secretary is authorized to make grants to States which have State plans approved by him under section 306 for the purposes of this section, to pay the cost of (1) the establishment or expansion of adult basic education programs to be carried out by local educational agencies and by public or private agencies, organizations, and institutions, and (2) the establishment or expansion of adult education programs to be carried out by local educational agencies and by public or private agencies, organizations, and institutions. Grants provided under this section to States to carry out the programs described in the preceding sentence may be carried out by public or private agencies, organizations, and institutions only if the applicable local educational agency has been consulted and has had an opportunity to comment on the application of such agency, organization, or institution. The State educational agency shall not approve any application unless assured that such consultation has taken place. Such application shall contain a description of the cooperative arrangements that have been made to deliver services to adult students.".

STATE ALLOTMENTS

SEC. 4. Section 305(a) of the Act is amended to read as follows:

"(a) From the sums available for purposes of section 304 for any fiscal year, the Secretary shall allot (1) $50,000 each to Guam, American Samoa, the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands, and (2) $150,000 to each of the other States. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age and above who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in such State bears to the number of such persons in all States.".

STATE PLANS

SEC. 5. (a) Section 306(a)(1) of the Act is amended by striking out "section 434" and inserting in lieu thereof "section 435".

(b) Section 306(b)(6) of the Act is amended by striking out "nonprofit".

(c) Section 306(b)(14) of the Act is amended to read as follows:

"(14) provide such further assurances and information as the Secretary may require, including information about the State's adult education students, programs, expenditures, and goals.".

(d) Section 306 of the Act if amended by redesignating subsection (c) as subsection (d) and inserting a new subsection (c) immediately after subsection (b) to read as follows:

"(c) If it so provides in its State plan, a State may use funds granted under section 304 for—

"(1) adult education demonstration projects (including demonstration projects serving persons with limited English speaking ability) which—

"(A) use innovative methods, materials, or activities; or

"(B) are part of community school programs carried out in cooperation with other Federal, State or local programs; and

"(2) projects for training persons who are, or are planning to become, instructors or other personnel in the field of adult education.".

ADMINISTRATION OF STATE PLANS

SEC. 6. Section 308 of the Act is amended to read as follows:

"ADMINISTRATION OF STATE PLANS

"SEC. 308. Whenever the Secretary has reason to believe that in administering its State plan, a State has failed to comply substantially with any provision of that State plan, the Secretary may take appropriate action under section 453 and 454 of the General Education Provisions Act.".

NATIONAL PROGRAMS

SEC. 7. Section 309 of the Act is amended to read as follows:

"RESEARCH, DEVELOPMENT, DEMONSTRATION, DISSEMINATION, AND EVALUATION

"SEC. 309. (a) The Secretary may, with funds set aside under section 312(b), support applied research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the United States (including activities to improve adult education opportunities for elderly persons). The Secretary may support such activities directly, or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals.

"(b) In addition to the responsibilities of the Director under section 405 of the General Education Provisions Act, the Director of the National Institute of Education may, with funds available under that section or with funds set aside under section 312(b) of this Act, support research on the special needs of persons requiring adult education. The Director may support such research directly, or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals.".

STATE ADVISORY COUNCILS

SEC. 8. Section 312 of the Act is amended to read as follows:

"STATE ADVISORY COUNCILS

"SEC. 312. Any State may use funds granted under section 304 to support a State advisory council which assists the State educational agency to plan, implement, or evaluate programs or activities under this Act.".

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

SEC. 9. Section 313(b) of the Act is amended by striking out "1984" and inserting in lieu thereof "1989".

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. Section 315 of the Act is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 315 (a) For the purpose of carrying out this title there are authorized to be appropriated $100,000,000 for fiscal year 1985 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) From the amount appropriated pursuant to subsection (a) for any fiscal year the Secretary may set aside not to exceed 5 per centum of that amount for programs under section 308.

"(c) A state may use funds granted under section 304 to pay for the development and administration of its State plan. When a State carries out a program or project through a local educational agency or a public or private agency, organization, or institution, the State may use funds granted under section 304 to pay not to exceed 50 per centum of the local administrative costs of that program or project.".

REPEALS

SEC. 11. (a) Sections 307, 310, 311, and 318 of the Act are repealed, and sections 308, 309, 312, 313, 314, 315, and 316 are redesignated as section 307, 308, 309, 310, 311, 312, and 313, respectively.

(b) Section 431A of the General Education Provisions Act is repealed.

EFFECTIVE DATE

SEC. 12. The provisions of this Act shall take effect July 1, 1985.

ADULT EDUCATION AMENDMENTS OF 1984—SECTION-BY-SECTION ANALYSIS

SECTION 2

Section 2 of the bill would change the definition of "adult" for purposes of the Adult Education Act from any person sixteen years of age or older, to any person who is beyond the age of compulsory school attendance under State law. The section would also make a parallel amendment to the definition of "adult education" as well as other technical amendments.

SECTION 3

Section 3 of the bill would permit States to carry out programs under the Act through profit-making agencies, organizations, and institutions. The section would also eliminate the requirement that States use no more than 20 percent of their funds to serve institutionalized persons.

SECTION 4

Section 4 of the bill would prescribe a new method of alloting funds to the States and insular areas. From the funds available for any fiscal year, Guam, American Samoa, the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands would each receive $50,000, while the States would each receive $150,000; the remainder of the available funds would be allotted to the States and insular areas according to the current criterion, which is their relative numbers persons aged sixteen years or older who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in a secondary school.

SECTION 5

Section 5 of the bill would clarify the authority of the Secretary to request information from States about their adult education students, programs, expenditures and goals. In addition to making certain technical amendments, the section would also clarify that States may use funds under the Act to support adult education demonstration projects or to support projects for training instructors or other personnel in the field of adult education.

SECTION 6

Section 6 of the bill would provide that whenever the Secretary has reason to believe that a State, in administering its State plan, has failed to comply substantially with any provision of that State plan, the Secretary may take appropriate action under sections 453 and 454 of the General Education Provisions Act (which provide for notice and opportunity for a hearing).

SECTION 7

Section 7 of the bill would authorize the Secretary to support research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the United States, including activities to improve adult education opportunities for elderly persons. The Secretary would be authorized to use funds set aside under the Act to support such activities directly, or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals. In addition, the Director of the National Institute of Education would similarly be authorized to use funds, available under section 405 of the General Education Provisions Act or set aside by the Secretary under this Act, to support research on the special needs of persons requiring adult education.

SECTION 8

Section 8 of the bill would authorize States to use funds under the Act to pay for a State advisory council to assist in planning, implementing, and evaluating programs or activities under this Act.

SECTION 9

Section 9 of the bill would extend the authority of the National Advisory Council on Adult Education until October 1, 1989.

SECTION 10

Section 10 of the bill would, in order to carry out the purposes of the Adult Education Act, authorize the appropriation of $100 million for fiscal year 1985 and such sums as may be necessary for fiscal years 1986 through 1989. The section would also authorize the Secretary to set aside no more than 5 percent of the amount appropriated for any fiscal year for applied research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the United States, as well as research on the special needs of persons requiring adult education. In addition, the section would permit States to use funds granted under the Act to pay for the development and administration of its State plan, as well as 50 percent of the local administrative costs of its programs and projects.

SECTION 11

Section 11 of the bill would eliminate the requirement that States pay at least 10 percent of the cost of programs under the Act, the requirement that States maintain their fiscal effort, and the requirement that States use at least 10 percent of their funds to support special demonstration projects or teacher training. The section would also repeal a section of the Act (which has never been funded) specifically authorizing the Secretary to support adult education programs for elderly persons as well as a section of the Act (which has not been funded for several years) specifically authorizing the Secretary to support adult education programs for adult immigrants.

SECTION 12

Section 12 of the bill would provide for an effective date for these amendments of July 1, 1985.

Mr. STAFFORD. Mr. President, today, along with my colleagues, Senator QUAYLE, Senator HATCH, and Senator HAWKINS, I am pleased to introduce the administration's proposal for the reauthorization of the Adult Education Act. This proposal, while maintaining the focus of current law, addresses the needs of those not presently served and attempts to give greater flexibility to State and local governments.

Adult education is an issue of increasing importance to the well-being of this Nation and has recently received heightened public attention. In the 1983 report by the National Commission on Excellence in Education, "A Nation at Risk," we find that some 23 million Americans, or 1 in every 5, are functionally illiterate as defined by the simplest test of everyday reading, writing, and comprehension. This problem of adult illiteracy is found in virtually every segment of society. Close to 1 million teenagers drop out of high school every year. Refugees and immigrants with little or no facility with the English language are entering the United States at an accelerating rate. As a result, the annual cost of illiteracy to the Federal Government in the form of welfare programs and unemployment compensation is estimated at over $6 billion. The actual figure may be much higher, and this estimate does not include tax revenues lost by the Government as a result of increased unemployment. In light of the fact that 75 percent of all Americans out of work today have inadequate reading and writing skills, any effort we can make to reduce this problem is clearly in the best interest of the Nation.

The adult education program today assists adults in acquiring basic skills and in achieving secondary-school-equivalency degrees. Each year, these programs serve approximately 2 million of the Nation's most disadvantaged persons. Promoting adult literacy has evolved from a primarily Federal effort to a combination of Federal, State, local, and private contributions. This cooperation needs to be encouraged even further if we are to reach out to the 23 million illiterate adults in the United States.

This bill reauthorizing the Adult Education Act is one part of the administration's effort to eliminate illiteracy in America. I would like to take this opportunity to commend the President and the Secretary of Education for their roles in helping to increase the American public's awareness of the extent of the problem. I would also like to draw attention to Secretary Bell's initiatives to combat illiteracy through cooperation with the private sector, literacy organizations, and volunteer programs.

Mr. President, the proposed amendments take into consideration the strengths and weaknesses of the current law. By changing the definition of adult from those 16 years of age and above without a high school diploma to those beyond the age of compulsory school attendance, this bill proposes to increase eligibility and allow for differences between the States.

The bill clarifies the authority of the Secretary to request information from States about their adult education students, programs, expenditures, and goals. It allows the States to use funds under the act to support demonstration projects and projects for training instructors and other personnel in the field of adult education. It authorizes the Secretary of Education to support research, development, and demonstration projects, including those to improve adult education opportunities for elderly persons.

Mr. President, the Subcommittee on Education, Arts, and Humanities intends to markup this legislation on April 12. I am convinced that, with the help of Senators QUAYLE, PELL, and my other colleagues on the subcommittee and on the full Labor and Human Resources Committee, the Senate will be reviewing a strong bipartisan bill sometime before the summer and that we will enact into law an improved Adult Education Act for another 5 years.

Mr. President, I ask unanimous consent that the text of the bill be reprinted in the RECORD following my statement.

Mr. HATCH. Mr. President, I am pleased to join with my friends and colleagues, Senator QUAYLE, Senator STAFFORD, and Senator HAWKINS in introducing a bill developed by the administration to extend, for the most part, the expiring provisions of the Adult Education Act. This has been a good piece of legislation. It has not created a choking underbrush of Federal regulations and prescriptive directives, as unfortunately happens with too many well-intentioned Federal initiatives. In most States, as in my home State of Utah, the administrative staff is small and does an unusually fine job of implementing the program; 31 of Utah's 40 school districts are engaged in adult basic education under this legislation with a total enrollment last year of over 5,000 individuals at an average cost of only about $85 per person. The State-provided cirriculum consisted of reading, writing, communication, arithmetic, reasoning, and interpersonal skills. During last year over 1,000 students passed the general educational development test and qualified for a certificate of high school equivalency, and nearly 800 others moved upward in their educational program to the adult high school program. Between these two programs, Mr. President, 442 are reported to have discontinued public assistance, and another 440 obtained employment as a result of the program, at an astonishingly low average cost of about $85 per person.

While minorities make up only about 5 percent of Utah's population, 32 percent of the enrollments in the program were minority students. That breaks down to 3-percent Indian, 12-percent Hispanic, 15-percent Asian, and 2-percent black.

As these data illustrate, Mr. President, this is a program that gets tremendous mileage out of the Federal dollar.

All of the amendments proposed by the administration are designed to streamline the program, and leave more of the operation to State discretion. The restriction is retained, however, that no more 20 percent of the funds may be used for high school equivalency programs in the States. In order to assure maximum access to basic education, the bill would also make private, for-profit organizations eligible to carry out programs funded under the act.

One of the weaknesses of the existing statute is the lack of authority to collect basic information to assess the program's effectiveness in terms of national needs. This bill would correct that deficiency and also permit the Department of Education to set aside up to 5 percent of the appropriation for national programs of research, development, demonstration, and evaluation activities in areas such as technology-based methods of instruction as well as the use of volunteers.

Other amendments include making a more equitable distribution of appropriated funds to outlying areas; redefining adult to include persons who have legally left the full-time school under age 16; repeal of unfunded authorizations for special programs for the elderly and adult immigrants; reducing the requirements regarding State advisory councils; and, certain other minor technical amendments.

Mr. President, this is a good bill. It will strengthen an already excellent program. I urge my colleagues in the Senate to give it their full support.

By Mr. TSONGAS:

S. 2497. A bill for the relief of Kil Joon Yu Callahan; to the Committee on the Judiciary.

RELIEF OF KIL JOON YU CALLAHAN

● Mr. TSONGAS. Mr. President, today I am introducing a private bill for the relief of Mrs. Kil Joon Yu Callahan. She is the wife of U.S. citizen David Callahan, a native of Hudson, Mass. David and Kil Joon were married in Korea on March 3, 1979. Kil Joon has since been trying to immigrate to the United States along with her husband and her son, Alexander. However, Kil Joon has been found ineligible for an immigrant visa and her only hope of relief is by the enactment of a private bill on her behalf.

Kil Joon has lead an exemplary life in Korea. I have received countless letters from my constituents and from the Callahan's friends in Korea attesting to Kil Joon's excellent character. She has not only conducted herself well in her community but has also been effective in helping her family endure the societal biases often experienced by Korean-American marriages.

Yet a greater concern I have for this family is the anticipated difficulties their son, Alexander, will face in Korea. The hardship suffered by children of American fathers and Korean mothers is widely documented. With this legislation, I am hopeful that the Callahan family will be allowed to overcome this hardship by immigrating to the United States.●

By Mr. TOWER (for himself, Mr. BOREN, Mr. EAST, and Mr. PERCY):

S. 2498. A bill to amend section 1034(h) of the Internal Revenue Code of 1954 in the case of members of the Armed Forces stationed overseas or required to reside in Government quarters; to the Committee on Finance.

CHANGE IN CAPITAL GAINS ROLLOVER FOR CERTAIN MEMBERS OF THE ARMED FORCES

● Mr. TOWER. Mr. President, this legislation has a narrow, but vitally important purpose. It amends the rules of Internal Revenue Code section 1034(h) that govern the rollover of capital gain on the sale of a personal residence for members of the Armed Forces who are stationed overseas or who are required to reside in Government quarters.

The Internal Revenue Code provides that a taxpayer who sells his or her principal residence and replaces it with another residence may make a tax-free rollover of the gain realized on the sale of the old residence. The replacement period for such sales is the period beginning 2 years before and ending 2 years after the sale or exchange of the old residence. This provision was first inserted in the code in 1951, but at that time the replacement period was 1 year before and after the date of sale. The replacement period was extended to 18 months in 1975, and to 2 years in 1981.

In 1952, the Congress amended the new 1951 law to suspend the running of the then 1-year period during the time a taxpayer is serving on active duty with the Armed Forces of the United States. The suspension period was limited, however, to no longer than 4 years after the date of sale of the old residence. This 4-year suspension provision was made permanent in 1954 and has not been amended since then, even though the replacement period for nonmilitary taxpayers has doubled from 1 year to 2 years.

For those members of the Armed Forces who are still stationed overseas at the expiration of the 4-year period, or who are still required to reside in Government quarters at that time, gain on the sale of the personal residence must be included in income for the year, resulting in a larger tax bill. This is in spite of the fact that the Armed Forces members in question have not had the opportunity to purchase a new residence, due to circumstances beyond his or her control.

Since 1954, and especially in recent years, the policy of the Department of Defense has been to extend the period between members' changes of permanent station, as a cost-saving measure. This policy is applicable to tours of duty both in the United States and overseas. The Congress supported this economy measure during the 96th Congress when it enacted Public Law 96-575, which contains provisions that grant incentives to members who voluntarily extend overseas tours of duty. Many such tours of duty, if extended, exceed 4 years. Yet, the present provisions of section 1034(h) of the code, providing a maximum of 4 years in which to acquire a new principal residence to avoid recognition of gain on the sale of an old residence, serve to discourage overseas tour extensions.

Another result of the Department of Defense policy of extending the peri-

ods between changes of permanent stations is that more and more tours of duty in the United States exceed 4 years. In many such cases, the member is required to reside in Government quarters. An additional circumstance often arises in which a member is assigned overseas and then returns to an assignment in the United States to a duty station where the member is required to reside in Government quarters. In that instance, even if neither the overseas assignment nor the assignment in the United States individually exceeds 4 years, the combined assignments do exceed 4 years. Thus, in the case of an overseas assignment, an assignment in the United States where the member is required to occupy Government quarters, or a combination of these, a military member may be effectively precluded from acquiring a new principal residence necessary to avoid recognition of gain on the sale of the old residence.

This legislation recognizes these unique circumstances faced by members of the Armed Forces by providing that, in the case of a member of the Armed Forces who is stationed outside the United States or who is required to reside in Government quarters, the normal nonrecognition period will not expire until the end of 4 years after the sale of the old principal residence or 1 year after the member is no longer stationed outside the United States or no longer required to reside in Government quarters, whichever is later. This proposed change would apply only to sales of old principal residences occurring after December 31, 1979.

In my view, this change in the tax law is needed to properly coordinate our defense personnel policies with our tax policy for homeowners. It is my hope that the Congress will soon act favorably on this measure.●

By Mr. STEVENS (for himself and Mr. PACKWOOD):

S. 2499. A bill to authorize the appropriation of funds for certain maritime programs for fiscal year 1985; to the Committee on Commerce, Science, and Transportation.

MARITIME APPROPRIATION AUTHORIZATION ACT FOR FISCAL YEAR 1985

Mr. STEVENS. Mr. President, I am introducing a bill today to authorize the appropriation of funds for certain maritime programs of the Department of Transportation (DOT) and the the Federal Maritime Commission (FMC) for fiscal year 1985.

The bill closely follows the administration's budget for DOT maritime programs with two exceptions. First, incentive payments to State maritime academy students are retained at last year's level, which adds $77,000 to the administration's budget. Second, the sum of $3 million is added for State academy training ships. In sum, the administration's budget of $460.5 million is increased to $463.6 million by this bill. Even with these increases, the bill represents a $22.4 million decrease from last year's appropriation.

The operating differential subsidy program administered by DOT is authorized in the bill at $377.8 million. These subsidies are designed to maintain essential U.S.-flag maritime services and are based on the difference between U.S. and foreign-flag vessel operating costs. The authorization covers existing subsidy contracts only, and would provide for ongoing support of 124 lines and 18 bulk vessels. There is no funding for settlement and termination of contracts.

Maritime research and development activities of DOT are authorized in the bill at $10 million. This is a $1.39 million reduction from fiscal year 1984 and reflects a decreased emphasis on applied research.

The remaining $75.8 million to be authorized is for maritime operation and training activities of DOT. This category includes, among other things, funding for the U.S. Merchant Marine Academy, the six State academies, support of the National Defense Reserve Fleet, and emergency planning.

Finally, the bill authorizes activities of the FMC at the administration's requested level of $12.3 million.

A hearing on the bill will be held by the Commerce Committee on April 5, 1984, at 10 a.m., in room SR-253 of the Russell Building.

By Mr. TRIBLE:

S. 2500. A bill to amend the Federal Financing Bank Act of 1973 to insure the proper budgetary treatment of credit transactions of Federal agencies; to the Committee on Banking, Housing, and Urban Affairs.

CREDIT ACCOUNTING REFORM ACT OF 1984

Mr. TRIBLE. Mr. President, over the next 5 years, the Federal Government plans to guarantee repayment of $610 billion in other people's loans, and to extend $210 billion in new direct loans to private borrowers.

And Congress has absolutely no idea what all this will cost.

Congress was also in the dark when it made decisions to guarantee the $364 billion in guaranteed loans outstanding, and to make the $223 billion in direct loans now on its books.

Despite the huge number, massive size, and rapid growth of Federal credit assistance programs—despite the major risks these programs impose on Federal taxpayers—despite the profound impact of these credit activities on our capital markets, economic growth, and the standard of living—Congress knows virtually nothing about their cost.

Congress simply cannot make rational decisions when it acts in the dark.

Today, along with my colleague in the House, Representative BILL GRADISON, I am introducing legislation to correct this shocking situation.

The Credit Accounting Reform Act of 1984, will identify the true costs of Federal credit programs and bring those costs into the Federal budget.

For the first time, Congress will know what credit programs cost when decisions are made. It would be able, for the first time, to compare credit programs with one another meaningfully, as well as with other forms of Federal assistance. For the first time, Congress will know what it needs to know to fashion cost-effective programs of credit assistance for the American people. As a result, Congress would be in a far better position to determine overall budget and credit policies.

Under my bill, the subsidy costs of Federal credit programs would be identified and brought into the budget by selling Government-originated loans and by purchasing private reinsurance whenever Government guarantees a loan.

Thus, my bill is best described as a "market plan," because it uses private markets—private investors and private insurers—to identify the subsidy cost of Federal credit programs.

The Congressional Budget Office's March 1984 study, "New Approaches to the Budgetary Treatment of Federal Credit Assistance," suggests loan sales and insurance purchases as an objective and reliable way to identify the true costs of Federal credit and to bring those costs into the budget.

The market plan stands on its own; it is a desirable reform in its own right, because it forces Congress to face up to the reality of credit program costs. Merit alone argues for its adoption.

Yet, the market plan would lead to a substantial reduction in the national debt, substantially lower Federal deficits over several years, and continuing sizable savings in interest and default costs.

Because the Government's huge portfolio of direct loans would be sold to the highest bidder under the market plan, the Government would collect $112 to $174 billion in unanticipated receipts over the next several years. These early collections would be applied directly to debt reduction.

The proceeds from loan sales would be earmarked to retire the debt of Federal lending agencies, and the national debt would be reduced by the same amounts.

As a result of debt retirement, the market plan would produce substantial interest saving in future years. At current interest rates and program levels, annual interest savings would be between $10 to $15 billion every year.

Because both existing and new loan guarantees would be "reinsured" by paying an "up front" premium, Government would avoid billions of dollars in future default costs.

The "uncontrollability" of Federal spending would be reduced because such "uncontrollables" as interest on the national debt and defaulted loans paid by Government would be reduced or eliminated.

The risk exposure of Federal taxpayers and the Federal Government would be reduced: by paying fixed amounts "up front," Congress would be able to shift the risk of open-ended claims to the private sector.

Finally, there would be no interruption in the availability or amount of assistance under Federal credit programs. The same loan and guarantee programs, to benefit the same groups, on the same terms and conditions, would continue unchanged. But Congress would be in a better position to make intelligent decisions because it would have correct information about the comparative costs of different credit programs.

What is wrong with current accounting for Federal credit costs? Well at present, the Congress knows virtually nothing about the true cost of Federal credit programs, because the budget numbers which Congress relies on do not reveal program costs.

Consider loan guarantees. Under present accounting practices, a loan guarantee has no budget impact in the year the Government makes it. It enters the budget as a zero. It seems "costless"—which is why Congress makes lots of loan guarantees.

But loan guarantees are not "costless." Some guaranteed loans will always be defaulted, and Federal taxpayers will have to "pick up the tab" and repay the lenders. In 1983, for example, taxpayers repaid $4.8 billion of "other people's" loans.

The Congress is also in the dark about the cost of Federal loans. The current budget numbers on "net lending" have nothing to do with loan costs. It is easy to see why, by looking at how "net lending" is computed. Take the amount loaned this year, add Government repayment of loans guaranteed in earlier years but defaulted this year, and subtract this year's collections of earlier loans—that is how "net lending" is calculated. Two of the three items—repayments of earlier loans defaulted, and collections of earlier loans—have nothing to do with this year's lending. And the third element—the amount loaned this year—has nothing to do with the cost of this year's lending, because it ignores the value of future repayments.

So, its clear that neither "net lending" nor new "amounts lent" tells us anything about the cost of Federal credit programs this year, or any year.

Dr. Rudolph Penner of CBO recently called our current credit accounting system "unsatisfactory because it is neither comprehensive nor successful in representing the subsidy costs of credit assistance." He indicated the current system as "frequently misleading," noting that today "some high subsidy programs appear to cost very little while lost cost programs may appear to be very costly."

And Dr. Penner drew the appropriate lesson. "Improved budgeting for Federal credit is necessary for Congress to rationally address the allocation of Government's and the Nation's scarce resources. Without knowledge of cost, or the amount of resources consumed by a particular course of action, informed choice is impossible. Without a measure of the subsidy cost of credit, there is no possibility of selecting a budget that will maximize public benefits."

The solution to reform accounting through the market plan to remedy defects in current accounting practices, the Credit Accounting Reform Act of 1984 does three things: It identifies the true cost of Federal loans and loan guarantees; it brings these costs into the Federal budget; and it requires Congress to make appropriations to cover these costs.

To identify the cost of loan guarantees, the Government would "reinsure" its risks. Washington's Federal agencies would guarantee loans as usual, but would then buy a private insurance policy to cover any risks. By "reinsuring" its guarantees, and paying "up front" premiums to do so, Congress would bring the estimated cost of guarantees into the budget. This reinsurance principle would be applied to both existing and new federal guarantees.

To identify the subsidy cost of Federal loans, the Government would again rely on private markets—this time, private investment markets. When the Government makes a loan, it would immediately sell that loan to the highest private bidder. The difference between the amount loaned, and the amount the Government recovered through loan sales would appear in the budget. This difference measures the subsidy in Federal lending. Once again, the principle of loans sales would be applied uniformly to all loans—the $223 billion in loans outstanding as well as any new loans—the $223 billion in loans outstanding as well as any new loans made.

Here is how the market plan would work: If the Government guaranteed a $100 million private loan, it would have to buy a $100 million insurance policy for, say, $6 million immediately. By paying this $6 million premium, the Government would rid itself of the "expected future default cost" of the loan, and would put the $6 million cost into the budget.

The market plan would work similarly for direct loans. If the Government lent $50 million at a subsidized interest rate, it would immediately sell the note to the highest bidder. Perhaps the high bid would be $25 million. The difference—$25 million—measures the "present value" of the subsidy, and that figure would appear in the budget.

In conclusion, Mr. President, current budget accounting for Federal credit requires reform. CBO has shown us how to do this, using the market plan principles. I urge my colleagues to join in this important effort, particularly since it offers important "fringe benefits" in terms of lower deficits, debt, and interest payments. We have a golden opportunity to do the right things. Let us not lose it.

Mr. President, I ask unanimous consent that the fuller description of my bill, and the text of the bill, be printed in the RECORD.

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

S. 2500

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 "Credit Accounting Reform Act of 1984".

SEC. 2. AMENDMENTS OF FEDERAL FINANCING BANK ACT OF 1973.

(a) The Federal Financing Bank Act of 1973 is amended by striking out sections 2 and 3 and inserting in lieu thereof the following:

"FINDINGS AND DECLARATION OF PURPOSES

SEC. 2. (a) The Congress finds that—

"(1) demands for funds through Federal and federally assisted borrowing programs are increasing faster than the total supply of credit,

"(2) such borrowings are not adequately coordinated with overall Federal fiscal and debt management policies, and

"(3) the budgetary treatment of such borrowings does not result in an accurate reflection of their cost to the Federal Government.

"(b) The purposes of this Act are to assure coordination of Federal and federally assisted borrowing programs with the overall economic and fiscal policies of the Federal Government and to assure that the budgetary treatment of such programs accurately reflect their cost to the Federal Government.

"DEFINITIONS

"SEC. 3. For purposes of this Act—

"(1) FEDERAL AGENCY.—The term 'Federal agency' means an executive department, an independent Federal establishment, or a corporation or other entity established by the Congress which is owned in whole or in part by the United States.

"(2) OBLIGATION.—The term 'obligation' means any note, bond, debenture, or other evidence of indebtedness, but does not include Federal Reserve notes or stock evidencing an ownership in interest in the issuing Federal agency.

"(3) GUARANTEE.—The term 'guarantee' means any guarantee, insurance, or other pledge with respect to the payment of all or

part of the principal or interest on any obligation, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions, or other guarantee or pledge arising out of a statutory obligation to insure such deposits, shares, or other withdrawable accounts.

"(4) DIRECT LOAN.—The term 'direct loan' means a disbursement of funds by a Federal agency (not in exchange for goods or services) under a contract which requires the repayment of such funds with or without interest. Such term shall also include an obligation guaranteed by a Federal agency and purchased by the Bank under section 6(c)(1). Such term shall not include any commodity price support loan made by the Commodity Credit Corporation.

"(5) PRIVATE REINSURANCE.—The term 'private reinsurance' means any insurance policy which—

"(A) is issued by an insurance company which is authorized to issue insurance policies and meets such other requirements as the Bank may prescribe under this Act, and

"(B) is to indemnify the Federal agency for any loss from the risks assumed by such agency under the guarantee.

Such term shall not include any contract issued by a Federal agency or any other agency or instrumentality of a government.

"(6) BANK.—The term 'Bank' means the Federal Financing Bank established by section 4 of this Act."

(b) The Federal Financing Bank Act of 1973 is amended by striking out sections 6 and 7 and inserting in lieu thereof the following:

"FUNCTIONS

"SEC. 6. (a)(1) Within 90 days after a Federal agency has made a direct loan, the Bank (acting as agent for such agency) shall sell the obligation resulting from such loan to the public (either directly or through pooled participation arrangements).

"(2) All sales under paragraph (1) shall be made to the highest bidder at a public auction conducted by the Bank or an agent of the Bank.

"(3) Any guarantee by a Federal agency of an obligation sold under this subsection shall be effective only while such obligation is held by the Bank.

"(b)(1) Within 90 days after a Federal agency guarantees any obligation, the Bank (acting as agent for such agency) shall purchase private reinsurance for the risks assumed by such agency under such guarantee.

"(2) All purchases under paragraph (1) shall be made on a competitive basis.

"(c)(1) The Bank may make commitments to purchase, and purchase and sell on terms and conditions prescribed by the Bank, any obligation which is issued or guaranteed by a Federal agency. Any Federal agency which is authorized to issue any obligation is authorized to issue such obligation directly to the Bank.

"(2) Any purchase by the Bank shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration (A) the current average yield on outstanding marketable obligations of the United States of comparable maturity, or (B) whenever the Bank's own obligations outstanding are sufficient, the current average yield on outstanding obligations of the Bank of comparable maturity.

"(d) The Bank is authorized to charge fees for its services to cover all expenses.

"(e) In order to facilitate sales under subsection (a) and the purchase of private reinsurance under subsection (b), the Bank (in consultation with the Office of Management and Budget) shall formulate standard contracts to be used by Federal agencies when making direct loans or guaranteeing obligations.

"FUNCTIONS OF FEDERAL AGENCIES

"SEC. 7. (a) Notwithstanding any other provision of law, any Federal agency which makes a direct loan or guarantees any obligation shall (as soon as practicable after making such loan or guaranteeing such obligation) transmit to the Bank—

"(1) the loan obligation, in the case of a direct loan, and

"(2) such information with respect to the borrower as may be necessary for the Bank to carry out its responsibilities under section 6.

Notwithstanding any other provision of law, any information received by the Bank under paragraph (2) may be disclosed by the Bank to the extent necessary to sell the obligation, or purchase private reinsurance, under section 6.

"(b) To the extent practicable, any Federal agency, when making a direct loan or guaranteeing any obligation, shall use the appropriate standard contract formulated by the Bank under section 6."

(c) Subsection (c) of section 11 of the Federal Financing Bank Act of 1973 is amended to read as follows:

"(c)(1) All receipts and disbursements of the Bank with respect to—

"(A) any direct loan sold by the Bank as agent for a Federal agency, or

"(B) any guarantee with respect to which the Bank purchased private reinsurance as agent for a Federal agency,

shall be treated for purposes of unified budget as receipts and disbursements of such Federal agency.

"(2) In the case of any off-budget Federal agency, the unified budget shall include for such agency its receipts from, and disbursements to, the Bank."

(d) Section 16 of the Federal Financing Bank Act of 1973 is hereby repealed.

SEC. 3. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by section 2 shall take effect on October 1, 1985; except that section 6(d) of the Federal Financing Bank Act of 1973 (relating to formulation of standard contracts), as amended by section 2, shall take effect on October 1, 1984.

(b) COORDINATION WITH OTHER PROVISIONS.—The amendments made by section 2—

(1) shall supersede, modify, or repeal any provision of law heretofore enacted to the extent such provision is inconsistent with such amendments, and

(2) shall not be superseded, modified, or repealed except by a provision of law hereafter enacted which expressly amends the Federal Financing Bank Act of 1973.

SEC. 4. TRANSITIONAL RULES.

(a) PILOT PROGRAM DURING 1985.—During fiscal year 1985, the Federal Financing Bank may—

(1) sell any obligations, or

(2) purchase private reinsurance for any guarantee made by a Federal agency,

to the extent necessary to establish the marketability of (or the feasibility of purchasing private reinsurance for) categories of loans or guarantees for which there is not prior experience in marketing or reinsuring risks.

(b) TREATMENT OF DIRECT LOANS OUTSTANDING ON OCTOBER 1, 1985.—

(1) IN GENERAL.—During fiscal year 1985, the Federal Financing Bank (in consultation with the Office of Management and Budget) shall compile an inventory of all direct loans made by Federal agencies which are expected to be outstanding on October 1, 1985.

(2) DEVELOPMENT OF MARKETING PLAN.—No later than October 1, 1985, the Federal Financing Bank shall develop a marketing plan under which all obligations resulting from direct loans made by Federal agencies which are outstanding on October 1, 1985, will be sold by the Federal Financing Bank during the 2-year period beginning on the day on which such plan is completed.

(3) RESPONSIBILITY OF FEDERAL AGENCY.—Any Federal agency holding a direct loan obligation to be sold under the marketing plan referred to in paragraph (2) shall transmit such obligation (and such information as the Bank may require with respect to such obligation) to the Federal Financing Bank at such time as it may require.

(4) TREATMENT OF INDEBTEDNESS OF FEDERAL AGENCIES.—

(A) INDEBTEDNESS TO FEDERAL TREASURY.—Any obligation of a Federal agency to the general fund of the Treasury or to the Federal Financing Bank which is attributable to direct loans made by such agency before October 1, 1985, shall be forgiven.

(B) OBLIGATIONS HELD BY PUBLIC.—In the case of any obligation of a Federal agency which is held by any person (other than a Federal agency) and which is attributable to direct loans made by such Federal agency before October 1, 1985, interest and principal on such obligation shall be paid by the Treasury of the United States in the same manner as if such obligation had been issued by the Treasury Department

(5) PROCEEDS OF LOAN SALES TO BE CREDITED TO GENERAL FUND OF THE TREASURY.—All proceeds from sales made under this subsection shall be credited to the general fund of the Treasury.

(c) TREATMENT OF OUTSTANDING GUARANTEED LOANS.—

(1) IN GENERAL.—During fiscal year 1985, the Federal Financing Bank (in consultation with the Office of Management and Budget) shall compile an inventory of all obligations with respect to which a guarantee by a Federal agency is expected to be in effect on October 1, 1985.

(2) DEVELOPMENT OF REINSURANCE PLAN.—Not later than October 1, 1985, the Federal Financing Bank shall develop a plan under which the Federal Financing Bank will purchase, during the 3-year period beginning on the day on which such plan is completed, private reinsurance for all guarantees by Federal agencies which are in effect on October 1, 1985.

(3) RESPONSIBILITY OF FEDERAL AGENCIES.—Any Federal agency which made a guarantee to be reinsured under the plan referred to in paragraph (2) shall transmit such information as the Bank may require with respect to the guarantee to the Federal Financing Bank at such time as it may require.

(d) GENERAL PROVISIONS.—

(1) DEFINITIONS.—Terms used in this section shall have the same meaning as when used in the Federal Financing Bank Act of 1973 (as amended by this Act).

(2) REQUIREMENT THAT MARKETING PLAN AND REINSURANCE PLAN BE PUBLISHED IN THE FEDERAL REGISTER.—The Federal Financing Bank shall publish in the Federal Register the marketing plan developed under subsec-

tion (b)(2) and the reinsurance plan developed under subsection (c)(2).

SUMMARY OF THE TRIBLE-GRADISON MARKET PLAN

The Market Plan is primarily a plan to bring the true costs of federal credit programs to Congress' attention, and to require Congress to make "up front" decisions to finance these costs.

Under the Market Plan, markets are used to help identify the cost of federal credit programs. Loan resale markets—secondary markets—would help to identify the subsidy cost of direct loans. Private insurance markets and underwriters would help to identify the true cost of federal loan guarantees and insurance.

Old and newly originated federal loans would be sold to private investors for the highest bid. The *difference* between the amount loaned by the government, and the amount recovered by selling the loan note—a measure of the subsidy cost of direct lending—would appear in the budget.

In addition, old and newly committed loan guarantees and insurance would be reinsured, by purchasing insurance from a private insurer. The government's premium costs for buying this insurance—a measure of the estimated future cost of covering defaulted guaranteed loans—would be reflected in the budget.

Although the Market Plan is primarily a budget accounting reform, intended to reveal and force action upon the true cost of federal programs, implementing the plan would lead to major savings in the budget. Federal spending and deficits would be lower, and the national debt would be reduced. The savings are basically due to an acceleration of revenues from loan repayments, interest savings, and avoidance of default costs. These savings are detailed at the end of this memo.

THE MARKET PLAN: FEDERAL LOAN GUARANTEES AND LOAN INSURANCE

1. During fiscal year 1985, the federal government will conduct pilot programs to gain experience in purchasing private insurance to reinsure risks associated with federal loan guarantees and insurance.

2. During fiscal years 1986 and 1987, the government will purchase private insurance to reinsure its outstanding loan guarantees and insurance.

3. Starting in fiscal year 1986, and thereafter, all new loan guarantee and loan insurance commitments will be reinsured through purchases of private insurance.

4. In all cases, when an assisted borrower defaults a loan guaranteed or insured by the government, the government will honor the guarantee or insurance and pay the claim; however, the government will recover its costs from its insurers.

5. Premiums paid by the government for the purchase of private insurance will be reflected in the budgets of the guaranteeing or insuring agencies during the year insurance is purchased. All premiums will be single-payment premiums.

6. All insurance purchased from private suppliers will be purchased competitively, to hold insurance premium costs as low as possible. No insurance purchased will be federally backed or underwritten.

7. Existing loan guarantee and loan insurance programs would continue unchanged, with the same beneficiaries eligible for federal assistance, on the same terms, as presently. Assisted borrowers would also have the same repayment responsibilities as under existing law. In cases where borrowers pay premiums or feeds for federal insurance or guarantees (e.g. FHA mortgage insurance), they would continue to do so.

8. Limitations on loan guarantees and insurance would continue to be part of the credit budget, and would continue to be determined in appropriations bills.

THE MARKET PLAN: SELLING FEDERAL DIRECT LOANS

1. During fiscal year 1985, the U.S. government will conduct pilot programs to gain experience in selling direct federal loans to private investors.

2. During fiscal years 1986 and 1987, the government will sell all of its outstanding loans to private investors. (Proceeds of these sales will be earmarked to retire debts of federal lending agencies.)

3. Starting in fiscal year 1986, and thereafter, all newly originated direct loans will be sold to private investors.

4. All loans sold shall be sold competitively to the highest bidder, to maximize sales proceeds. No loans sold will be federally guaranteed or insured. Loans may be sold individually as "whole loans" or sold in packages as "participations".

5. When newly originated loans are sold, the sales proceeds will be received by the lending agencies as "offsetting receipts". Thus, agencies' budgets (and the unified federal budget) will reflect the difference between amounts lent and amounts recovered through loan sales. This difference is a measure of the subsidy cost of federal lending.

6. Congress will have to appropriate funds to cover all such subsidies in advance of the extension of the loans.

7. Existing direct loan programs will continue unchanged in most respects. Loans will be made to the same classes of borrowers presently eligible, at the same interest rates and on the same terms and conditions, as presently. Borrowers could continue to repay their federal loans directly to the federal lending agency. (The agent would then pass these repayments on to loan purchasers.) Collection of delinquent or defaulted loans could be done by the agency or by private firms, depending on the provisions in current law.

8. The volume of direct loans will continue to be controlled through limitations in appropriations bills.

By Mr. QUAYLE:

S. 2501. A bill to amend the Public Health Service Act to provide for health care cost containment through the use of competitive medical plans and preferred provider arrangements, and for other purposes; to the Committee on Labor and Human Resources.

S. 2502. A bill to amend the Social Security Act to provide for health care cost containment through the use of preferred provider arrangments; to the Committee on Finance.

S. 2503. A bill to provide for studies and projects relating to health care consumer information; to the Committee on Labor and Human Resources.

S. 2504. A bill to establish an Institute for Health Care Technology Assessment; to the Committee on Labor and Human Resources.

HEALTH COST CONTAINMENT LEGISLATION

● Mr. QUAYLE. Mr. President, the high cost of health care in this Nation is one of the major problem areas facing this Congress. Concern over health care cost is not new but with ever increasing Federal budget deficits and the need for employers to reduce overhead to increase competitiveness at home and abroad, it is becoming a major focus of attention. Action must be taken by both the public and private sectors to bring health care costs under control.

THE PROBLEM

Health care costs have increased over the last 20 years at a rate far outstripping inflation. The Nation's health care bill has increased from $26.9 billion in 1960 to $322.4 billion in 1982—a twelvefold increase. During this same 22-year period, the consumer price index increased by a little over twofold.

These cost increases have had an effect on every American family. The average family's share of personal health care expenditures was $2,000 in 1980. If current trends continue, this figure could reach $8,000 by 1990.

The business community is also feeling the pinch from these cost increases. From 1975 to 1981 private sector employer's contributions for worker health insurance increased 163 percent. For those years the health insurance bill for business went from $23 billion to $63 billion.

The growth in the health care costs of the Federal Government has been even more staggering. Medicare outlays have increased from $3.4 billion in 1967 to $57.3 billion in 1983. A 13-percent in the cost of medicare and medicaid is projected for 1984. The costs of medicare and medicaid together have roughly doubled every 4 years. These increases now threaten the solvency of the medicare health insurance trust fund which pays for the hospital care of medicare beneficiaries. It is projected that this trust fund will become insolvent in the early 1990's and may have a deficit as large as $144 billion by 1995.

On top of these direct Federal expenditures for health care, the U.S. Treasury subsidizes health insurance through tax deductions. This subsidy is projected to amount to $31 billion this year. This total is rising annually as health care cost inflation drives up health insurance premiums for employers and individuals.

To be sure, about 60 percent of recent health care cost increases can be attributed to general inflation in our economy. The remaining 40 percent of these increases, due to a number of factors, merits our attention. In part, the vast improvements in access to health care and its quality in this Nation over the last 20 years are responsible for this 40-percent hike,

but its other causes are not as laudable. Much of the growth can be attributed to consumers who are uninformed about the cost implications of health care and insulated by insurance coverage from the increases in health care costs. Then there are the physicians who are often caught up in the technological imperative, regardless of its economic implications or, in infrequent cases, its effect on the quality of death for terminally ill patients. Hospitals that are underutilized, poorly managed or prone to building new facilities or adding equipment inappropriately also can be blamed. So too have third-party payers contributed to the problem by remaining insulated from market forces.

Then, there are such additional upward pressures as the gradual aging of the U.S. population, the greater demand for services by the disadvantaged, the medically legitimate though expensive technological breakthroughs, and the overdue upgrading of many hospitals.

The reasons for rising health care costs are as complex as our health care system itself and any resolution or set of resolutions which addresses the cost issue should consider them all. Initiatives adopted to contain health care costs must account for a myriad of economic, social, and political factors. They must recognize the idiosyncracies of a health care system that is generally both decentralized and pluralistic.

THE INCREMENTAL APPROACH

Legislation leading to regulatory fiats alone will not yield both the greater cost control we seek and maintain the quality of and access to care our citizens demand and deserve. Cost control solutions must be developed which change the incentives of consumers, hospitals and physicians without applying burdensome sanctions. Such sanctions eventually will lead to a deterioration of our health care system, an outcome which will be unacceptable to such affected groups as our senior citizens.

I believe, Mr. President that we need to take an incremental approach aimed at changing incentives. In an article published in the April issue of Business and Health, I describe the conceptual underpinnings of this approach. Mr. President, I will ask that this article be included in the RECORD.

Sound incremental reform should include market-oriented policies designed to provide incentives for consumers, hospitals, physicians and the third parties who pay for care to reduce health care expenditures. To be market-oriented, initiatives should promote competition between hospitals and physicians on the delivery level, and third party payers on the financing level, while making consumers conscious of the economic implications of their health care purchasing decisions. At the same time, initiatives may be directed to reduce inefficiencies in the delivery or financing of care which the market, itself, through increased competition may fail to reduce.

Today I introduce four measures, each of which will serve to reduce our Nation's health care bill at the margin. The agenda set out in these bills is by no means exhaustive. I hope my colleagues in the Congress will offer further proposals which will foster constructive incremental change in our health care delivery system.

S. 2501. THE PUBLIC HEALTH SERVICE ACT AMENDMENTS OF 1984

The first of my initiatives is the Public Health Service Act Amendments of 1984. This bill promotes the development of alternative health care delivery and financing systems and disease prevention.

One of the roots of the high cost of health care is the current oversupply of hospital beds and certain other services. In a noncompetitive health care environment where some form of insurance covers most inpatient hospital services, there is an inherent incentive to overuse the expensive services provided by these institutions. To counter this tendency, financing and delivery mechanisms that discourage overutilization are needed.

The Federal Government is already encouraging the use of health maintenance organization (HMO's), one such utilization reducing mechanism, and it should similarly promote the newly designed competitive medical plans (CMP's) as they come on line. The evidence indicates that HMO's CMP's and other forms of prepaid service plans will reduce health care costs.

According to the 1983 National HMO Census conducted by Interstudy, the average family premiums for HMO's increased at half the rate of those charged by traditional insurance carriers between June 30, 1982, and June 30, 1983. Studies have found that HMO's provide costs savings in the range of 30 percent in lower hospital rates. Ford Motor Co., reports that it saved $5 million in 1982 in reduced premiums for HMO coverage and it expects it saved another $7 million in 1983. These are real savings that will be amplified and replicated if HMO-like activity is promoted.

Currently the Public Health Service Act requires employers to offer employees a federally qualified HMO as an alternative conventional health insurance when such an HMO is available. This legislation has contributed to the growth in HMO's but it is also extremely prescriptive in the requirements it places on HMO's. This bill amends sections 1310 and 1311 of title XIII of the act to provide CMP's the same recognition already given HMO's. In order to qualify for this provision, CMP's will have to meet the streamlined guidelines provided for them in section 1876 of the Social Security Act which allows the Secretary of Health and Human Services to contract with them for medicare beneficiaries. Placing CMP's funded for medicare beneficiaries on the same footing as federally qualified HMO's will not burden employers but will encourage the further development of useful delivery systems.

Another health case delivery and financing model which promotes cost efficient health care delivery is the preferred provider arrangement or organization (PPA). Under the PPA model, insurers, employers, or other third-party administrators contract directly with physicians and/or hospitals who agree to provide health services in a cost-conscious manner under strict utilization controls and may give payers discounts. In exchange, the payers promise prompt payment to contracting hospitals and physicians and financial incentives for beneficiaries to patronize these preferred providers.

PPA's are relatively new but they are becoming a significant contributor to cost savings for many employers. Blue Cross-Blue Shield in Minnesota's PPA has estimated it will save as much as $10 million per year in hospitalization costs. For employees of Denver city government PPA's in a 1982 survey for 6-month period, hospitalizations were $400 to $500 less for PPA beneficiaries. Martin Segal Co., has reported cost savings of 16 to 24 percent on individual clients and medical costs per year significantly lower for PPA members than for those in the general population.

The development of PPA's should be fostered by Federal initiatives, especially since the insurance laws in many States currently restrict PPA formation by insurers. To help remove these barriers, S. 2501 amends section 1311 of title XIII of the Public Health Service Act to waive certain insurance laws in States which have not yet passed legislation to promote PPA development. The provision allows insurers to contract for discounts with hospitals and physicians and then to offer policies to employers in which plan beneficiaries will forgo freedom of or at least limited choice of provider for some set of economic incentives. To prevent any exploitative activities by insurers providing such plans, the bill provides that agreements may not be discriminatory and must be based only upon economic and quality-of-care considerations.

Last, S. 2501 would amend section 1310 of the Public Health Service Act to require employers to provide employees reasonable access at least once per year to a blood pressure test. This provision will place no real burden on employers who can offer this inexpen-

sive, noninvasive test at little or no cost and does not require them to provide the test through their health insurance plans. It will, however, lead to cost savings for employers and employees.

Currently, 60 million Americans suffer from elevated blood pressure or hypertension. This population is at risk of stroke, heart attack, and other cardiovascular system disease; 15 million of this population are not ever aware that they are at risk. Last year $2 billion in employee earnings, representing more than 27 million work days, were lost due to cardiovascular diseases which affect 30 percent of the work force.

Worksite blood pressure screening programs work toward a reduction in lost work days and the high cost of hospitalization. In 1 year alone New York Telephone saved $85,000 for 5,000 employees who participated in a high blood pressure control program. High blood pressure can be controlled inexpensively, if discovered and this amendment will contribute to its control.

S. 2502. THE MEDICARE PREFERRED PROVIDER ARRANGEMENT ACT

This act will also further promote development of PPA activity by insurers, employers, hospitals, and physicians, similar in nature to section 1876 of the Social Security Act which provides access for medicare beneficiaries to HMO's and CMP's. The act will allow the Secretary of Health and Human Services to contract with insurers or other third-party payers on behalf of individuals enrolled in part B of medicare who wish to participate in PPA's provided by these insurers or other third-party payers. The amount of premium payment to the insurer or third-party payer would be set at 95 percent of the average medicare expenditures for part B recipients.

Medicare beneficiaries signing up with these PPA's would be assured services comparable to part B but would agree to seek the services of a PPA contracting physician. The contracting PPA's would not, under this provision, be allowed to charge medicare beneficiaries more than the actuarial value of deductibles, coinsurance, and copayments now charged part B recipients.

In order to market the PPA plan to medicare beneficiaries, however, the incentive will be to provide services at some reduced rate. The provisions in S. 2502 include the list of minimum required services, guidelines for appeal of premiums, open enrollment requirements, and other protections similar to those provided to medicare beneficiaries in section 1826 of the Social Security Act but should not be burdensome to the insurers or other third parties forming and marketing PPA's to part B beneficiaries.

S. 2503. THE HEALTH CARE CONSUMER INFORMATION ACT

For health care to become more competitive, consumers must have access to easily understood and relevant cost and quality data. Major strides have been made in the collection and distribution of price information in various parts of the country. The act would require the Secretary of Health and Human Services to study how information programs have affected health care marketplaces around the country.

In Minneapolis, the Council of Community Hospitals has published a document including the prices for most of the services provided by area hospitals. This weighty data base provides eye-opening background information to payers and providers and is being used by hospitals to point out cost variations among institutions to consumers.

Similar information has been collected and distributed to the public by the Utah Health Cost Management Foundation, a nonprofit group including business, providers and consumers. An agency of the Iowa State government also collects and will disseminate hospital price information to the public.

These activities have largely been limited to collecting and distributing data on hospital prices. S. 2503 would require the Secretary to develop methodologies for providing both third party payers and consumers with price data for ambulatory services as well. The act would also require the Secretary to develop methodologies for informing consumers about the quality of care offered by hospitals. The development of indices for assessing quality is a much knottier problem than developing price data. There is no generally accepted system for making such determinations. Some studies have shown the most effective provider institutions are those which specialize in performing certain procedures and treatment. Nevertheless, quality information is sensitive and can be misinterpreted if not presented appropriately. For instance, a utilization review committee at one major corporation, in examining physician practice patterns in a given area, found that one cardiologist had an 80-percent patient mortality rate. On the surface, this statistic reflected badly on that physician. But further examination revealed that he was a highly specialized practitioner who treated only the sickest patients. His 20-percent survival rate actually was excellent considering his patient population, but this conclusion might be obscured in an arbitrary assessment of quality data.

Despite such pitfalls, there must be formats through which the public can be provided a set of indices to judge the variations in quality of care among providers. I look forward to the development and dissemination of the models the Secretary discovers and develops.

Public disclosure of such information must, however, be provided with great care and through an appropriate mechanism. Government should not develop a health care consumer protection like agency to compile and distribute data on medical and hospital services. This would only add a new layer of bureaucracy and be counterproductive, whereas activity at the State and local level would better reflect community standards.

S. 2504. THE INSTITUTE FOR HEALTH CARE TECHNOLOGY ASSESSMENT ACT

I am concerned that in the area of the application of new and existing health care technologies the market alone may not be a sufficient mechanism for determining the use of health resources.

The last few decades have seen a proliferation of new health care technologies, which may be broadly defined to include increasingly sophisticated drugs and medical and surgical procedures requiring expensive equipment. In many cases, new technology has led to increased cost without apparent benefits. There is a need for better assessment of new technology.

The health care system currently is not always able to evaluate coherently, in medical and economic terms, new or emerging technologies, on top of those already in widespread use—and the problem is likely to worsen. As a further complication, certain otherwise obsolete technologies may remain in use because of disincentives under prospective payment and other case based payment systems to alter accepted patterns of treatment.

In a recently released report entitled "The Painful Prescription: Rationing Hospital Care," Henry J. Aaron of the Brookings Institution and William B. Schwartz of Tufts University note that the United States is entering a period of constrained resources in which the tendency may be to limit applications of new technologies rather than set priorities for technologies that should be adopted or continued. Neither the market alone nor the Federal bureaucracy alone is the appropriate entity to make such decisions.

To help the private sector to carry out this health care technology function, I am introducing S. 2504, the Institute for Health Care Technology Assessment Act. The purpose of the private, nonprofit Institute established through S. 2504 would be to provide for the development of appropriate health care technologies and the application of approved technologies, and promote the elimination of obsolete or inappropriate health care technologies.

The act would establish a Board of Directors, including representatives of third party payers, hospitals, health care professionals, management, labor and senior citizens. Under the act the Secretary of Health and Human Services would give the Institute a line of credit during its formative period. Thereafter the financing of the Institute would be determined by its founding organizers.

The Institute should be constituted and its objectives defined to complement the Prospective Payment Commission which will examine health care technology issues affecting medicare prospective payment systems as well as the ongoing assessment activities of the Department of Health and Human Services.

Through its activities, the Institute could directly affect both the quality of health care and its cost. Good technology assessment will help eliminate ineffective and possible harmful technologies, lead to a reevaluation of variations in treatment and diagnostic testing, provide a better understanding of the outcomes of treatment and diagnostic testing and their efficacy across larger populations, and provide background for benefit-cost assessments of technologies. The information provided through the assessment processes facilitated by the Institute would assist the individual consumer, health providers and payers as well as the largest single payer of all, the Federal Government.

It is clear that good assessment would cut health care costs. Dr. Arnold Relman, editor of the New England Journal of Medicine, claims that $5 to $10 billion yearly is wasted on useless or even dangerous medical technologies. He feels that 15 to 20 percent of all tests, procedures, and drugs are not worth the money spent on them. Blue Cross-Blue Shield reports savings of as much as $500 million to premium payers for the first 5 years of its medical necessity program. A study done at UCLA and Harvard estimated that $100 to $200 million a year could be saved by medicare if just six technologies not recommended for use by the old National Center for Health Care Technology were disallowed for reimbursement.

Many other examples of savings can be found but these all are episodic. There is currently no coordinated effort for assessment. The Institute with private and public sector support can provide the catalyst which is needed.

OTHER AREAS RIPE FOR REFORM

Health planning is another area which deserves serious attention by the Congress. Mechanisms are needed to keep capital expenditures in line. Neither the financial bond markets nor the array of disincentives to overbedding offered by prospective payment will be sufficient to curtail unnecessary capital investment by institutional providers. Communities should be assured a role in decision-making concerning major capital investments proposed for the health care marketplace, since it is the community—and employers in particular—that ultimately foot the bill.

Last August I introduced S. 1778 to reform the current health planning system. This measure would turn the current health planning system into a block grant program that would give States and local constituencies the freedom to choose the best method for community input into the allocation of health resources. Health planning continues to be funded on a continuing resolution with authorization. This is bad policy and I urge my colleagues to review S. 1778 and the other health planning bills before the Senate and seek closure on this important area.

Finally, I urge a thorough review of the area of medical malpractice by the Congress. The cost of medical malpractice, both direct and indirect, also has contributed significantly to the overall inflation of health care costs in recent years. The American College of Obstetricians and Gynecologists, for example, reports that in a recent year fees have increased as much as 30 percent to meet the growing cost of medical liability insurance. Other specialties and provider institutions also have experienced significant increases due to growing insurance premiums.

Fear of litigation has led to increasingly to the practice of defensive medicine. The American Medical Association estimates that $15.1 billion is spent yearly on defensive treatment or tests. The survey of obstetricians found that the threat of suit caused these physicians to order more tests and other diagnostic procedures than they otherwise would have ordered. They also prescribed longer hospital stays. A new approach designed to mitigate the need for these unnecessary practice patterns would not affect the quality of care. It would reduce utilization and thus health care costs.

The malpractice problem frequently pits physicians against hospitals, and the health care system against patients. This adds to the cost of litigation and adversely affects relations among providers. Whatever reform is developed should limit the adversary relationships which occur due to malpractice litigation.

Historically, malpractice has been under the purview of State tort law and the Federal Government has been reluctant to intervene. Tort law concerning malpractice was substantively amended in the mid-1970's to meet the crisis stemming from increasing malpractice awards which were driving up health care costs. But it is not apparent that these reforms have contributed to a slowing of the increase in awards, premiums for liability insurance, or the perceived threat providers face from malpractice. Many no-fault insurance alternatives have been suggested as solutions to the present situation. But this approach poses problems with defining injury, determining entitlement to compensation, deciding on the type of compensation to award. The concern over cost associated with malpractice liability is heating up and deserves attention.

Mr. President, I ask unanimous consent that this statement, a summary of my bills, the texts of the bills and my article from Business and Health on the incremental approach to health care cost containment be printed in the RECORD.

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

S. 2501

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Health Service Act Amendments of 1984".

COMPETITIVE MEDICAL PLANS

SEC. 2. (a) The heading of title XIII of the Public Health Service Act is amended by adding at the end thereof "AND ALTERNATIVE PAYMENT AND DELIVERY SYSTEMS".

(b)(1) Section 1310(a)(1) of such Act is amended by inserting before the period at the end thereof the following: ", and the option of membership in competitive medical plans which serve the geographic area in which at least 25 of such employees reside".

(2) Subsections (a)(2), (c) and (f) of section 1310 of such Act are each amended by inserting "or competitive medical plan" after "health maintenance organization".

(3) Section 1310(d) of such Act is amended—

(A) by inserting "(1)" after "(d)";

(B) by redesignating clauses (1) and (2) as clauses (A) and (B); and

(C) by adding at the end thereof the following new paragraph:

"(2) For purposes of this section, the term 'competitive medical plan' means an eligible organization, other than a qualified health maintenance organization, which has in effect a contract with the Secretary under section 1876 of the Social Security Act.".

(c)(1) Section 1311(a)(1) of such Act is amended by inserting after "health services" the following: ", or which cannot do business as a competitive medical plan in a State in which it proposes to furnish services under a contract described in section 1876 of the Social Security Act,".

(2) Section 1311(a)(2) of such Act is amended by inserting "or a competitive medical plan" after "qualified health maintenance organization".

(3) Section 1311(a) of such Act is amended by inserting before the period at the end thereof the following: "or as a competitive medical plan in accordance with section 1876 of the Social Security Act".

(4) Section 1311(b) of such Act is amended by inserting "a competitive medical plan, or" after "which prevents".

(5) Section 1311(c) of such Act is amended by inserting "and competitive medical

plans" after "health maintenance organizations".

PREFERRED PROVIDER ARRANGEMENTS

SEC. 3. (a) Section 1311 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(d)(1) No State may establish or enforce any law which prevents an insurer or other third party payor from—

"(A) entering into agreements with health care providers under which the amounts reimbursed or recognized for services provided by those health care providers are different from the amounts reimbursed or recognized for the same services when provided by other health care providers; or

"(B) issuing policies or offering group health plans which allow reimbursement for expenses incurred for health care services only if such services are rendered by a health care provider which has entered into an agreement with such insurer or other third party payor.

"(2) Paragraph (1) shall apply only to the extent that such agreements are based upon economic and quality of care considerations, and shall not be construed as allowing for discrimination on any other basis.".

REQUIRED BLOOD PRESSURE TESTING

SEC. 4. (a) Section 1310 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(h) Each employer, State, and political subdivision, which is subject to the requirements of subsection (a), must provide its employees reasonable access at least once per year to a blood pressure test.".

(b) Section 1310(e)(1) of such Act is amended by striking out "subsection (a), (b), or (c)" and inserting in lieu thereof "subsection (a), (b), (c), or (h)".

S. 2502

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Medicare Preferred Provider Arrangement Act".

PREFERRED PROVIDER ARRANGEMENTS

SEC. 2. Part B of title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"PREFERRED PROVIDER ARRANGEMENTS

"SEC. 1845. (a) The Secretary may enter into a contract under this section with any insurer or other third party payor under which payments shall be made to such insurer or payor under subsection (b) on behalf of individuals enrolled under this part who participate in a preferred provider arrangement, established by such insurer or payor, which meets the requirements of this section.

"(b) The amount of the payment to the insurer or other third party payor per capita for each individual enrolled under this part who participates in the preferred provider arrangement (hereinafter referred to in this section as 'participating part B beneficiaries') shall be the same payment amount as determined under section 1876(a) for individuals who are enrolled under this part but are not entitled to benefits under part A, and are enrolled with health maintenance organizations or competitive medical plans having risk-sharing contracts under section 1876. Payment shall be made in the same manner as under such risk-sharing contracts. Payments under this section shall be instead of any payments which would otherwise be payable under section 1833(a) for services furnished through the preferred provider arrangement to its participating part B beneficaries, and no other payments shall be made under this part to or on behalf of participating part B beneficiaries for services which are available to them from or through the arrangement.

"(c) In order to meet the requirements of this section a preferred provider arrangement must meet the following requirements:

"(1) The arrangement must provide at a minimum for physicians' services (performed by physicians described in section 1861(r)(1)) and for laboratory X-ray, emergency, and preventive services. All services to participating part B recipients must be provided by persons or entities who meet all relevant requirements of this title for providing those services. The arrangement must include a sufficient number of participating physicians and other health care providers so as to insure that the services will be available and accessible to all of its participating part B beneficiaries as promptly as is appropriate and in a manner which assures continuity, and will be available and accessible 24 hours per day and seven days per week when medically necessary.

"(2) The insurer or other third party payor must provide for reimbursement for services described in paragraph (1) which are provided to its participating part B beneficiaries other than by participating physicians or other participating health care providers if—

"(A) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

"(B) it was not reasonable given the circumstances to obtain the services through a participating physician or other participating health care provider.

"(3) The portion of the premium rate charged by the arrangement, and the actuarial value of its deductibles, coinsurance, and copayments charged, for services covered under this part provided to its participating part B beneficiaries may not exceed the actuarial value of the coinsurance and deductibles which would be applicable on the average to its participating part B beneficiaries if they were not participating in any preferred provider arrangement, health maintenance organization, or competitive medical plan. If the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to participate in preferred provider arrangements under this section, or other appropriate data, may be used instead.

"(4) Subject to the open enrollment requirements in paragraph (5), the arrangement must be open to any individual enrolled under this part, other than an individual medically determined to have end stage renal disease, who resides in the geographic area served by the arrangement; except that a preferred provider arrangement established by a self-insured employer for its employees and former employees may limit participation to those employees and former employees.

"(5)(A) The arrangement must have an open enrollment period, for the enrollment of individuals under this section, of at least 30 days duration every year, and must provide that at any time during which enrollments are accepted, the arrangement will accept up to the limits of its capacity (as determined by the Secretary) and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under paragraph (4) in the order in which they apply for enrollment.

"(B) An individual may enroll under this section with an arrangement in such manner as may be prescribed in regulations and may terminate his enrollment as of the beginning of the first calendar month following a full calendar month after the request is made for such termination (or, in the case of financial insolvency of the arrangement, as may be prescribed by regulations).

"(C) The Secretary may prescribe the procedures and conditions under which an insurer or other third party payor which has entered into a contract with the Secretary under this section may inform individuals eligible to participate under this section with the arrangement about the arrangement, or may enroll such individuals with the arrangement. The Secretary shall require that all such information to eligible individuals will be presented in a clear and understandable manner.

"(D) The insurer or other third party payor must provide assurances to the Secretary that it will not expel or refuse to reenroll any such individual because of the individual's health status or requirements for health care services, and that it will notify each such individual of such fact at the time of the individual's enrollment.

"(6) The insurer or other third party payor must provide assurances satisfactory to the Secretary that adequate provision against the risk of insolvency has been made, if the arrangement is not subject to State law regulating insurance.

"(7) The insurer or other third party payor must provide meaningful procedures for hearing and resolving grievances between the insurer or payor, including any participating physician or other participating health care provider, and its participating part B beneficiaries. A participating part B beneficiary who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled, and at no greater charge than he believes he is required to pay, shall be entitled to a hearing before the Secretary to the same extent as provided in section 205(b), if the amount in controversy is $100 or more. The Secretary shall make the insurer or other third party payor a party to any such hearing. If the amount in controversy is $1,000 or more, the participating part B beneficiary, or the insurer, other third party payor, or participating physician or health care provider, shall, upon notifying the other parties, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and all such parties shall be entitled to be parties to the judicial review.

"(d)(1) Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the insurer or other third party payor involved as he may provide in regulations), if he finds that the insurer or other third party payor—

"(A) has failed substantially to carry out the contract,

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or

"(C) no longer substantially meets the applicable conditions of subsection (c).

"(2) The effective date of any contract executed pursuant to this section shall be specified in the contract.

"(3) Each contract under this section—

"(A) shall provide that the Secretary, or any person or organization designated by him—

"(i) shall have the right to inspect or otherwise evaluate (I) the quality, appropriateness, and timeliness of services performed under the contract and (II) the facilities utilized by the participating health care providers when there is reasonable evidence of some need for such inspection, and

"(ii) shall have the right to audit and inspect any books and records of the insurer or other third party payor that pertain (I) to the ability of the insurer or other third party payor to bear the risk of potential financial losses, or (II) to services performed or determinations of amounts payable under the contract;

"(B) shall require the insurer or other third party payor to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this part to each of its participating part B beneficiaries; and

"(C) shall contain such other terms and conditions not inconsistent with this section (including requiring the insurer or other third party payor to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(4) The Secretary may not enter into a contract with an insurer or other third party payor under this section if a previous contract with that insurer or other third party payor under this section was terminated at the request of the insurer or other third party payor within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) The authority vested in the Secretary by this section may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.".

S. 2503

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

SHORT TITLE

SECTION 1. This act may be cited as the "Health Care Consumer Information Act".

STUDIES AND PROJECTS RELATING TO HEALTH CARE CONSUMER INFORMATION

SEC. 2. (a) The Secretary of Health and Human Services shall—

(1) conduct a study of the effects of efforts underway in Minnesota, Florida, Iowa, Utah, and other areas to provide hospital price data to third party payors and consumers of health care services;

(2) develop methodologies for providing third party payors and consumers with price data with respect to ambulatory health care services; and

(3) develop methodologies for providing consumers with information with respect to the quality of health care services.

(b) The Secretary shall submit a report to the Congress with respect to each of the studies and projects described in subsection (a) within one year after the date of the enactment of this Act.

S. 2504

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Institute For Health Care Technology Assessment Act".

INSTITUTE FOR HEALTH CARE TECHNOLOGY ASSESSMENT

SEC. 2. (a) It is the purpose of this Act to facilitate the establishment of a private nonprofit institute, to be known as the "Institute for Health Care Technology Assessment" (hereinafter referred to in this Act as the "Institute") which shall promote the development of appropriate health care technologies and the application of approved technologies, and promote the elimination of obsolete or inappropriate health care technologies. For purposes of this Act, health care technologies mean drugs, devices, and medical and surgical procedures, and knowledge and skills necessary for their appropriate use in the delivery of health care.

(b) There is authorized to be established a private nonprofit Institute described in subsection (a). The Institute shall not be an agency or establishment of the United States Government, but shall be subject to the provisions of this Act.

(c) The Institute may—

(1) serve as a clearinghouse of information on health care technologies and health care technology assessment;

(2) collect and analyze data and make recommendations concerning specific health care technologies;

(3) act when necessary or when called upon to stimulate, coordinate, undertake, or commission health care technology assessment, especially activities which complement the needs of other organizations and the Federal Government;

(4) identify needs in the assessment of specific health care technologies;

(5) develop and evaluate criteria and methodologies for health care technology assessment; and

(6) provide education, training, and technical assistance in the use of health care technology assessment methodologies and results.

(d)(1) The Institute shall have a Board of Directors (hereinafter referred to in this Act as the "Board") which shall consist of—

(A) one representative of each of the following organizations, selected by the organization:

(i) the American Hospital Association,

(ii) the American Medical Association,

(iii) the Association of American Medical Colleges,

(iv) the Blue Cross-Blue Shield Association,

(v) the Health Insurance Association of America,

(vi) the Health Industry Manufacturers Association,

(vii) the Pharmaceutical Manufactuers Association,

(viii) the Council of Medical Specialty Societies,

(ix) the American Nurses Association,

(x) the American Federation of Labor-Council of Industrial Organizations,

(xi) the Chamber of Commerce of the United States,

(xii) the American Association of Retired Persons; and

(B) the following officials, ex officio:

(i) the Secretary of Health and Human Services, and

(ii) the Director of the Office of Technology Assessment.

(2) The members of the initial Board shall serve as incorporators and shall take whatever actions are necessary to establish the Institute.

(3) Any vacancy in the initial and succeeding Boards shall not affect its power, but shall be filled in the manner in which the original appointments were made, or, after the first five years of operation, as provided for by the organizational rules and procedures of the Institute.

(4) The Secretary of Health and Human Services shall designate one of the members appointed to the initial Board as Chairman; thereafter, the members of the initial and succeeding Boards shall annually elect one of their number as Chairman. The members of the Board shall also elect one or more of their Members as Vice Chairman. Terms of the Chairman and Vice Chairman shall be for one year and no individual shall serve as Chairman or Vice Chairman for more than two consecutive terms.

(5) The members of the initial or succeeding Boards shall not, by reason of such membership, be deemed to be employees of the United States Government. Members who are not otherwise in the employ of the United States shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Board pursuant to this section, be entitled to receive compensation at the rate of $100 per day including travel time. All members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, equal to that authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(6) The Institute shall have a president and such other executive officers and employees as may be appointed by the Board at rates of compensation fixed by the Board.

(e)(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or other individual except as salary or reasonable compensation for services.

(3) The Institute shall not contribute to or otherwise support any political party or candidate for elective public office.

(f)(1) The Institute is authorized to accept contracts and grants from Federal, State, and local governmental agencies and other entities, and grants and donations from private organizations, institutions, and individuals.

(2) The Institute may establish fees and other charges for services provided by the Institute or under its authorization.

(3) Amounts received by the Institute under this subsection shall be in addition to any amounts which may be available to provide its initial operating capital under subsection (g).

(g) The Secretary of Health and Human Services shall make available to the Institute a line of credit of $2,000,000, to remain available for a period of seven years, to provide the Institute with initial capital adequate for the exercise of its functions and

responsibilities during such years. Thereafter the Institute shall be financially self-sustaining through the means described in subsection (f).

(h) The Institute shall submit an annual report for the preceding fiscal year to the President for transmittal to the Congress within sixty days after its receipt. The report shall include a comprehensive and detailed report of the Institute's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Institute deems appropriate.

SUMMARY OF BILLS

S. 2501. The Public Health Service Act Amendments of 1984:

SEC. 2. Renames Title XIII of the Public Health Service Act to read "Health Maintenance Organizations and Alternative Payment and Delivery Systems."

Amends Section 1310 of the Public Health Service Act to allow employers required under the Act to provide employees with an HMO option to provide either an HMO or CMP option. For the purposes of these amendments CMPs are defined by Section 1876 of the Social Security Act.

Amends Section 1311 of the Public Health Service Act to provide CMPs the same waivers from state restrictions as provided under the Act currently for HMOs.

SEC. 3. Amends Section 1311 of the Public Health Service Act to waive certain state laws which prohibit insurers or other third parties from providing preferred provider arrangement-type health plans. The amendments provide that agreements shall not allow discrimination for other than economic and quality of care considerations.

SEC. 4. Amends Section 1310 of the Public Health Service Act to require employers to provide employees with reasonable access at least once per year to a blood pressure test. This provision does not require that employers offer the test under a health plan.

S. 2502. The Medicare Preferred Provider Arrangement Act:

SEC. 2. Amends Part B of Title XVIII of the Social Security Act to allow the Secretary of Health and Human Services to contract with insurers or other third party payers so that Medicare Part B enrollees can participate for Part B benefits in a preferred provider arrangement. The payment levels, requirements on providers and protections for beneficiaries provided in this amendment are modeled on Section 1876 of the Social Security Act which allows the Secretary to contract for Medicare beneficiaries with HMOs and CMPs.

S. 2503. The Health Care Consumer Information Act:

SEC. 2. Requires the Secretary of Health and Human Services to:

1. Conduct a study of the effects of efforts to provide price data to third party payers and consumers of health care services;

2. Develop methodologies for providing third party payers and consumers with price data with respect to ambulatory health care services; and

3. Develop methodologies for providing consumers with information with respect to the quality of health care services.

S. 2504. The Institute for Health Care Technology Assessment Act:

SEC. 2. Facilities the establishment of a private nonprofit institute to be known as the "Institute for Health Care Technology Assessment." The purpose of the Institute shall be to promote the development of appropriate health care technologies and the application of approved technologies, and promote the elimination of obsolete or inappropriate health care technologies. The bill identifies a set of organizations which will send representatives to serve on the Board of the Institute and write its by-laws. The Secretary of Health and Human Services and the Director of the Office of Technology Assessment will serve as ex officio members of the Board. The Institute will have at its disposal a 2 million dollar line of credit made available by the Secretary.

BUILDING BLOCKS FOR HEALTH CARE REFORM

(By Dan Quayle)

What is one of the most talked about issues in corporate board rooms today? Health care costs. Traditionally, the cry to do something about rising costs in this area has come from proponents of increased government intervention. But the constituency for doing something about health care spending has grown.

Newly emerging and politically powerful groups are demanding that the issue be given more attention. Management and labor alike want reforms in health care delivery and financing.

The question remains, however, what shape will future reform of the health care system take? Should it be incremental, so as to provide incentives for the consumers, providers, and payers of health care to take positive steps to curb costs? Or should it be driven primarily by systemwide federal regulatory initiatives aimed at capping costs?

NO "MAGIC BULLETS"

The latter approach assumes there is a "magic bullet," a government policy which can limit health care expenditures without adversely affecting the quality of care or access to health services. The search for such a policy is not new. Past administrations, for example, have centered on bureaucractic efforts to promote health maintenance organizations, or cap hospital revenues as cure-alls to out-of-control health spending.

A third approach has included market-oriented strategies such as the Gephardt-Stockman proposal in 1980, which was designed to unleash market forces that would guide provision, purchase and consumption of health services through such cost containment tools as a tax cap on employer paid health insurance premiums. A comparable approach has been proposed by the Reagan Administration, but this competition model has never actually seen the light of day.

A recent proposal by Sen. Edward M. Kennedy (D.-Mass.) and Rep. Richard A. Gephardt (D.-Mo.) is the newest initiative to follow in this tradition of systematic approaches to reforming the health care delivery system. The Kennedy-Gephardt proposal attempts to accommodate both the concept of revenue caps and competition. Their legislation would create a federal all-payer prospective payment regulatory system, but would allow waivers for states adopting rate-setting or alternative delivery systems which could accomplish the same cost reduction goals. The authors assume the price setting arrangements mandated at the federal or state levels by the legislation would make providers more efficient and reduce unnecessary capacity.

These expectations probably are overly optimistic. At worst, the application of this all-payer program nationwide would cause inefficient allocation of resources within the health care system. It also might stifle innovation both in delivery and financing and possibly even lead to suboptimal care.

TAKING A POSITIVE PERSPECTIVE

The alternative to "magic bullets" is to take an incremental approach to cost containment, which both recognizes the realities underlying the cost issue and provides incentives for reform of these realities.

To begin with, it should be recognized that about 60 percent of recent health cost increases is due to general economic inflation. However, it is the remaining 40 percent of these increases, due to other factors, that incremental reforms should focus upon. In tackling this second set of factors, there are two ways of looking at the current cost problem. From a negative perspective, health care cost inflation may be attributed to overly demanding consumers who are uninformed about the cost implications of health care or are simply excessively deferential to their physicians. Then there are the physicians who are interested in maximizing their incomes and are caught up in the technological imperative, regardless of its economic effects or, in a few cases, its impact on the quality of death for terminally ill patients. Hospitals that are underutilized, poorly managed, and prone to building new facilities or adding equipment for the wrong reasons also can be blamed. And third party payers contribute to the problem because they basically are insulated from market forces.

Viewed from another perspective, however, the realities underlying rising health care costs appear entirely different. The gradual aging of the U.S. population, the greater demand for services by the disadvantaged, the medically legitimate though expensive technological breakthroughs, and the overdue upgrading of many hospitals are all factors contributing to higher costs. These realities reflect the complexity of the health care system which any resolution or set of resolutions to the cost issue will confront. Initiatives adopted in this area must account for a myriad of economic, social, and political factors together with the idiosyncracies of health care providers who render services in a decentralized and pluralistic health care system.

Therefore, any approach to solving the cost problem will not succeed merely through legislative fiat. Solutions must be developed that meet the mission of cost containment without disruption of the current delivery system, and that avoid applying sanctions which will provide results unacceptable to major groups of consumers such as the elderly, health care providers, and payers.

A working example of an incremental approach to reform is Medicare's prospective payment system for hospital care. Initially, prospective payment will not reduce radically Medicare's bill for inpatient services, nor will it provide the savings necessary to assure solvency of the Medicare Hospital Insurance Trust Fund. However, by replacing cost based reimbursement with a system based on price per case, prospective payment alters incentives of providers and facilitates better management of hospital resources available to the Medicare population. Prospective payment should help reduce overutilization of services. It is a positive, incremental step.

Nevertheless, it is a reform strategy not easily applied to many providers. Because the system is based on averages, prospective payment will affect some institutions un-

fairly and, perhaps, harm some of the efficient as well as the inefficient facilities.

For example, there is a current storm of controversy over the arbitrary determination of hospitals as rural of urban. Congress certainly will modify the geographic designation of hospitals as well as make adjustments in other areas of the prospective payment system as needed.

The potential adverse effects of prospective payment demonstrate the need to proceed cautiously with health care reform to avoid unwanted results of a major policy decision. This same attitude of reform is central to an incremental strategy. Policies included under this approach need not be directly complementary but should not be contradictory.

Sound incremental reform should include policies designed to redirect behavior of consumers, providers and payers in the health care system. To be market oriented, initiatives should promote competition between providers on the delivery level, and third party payers on the financing level, while making consumers conscious of the economic implications of their health care decisions. At the same time, initiatives may be directed to reduce inefficiencies in the delivery or financing of care which the market, itself, through increased competition may fail to reduce.

Community pressures on providers, applied through business coalitions, can lead to better distribution of hospital resources and limit hospital expansion that is not cost-effective.

AREAS RIPE FOR REFORM

With these themes at the base, the following are areas in which initiatives could be taken at the margin to reduce cost. The agenda provided here is by no means exhaustive and presents only a beginning to which a range of other incremental proposals may be added.

Alternative delivery systems

At the root of the high cost of health care is the current oversupply of hospital beds and certain other services. In a noncompetitive health care environment where some form of insurance covers most inpatient services, there is an inherent incentive to overuse hospitals.

To counter this tendency, financing and delivery mechanisms may be developed that discourage overutilization. HMOs and the newly designed competitive medical plans (CMPs) succeed in lowering hospital utilization rates and, subsequently, health care costs. In Massachusetts, for example, HMOs have even reduced hospitalization and costs for Medicare enrollees.

Federal legislation requires employers to offer an HMO option in their health plans when it is available. This legislation is extremely prescriptive. It should be amended to provide the same recognition to CMPs, which are similar in structure and purpose to HMOs but less constrained by regulation. Placing CMPs on the same footing as federally qualified HMOs would encourage their development.

Another health care delivery and financing model which seeks similar ends is the preferred provider arrangement or organization (PPA). Under the PPA model, insurers, employers or third party administrators contract directly with physicians and/or hospitals who agree to provide health services in a cost-conscious manner under strict utilization controls. In exchange, the payers promise prompt payment and financial incentives for their beneficiaries to patronize the preferred providers.

The development of PPAs can be fostered by legislation. Barriers in the form of state insurance laws and regulations which restrict PPA formation by insurers should be removed. Many state legislatures are moving in this direction, but momentum would be enhanced by federal legislation. The federal government should allow Medicare to contract with PPA's, as both the program and individual beneficiaries would benefit from this approach. A similar opportunity exists now for Medicare to contract with HMOs and CMPs. PPAs might be allowed access to the Medicare market—starting with outpatient care—to test their usefulness.

Consumer information

The increased availability of consumer information in the health care marketplace is another area worthy of further development. Part of the reason that there has been insufficient competition in the health care arena has been the lack of price and quality of care information. For health care to become more competitive, consumers will have to be given access to easily understood and relevant cost and quality data.

Major strides have been made in the collection and distribution of price information in various parts of the country. In Minneapolis, the Council of Community Hospitals has published a document including the prices for most of the services provided by area hospitals. This weighty data base provides eye-opening background information to payers and providers, and is being used by hospitals to point out cost variations among institutions to consumers.

Similar information has been collected and distributed to the public by the Utah Health Cost Management Foundation, a nonprofit group including business, providers and consumers. An agency of the Iowa state government also collects and will disseminate hospital price information to the public.

These data collection activities should be encouraged, and their impact on the health care market and consumers should be studied by the U.S. Department of Health and Human Services. These programs may offer models worth replicating in other areas of the nation. The concept might even be expanded to include the costs of outpatient and ambulatory services.

In addition to cost data, information on the quality of care would also be useful. The development of quality indices, however, has been a much knottier problem and, currently, there is no generally accepted system for making such determinations. Some studies have shown the most effective provider institutions are those which specialize in performing certain procedures and treatment. With bypass surgery, for example, the medical centers that perform the highest volume of this procedure have the lowest mortality and morbidity rates and, frequently, the lowest cost.

Quality information is sensitive and can be misinterpreted if not presented appropriately. For instance, a utilization review committee at one major corporation, in examining physician practice patterns in a given area, found that one cardiologist had an 80 percent patient mortality rate. On the surface, this statistic reflected badly on that physician. But further examination revealed that he was a highly specialized practitioner who treated only the sickest patients. His 20 percent survival rate actually was excellent considering his patient population, but this conclusion might be obscured in an arbitrary assessment of quality data.

Despite such pitfalls, there must be formats through which the public can be provided a set of indices to judge the variations in quality of care among providers. HHS should examine the use of quality measures which have been developed and encourage the development of additional models.

Public disclosure of such information must, however, be provided with great care and through an appropriate mechanism. Government should not develop a health care consumer protection-like agency to compile and distribute data on medical and hospital services. This would only add a new layer of bureaucracy and be counterproductive, whereas activity at the state and local level would better reflect community standards.

Disease prevention

Health promotion and disease prevention provides another area where concerted effort could lead to lower health care costs as well as an increased quality of life. By implementing educational programs that encourage individuals to alter their life styles, thereby lessening their disease risks, much can be accomplished.

A step forward in this area would be to require employers who offer health insurance to provide their employees with access to a blood pressure screening program. Statistics on the cost to employers of untreated high blood pressure among employees are staggering. About 26 million work days representing $1.3 billion dollars in earnings are lost each year because of cardiovascular diseases. One company, New York Telephone, estimates it saves at least $85,000 a year as a result of a high blood pressure control program for its 5,000 hypertensive employees.

It is worth noting that national high blood pressure control statistics have been reversed by worksite programs. Eighty percent of participants in these programs have brought their blood pressure under control. In comparable community based programs, only 20 percent of hypertensives come under control after detection. Clearly, the worksite is the best location to pursue a simple program with the potential for dramatic effects.

Health care technology assessment

Reform based on provider and consumer incentives to change use of health resources may not provoke the efficiency necessary in the application of new and existing health care technologies.

The last few decades have seen a proliferation of new health care technologies which may be broadly defined to include increasingly sophisticated drugs, and medical and surgical procedures requiring expensive equipment. In many cases, new technology has led to increased costs without apparent benefits. For example, some experts argue the widespread use of fetal monitoring techniques has led to a greater number of caesarian sections without clear advantages. this, there is a need for better assessment of new technology.

The health care system currently is unable to coherently evaluate, in medical and economic terms, new or emerging technologies, as well as those already in widespread use—and the situation is likely to worsen. As a further complication, certain otherwise obsolete technologies may remain in use because of disincentives under prospective payment and other case based payment systems to alter accepted patterns of treatment.

In a recently released report, *The Painful Prescription: Rationing Hospital Care,* Henry J. Aaron of the Brookings Institution and William B. Schwartz of Tufts University note that the U.S. is entering a period of constrained resources in which the tendency may be to limit applications of new technologies rather than set priorities for technologies that should be adopted or continued. Neither the market nor the federal bureaucracy is the appropriate entity to make such decisions.

Instead, capacity must be developed in the private sector in carry out health care technology assessment. An entity is required which will promote, through recommendations, the emergence and application of appropriate new health care technologies and the elimination of inappropriate and obsolete ones. This entity must have the authoritative status to make it acceptable to providers and consumers, and must be primarily supported by the private sector which should set its agenda. Providers and payers should join together to form this entity along with the federal government. The proper role of the government should be as a facilitator, and perhaps even the catalyst. Legislation to pave the way for development of this venture is needed. It may take a number of years for such an entity to define its role and develop widely accepted tools of assessment, but this process needs to get started.

Health planning

Mechanisms are also necessary to keep capital expenditures in line. Neither the financial bond markets nor the array of disincentives to overbedding offered by prospective payment will be sufficient to curtail unnecessary capital investment by institutional providers. Communities should be assured a role in decision making concerning major capital investments proposed for the health care marketplace, since it is the community—and employers in particular—that ultimately foot the bill.

On approach, put forth in Quayle-sponsored legislation introduced last August, is to change the current health planning system into a block grant program that would give states and local constituencies the freedom to choose the best method for allocating health resources. However, the most appropriate role for government, business, community leaders and the general public in these types of decisions, is still evolving.

Medical malpractice

The cost of medical malpractice, both direct and indirect, also has contributed significantly to the overall inflation of health care costs in recent years. Medical malpractice offers an area ripe for congressional examination. This is illustrated dramatically by a survey by the American College of Obstetricians and Gynecologists which indicates that in recent years fees have increased as much as 30 percent to meet the growing cost of medical liability insurance. It can be assumed that other specialties and provider institutions also have experienced significant increases due to growing insurance premiums.

In addition, fear of suits has led increasingly to the practice of defensive medicine. The same survey of obstetricians found that the threat of litigation caused these physicians to order more tests and other diagnostic procedures than they otherwise would have ordered. They also prescribed longer hospital stays. Reversal of this incentive would not affect the quality of medicine but would reduce utilization.

The malpractice problem frequently pits physicians against hospitals, and the health care system against patients. This adds to the cost of litigation and adversely affects relations among providers. Whatever reform is developed should limit the adversary relationships which occur due to malpractice litigation.

Historically, malpractice has been under the purview of state tort law and the federal government has been reluctant to intervene. Tort law concerning malpractice was substantively amended in the mid-1970s to meet the crisis stemming from increasing malpractice awards which were driving up health care costs. But it is not apparent that these reforms have contributed to a slowing of the increase in awards, premiums for liability insurance, or the perceived threat providers face from malpractice. Many no-fault insurance alternatives have been suggested as solutions to the present situation. But this approach poses problems with defining injury, determining entitlement to compensation, and deciding on the type of compensation to award. The concern over costs associated with malpractice liability is heating up and deserves review.

The incremental approach to reform suggested above will allow Americans to meet their cost containment goals without undermining their high quality health care system. The specific initiatives proposed are suggestive of options which might be undertaken at this time.●

By Mr. GORTON (for himself, Mr. BOSCHWITZ, Mr. MATHIAS, and Mr. KASTEN):

S. 2505. A bill to provide a right of first refusal for metropolitan areas before a professional sports team is relocated, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PROFESSIONAL SPORTS TEAM COMMUNITY PROTECTION ACT

● Mr. GORTON. Mr. President, today Mr. Robert Irsay announced that he was moving the Baltimore Colts football franchise from its Baltimore home of 31 years to Indianapolis. This confirmed rumors which were generated after the morning news showed pictures of moving vans leaving Baltimore by the dawn's early light. The treatment of the people of Baltimore by Mr. Irsay and the people of Oakland by Mr. Davis before him has been nothing less than deplorable and shockingly shabby.

All of us, Mr. President, are aware of the importance of major league professional sports franchises to their communities both economically and emotionally. Many cities and counties have authorized capital construction bonds to finance the construction of stadiums for their teams, while setting the rent for the stadium at a rate sufficient only to recoup operating expenses. Small businesses are built up in response to and in reliance on the team's presence. And recently Mr. President, we have begun to see governmental authorities making additional concessions to keep a team from changing location. The recent tax relief given to the Washington Capitals to keep the team in Landover, Md., is such an example. At least the Caps have been kind enough to improve the level of their performance in response. And, of course, Mr. President, I need not mention the emotional investment that millions of sports fans across the country make in their local teams. That is an investment that cannot be quantified but must not be ignored.

Congress has also been kind to sports teams. Baseball is exempt from the antitrust laws and joint agreements relating to the broadcasting of football, baseball, basketball, or hockey are also exempt. These exemptions stem from a recognition of the uniqueness of these enterprises.

Yet how are the loyal fans and the local communities rewarded for their support, Mr. President? What is the response to their efforts to accommodate the legitimate needs of the team? The response by some of the owners has been callous indiffference to the community in favor of their own quest for increased profits. Mr. President, I do not intend to imply by my remarks that all franchise owners are as fickle as Mr. Davis and Mr. Irsay, but because of the actions of these men, no community can feel confident that their continued support and good faith efforts to accommodate the team will have any effect on the continued location of the team in their area.

In response to this unfortunate situation, Mr. President, I am introducing a bill entitled the "Professional Sports Team Community Protection Act." The purpose of this legislation is to give local communities a right of first refusal when the owner of a team seeks to relocate the team or when a goodfaith offer to purchase and relocate the team has been received. Among my cosponsors are Senators BOSCHWITZ and MATHIAS, each of whom has introduced similar legislation in the past. This bill, however, takes a slightly different approach than either of those proposals.

Mr. President, this bill, as currently drafted would not unfortunately require the Raiders to return to Oakland. But, I will state quite frankly that it is intended to apply to the situation involving the Baltimore Colts. For that reason, I intend to move quickly to hold hearings on this measure and I know that intention is shared by Senators BOSCHWITZ and MATHIAS.

It is unfortunate that such legislation is necessary, Mr. President. And, Mr. President, although I understand that those Senators representing those cities which hope to get established franchises to relocate in their area may believe that they have reason to oppose this legislation, I urge them nonetheless to support the

bill, for today's Indianapolis may be tomorrow's Baltimore.●

● Mr. BOSCHWITZ. Mr. President, I rise to join my friend and colleague from Washington, Senator GORTON, in introducing the Professional Sports Team Community Protection Act.

On November 3 of last year I introduced similar legislation, S. 2050, the Major League Baseball Community Protection Act. That bill established the concept of giving communities a right of first refusal when franchise owners seek to sell and relocate their teams.

S. 2050 will require an owner to notify his community when he or she receives an offer to purchase and relocate the team. A specially established arbitration board would then receive and review counter offers that would keep the team at its current location. If the board determined that any of the local offers equals or exceeds the relocation offer the owner would be prohibited from selling the team unless the purchaser would commit to not relocate it.

I limited S. 2050 to major league baseball because baseball is the only sport that benefits from a Federal antitrust exemption. That bill reaffirmed baseball's antitrust exemption for those franchises willing to agree to the provisions of the bill.

Since introduction of S. 2050, I have talked to and met with many people about sports legislation. I reached two conclusions from those talks and meetings.

First, while baseball is the only sport that currently benefits from an antitrust exemption, it seems inconsistent that different rules should apply to baseball than to other major league sports. Therefore, I concluded that this concept of a community's right of first refusal should be applied to the other major league sports as well.

Second, I acknowledge that S. 2050 did not protect against the relocation of a team under current ownership. I am committed that the right of first refusal should apply to those circumstances also.

The bill we are introducing today accomplishes both of these points. It gives communities the right of first refusal to purchase teams that would otherwise be relocated, whether by sale or under current ownership. It also applies this concept to all major league sports.

I want to express my gratitude to the Senator from Washington for his work on this matter. As the former attorney general for his State, he has much experience to draw upon, dating back to lawsuits concerning the Seattle Pilots. He also serves on the Senate Commerce Committee which has jurisdiction over these matters. I am very pleased to have him as an ally.

I must express one note of caution concerning the bill. When I introduced S. 2050, I sought to recognize the value of a local community's support for a franchise by giving them a chance to find local buyers before a team could be relocated. Otherwise I did not wish to interfere with the private enterprise and its operations. Therefore, the owner would be free to operate his team and move if he chose, if no local buyers could be found or if they could not match an offer.

This bill goes a step further in limiting the operation of an enterprise, even if no local buyers can be found. It is important that the Commerce Committee look at that provision.●

Mr. MATHIAS. Mr. President, today I am happy to cosponsor a bill introduced by Senator SLADE GORTON of Washington that would prevent the owner of a major league sports team from moving the team from one city to another unless one of several conditions is met, such as not meeting financial expectations or having inadequate stadium facilities. People who live in these cities have a deep emotional attachment and a bonafide interest in the local teams, and that must be recognized and protected by the law.

I hope that this legislation will help keep the Baltimore Colts in the great city of Baltimore. After the city has lavished so much money and affection on the Colts, one would hope that a way could be found to keep them in Baltimore. Surely it would be difficult, if not impossible, to find a community, a city, and a State that would support this team with more faith and enthusiasm.

ADDITIONAL COSPONSORS

S. 764

At the request of Mr. WARNER, the name of the Senator from Mississippi (Mr. STENNIS) was added as a cosponsor of S. 764, a bill to assure the continued protection of the traveling public in the marketing of air transportation, and for other purposes.

S. 786

At the request of Mr. PRESSLER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 786, a bill to amend title 38, United States Code, to establish a service-connection presumption for certain diseases caused by exposure to herbicides or other environmental hazards or conditions in veterans who served in Southeast Asia during the Vietnam era.

S. 1381

At the request of Mr. LEVIN, the name of the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 1381, a bill to amend title II of the Social Security Act to provide for a 6-month transitional benefit for an individual who is a widow, surviving divorced wife, widower, or surviving divorced husband whose spouse or former spouse died while such individual was between the ages of 55 and 60.

S. 1531

At the request of Mr. RIEGLE, the names of the Senator from Maryland (Mr. SARBANES), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 1531, a bill to encourage the use of public school facilities before and after school hours for the care of school-age children and for other purposes.

S. 1608

At the request of Mr. TSONGAS, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1608, a bill to amend the Fair Labor Standards Act of 1938 to provide persons may not be employed at less than the applicable wage under that act.

S. 1657

At the request of Mr. BURDICK, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1657, a bill to designate the week in November which includes Thanksgiving Day as "National Family Week."

S. 1806

At the request of Mr. BRADLEY, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Georgia (Mr. NUNN) were added as cosponsors of S. 1806, a bill to recognize the organization known as the Jewish War Veterans of the United States of America, Incorporated.

S. 1816

At the request of Mr. THURMOND, the names of the Senator from Georgia (Mr. NUNN), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1816, a bill to amend the textile fiber products Identification Act, the Tariff Act of 1930, and the Wool Products Labeling Act of 1939 to improve the labeling of textile fiber and wool products.

S. 2031

At the request of Mr. MOYNIHAN, the name of the Senator from Wisconsin (Mr. PROXMIRE) was added as a cosponsor of S. 2031, a bill relating to the residence of the American Ambassador of Israel.

S. 2099

At the request of Mr. JEPSEN, the name of the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 2099, a bill to delay for two years the mandatory coverage of employees of religious organizations under social security.

S. 2118

At the request of Mrs. HAWKINS, the name of the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor

of S. 2118, a bill to establish a Commission on Missing Children.

S. 2186

At the request of Mr. WARNER, the name of the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 2186, a bill to establish a State Mining and Mineral Resources Research Institute program, and for other purposes.

S. 2193

At the request of Mr. GARN, the name of the Senator from Illinois (Mr. DIXON) was added as a cosponsor of S. 2193, a bill to authorize the Comptroller of the Currency to consider reciprocity among other factors in acting on an application by a foreign bank to establish a Federal branch or agency, and for other purposes.

S. 2309

At the request of Mr. MOYNIHAN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2309, a bill to authorize the offer and payment of rewards for information and services concerning terrorist activities.

S. 2359

At the request of Mr. HEINZ, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2359, a bill to amend the Housing and Community Development Act of 1974 to provide that the jurisdictions having no or few areas where a majority of the residents are persons of low- and moderate-income target community development block grant funds to those areas with the highest proportion of such persons.

S. 2360

At the request of Mr. DOMENICI, the names of the Senator from Montana (Mr. MELCHER), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 2360, a bill entitled the "Vocational-Technical Education Quality and Equity Act of 1984."

S. 2374

At the request of Mr. STAFFORD, the name of the Senator from Maine (Mr. COHEN), was added as a cosponsor of S. 2374, a bill to extend the authorization for five years for the low-income home energy assistance program, for the community services block grant, and for the Head Start program, and for other purposes.

S. 2381

At the request of Mr. SASSER, the name of the Senator from Wisconsin (Mr. PROXMIRE), was added as a cosponsor of S. 2381, a bill to amend the Inspector General Act of 1978 to transfer to the Office of the Inspector General of the Department of Defense the functions of the Defense Contract Audit Agency, and for other purposes.

S. 2391

At the request of Mr. SIMPSON, the name of the Senator from Vermont (Mr. STAFFORD), was added as a cosponsor of S. 2391, a bill to amend title 38, United States Code, to revise the authority for the collection of a fee in connection with housing loans guaranteed, made or insured by the Veterans' Administration.

S. 2413

At the request of Mr. DENTON, the name of the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 2413, a bill to recognize the organization known as the American Gold Star Mothers, Incorporated.

S. 2487

At the request of Mr. WEICKER, the names of the Senator from Kentucky (Mr. FORD), the Senator from Texas (Mr. BENTSEN), and the Senator from California (Mr. CRANSTON) were added as cosponsors of S. 2487, a bill to provide for a White House Conference on Small Business.

SENATE JOINT RESOLUTION 87

At the request of Mr. TSONGAS, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Delaware (Mr. BIDEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. KASTEN), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Indiana (Mr. LUGAR), and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of Senate Joint Resolution 87, a joint resolution designating a day of remembrance for victims of genocide.

SENATE JOINT RESOLUTION 129

At the request of Mr. PELL, the name of the Senator from Wisconsin (Mr. PROXMIRE) was added as a cosponsor of Senate Joint Resolution 129, a joint resolution calling upon the President to seek a mutual and verifiable ban on weapons in space and on weapons designed to attack objects in space.

Mr. PELL. Mr. President, I ask unanimous consent that the Senator from Wisconsin (Mr. PROXMIRE) be added as a cosponsor of Senate Joint Resolution 129.

This resolution, which was approved unanimously by the Committee on Foreign Relations, calls upon the President to seek agreement with the Soviet Union to declare an immediate, mutual and verifiable moratorium of limited duration on the testing in space of antisatellite weapons, to immediately resume Asat negotiations and to seek, on an urgent basis, a comprehensive verifiable treaty banning space-based and space-directed weapons. I hope that this resolution will be given favorable consideration by the Senate at an early date.

SENATE JOINT RESOLUTION 203

At the request of Mr. HUDDLESTON, the name of the Senator from Illinois (Mr. DIXON) was added as a cosponsor of Senate Joint Resolution 203, a joint resolution designating the week beginning April 8, 1984, as "National Mental Health Counselors Week."

SENATE JOINT RESOLUTION 206

At the request of Mr. TSONGAS, the name of the Senator from North Dakota (Mr. ANDREWS) was added as a cosponsor of Senate Joint Resolution 206, a joint resolution designating the first Sunday of every August as "National Day of Peace."

SENATE JOINT RESOLUTION 211

At the request of Mr. BURDICK, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of Senate Joint Resolution 211, a joint resolution designating the week of November 18, 1984, through November 24, 1984, as "National Family Week."

SENATE JOINT RESOLUTION 216

At the request of Mr. MOYNIHAN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of Senate Joint Resolution 216, a joint resolution to affirm the policy of the United States to advance human rights in El Salvador by taking all measures that may be necessary or appropriate to assure that those responsible for the murders of four American churchwomen and other U.S. citizens are brought to justice; and for other purposes.

SENATE JOINT RESOLUTION 231

At the request of Mr. DODD, the names of the Senator from Arizona (Mr. DECONCINI), the Senator from Florida (Mrs. HAWKINS), the Senator from Washington (Mr. GORTON), the Senator from Virginia (Mr. WARNER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Michigan (Mr. RIEGLE), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of Senate Joint Resolution 231, a joint resolution to provide for the awarding of a gold medal to Elie Wiesel in recognition of his humanitarian efforts and outstanding contributions to world literature and human rights.

SENATE JOINT RESOLUTION 253

At the request of Mr. PRESSLER, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of Senate Joint Resolution 253, a joint resolution to authorize and request the President to designate September 16, 1984, as "Ethnic American Day."

SENATE JOINT RESOLUTION 256

At the request of Mr. THURMOND, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of Senate Joint Resolution 256, a joint resolution designating March 21, 1984, as "National Single Parent Day."

SENATE JOINT RESOLUTION 258

At the request of Mr. BIDEN, the names of the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Mississippi (Mr. STENNIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Illinois (Mr. DIXON), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of

Senate Joint Resolution 258, a joint resolution to designate the week of June 24 through June 30, 1984, as "National Safety in the Workplace Week."

SENATE JOINT RESOLUTION 265

At the request of Mrs. HAWKINS, the name of the Senator from Georgia (Mr. NUNN) was added as a cosponsor of Senate Joint Resolution 265, a joint resolution designating the week of April 29 through May 5, 1984 as "National Week of the Ocean."

SENATE CONCURRENT RESOLUTION 74

At the request of Mr. TSONGAS, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Connecticut (Mr. DODD), the Senator from Wisconsin (Mr. KASTEN), and the Senator from Nevada (Mr. HECHT) were added as cosponsors of Senate Concurrent Resolution 74, a concurrent resolution to encourage and support the people of Afghanistan in their struggle to be free from foreign domination.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. MOYNIHAN, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution expressing the sense of Congress that the President of Syria should permit Jewish emigration.

SENATE CONCURRENT RESOLUTION 95

At the request of Mr. DODD, the names of the Senator from New York (Mr. MOYNIHAN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of Senate Concurrent Resolution 95, a concurrent resolution expressing the sense of Congress that funding levels for Federal foreign language and international education and exchange programs should be maintained or increased.

SENATE RESOLUTION 241

At the request of Mr. LEVIN, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Illinois (Mr. DIXON), and the Senator from New Hampshire (Mr. HUMPHREY) were added as cosponsors of Senate Resolution 241, a resolution expressing the sense of the Senate that the foreign policy of the United States should take account of the genocide of the Armenian people, and for other purposes.

SENATE RESOLUTION 294

At the request of Mr. RIEGLE, the names of the Senator from Kansas (Mr. DOLE), the Senator from New York (Mr. MOYNIHAN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. LAXALT), and the Senator from Utah (Mr. HATCH) were added as cosponsors of Senate Resolution 294, a resolution expressing the sense of the Senate that the Government of the Soviet Union should allow Igor V. Ogurtsov to be released from exile and allowed to emigrate to the West without renouncing his views, and for other purposes.

SENATE RESOLUTION 360—RELATING TO THE CONSIDERATION OF NONGERMANE AMENDMENTS

Mr. TOWER submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 360

Resolved, That rule XV of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"6. No amendment to a bill or resolution that is not germane or relevant to the subject matter of such bill or resolution shall be in order unless such amendment has been submitted at the desk to the Journal Clerk at least 48 hours prior to the consideration of such amendment. An amendment to an amendment which qualifies for consideration under the preceding sentence shall be in order if such amendment is germane or relevant to the subject matter of either the original bill or resolution or the amendment which qualified for consideration under the preceding sentence, and such amendment to the amendment need not have been submitted prior to its consideration if it meets this standard of germaneness or relevancy. If one or more amendments that are not germane or relevant to the subject matter of a pending bill or resolution have been submitted at the desk, then any other amendment germane or relevant to the subject matter of such amendment or amendments already submitted shall be in order so long as 48 hours have elapsed from the time the first amendment on the non-germane or non-relevant subject was submitted."

● Mr. TOWER. Mr. President, I am submitting today a Senate resolution which proposes an important modification to the rules of the Senate.

Under this proposed resolution, it would not be in order for any amendment to a bill or resolution that is not germane or relevant to the subject matter of that bill or resolution to be considered unless such amendment had been submitted at the desk at least 48 hours prior to the consideration of the amendment.

While all of us value the flexibility provided in the Senate rules through a lack of germaneness requirement, it is now apparent that such flexibility, when abused, may have adverse consequences. There have been numerous situations in recent years when matters completely unrelated to the subject of legislation pending on the Senate floor are brought up with no prior notice to anyone that the matter will be considered. It used to be that under such circumstances, the Senate would simply refuse to act on the matter and would refer it to a committee. Unfortunately, such self-discipline seems to no longer prevail. The Senate now feels compelled to act on any matter that any Senator brings to the floor of the Senate at any time regardless of its relevance to the subject that we are considering and regardless of whether the issue has received any prior attention. In many cases, interested Senators are not even informed in advance that the matter will be discussed.

This amendment to the rules, if adopted, will make it out of order for a Senator to raise an issue that is not relevant to the subject matter of pending legislation without giving all other Senators fair notice that he intends to do so. I am convinced that the adoption of this rules change will substantially enhance the quality of our consideration of a number of issues and will do so with minimum additional burden on the Senate's procedures.

I would urge the Committee on Rules and Administration to promptly consider this proposal and to act expeditiously to favorably report it during this session of the Congress.●

SENATE RESOLUTION 361—ORIGINAL RESOLUTION REPORTED TO WAIVE CONGRESSIONAL BUDGET ACT

Mr. McCLURE, from the Committee on Energy and Natural Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 361

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 71, an act to authorize and direct the Secretary of the Interior to engage in a special study of the potential for groundwater recharge in the High Plains States, and for other purposes. H.R. 71, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1984.

The waiver of section 402(a) of such Act is necessary to permit Congressional consideration of H.R. 71. Such bill was not reported on or before May 23, 1983, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

SENATE RESOLUTION 362—RELATING TO THE SALE OF CONRAIL

Mr. LAUTENBERG (for himself, Mr. DIXON, Mr. METZENBAUM, Mr. SARBANES, Mr. BRADLEY, Mr. RIEGLE, Mr. MITCHELL, and Mr. DODD) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation;

S. RES. 352

Whereas shippers and communities in the Northeastern and Midwestern regions of the Nation are heavily dependent on the rail freight services of the Consolidated Rail Corporation (hereinafter referred to as Conrail);

Whereas Congress recognized the importance of maintaining a viable rail freight system in these regions with the creation in 1976 of Conrail after the bankruptcy of the Penn Central Railroad;

Whereas Congress created Conrail with the expectation that it would be a self-sustaining entity operated in the private sector;

Whereas, however, Congress became aware that, despite a substantial Federal investment, Conrail would not become a strong and self-sustaining rail network as originally envisioned;

Whereas Congress passed the Northeast Rail Service Act of 1981, which provides for the orderly transfer of Conrail to the private sector to ensure the maintenance of important rail service in the Northeast and Midwest and to maximize the return to the United States on its investment;

Whereas, while the Northeast Rail Service Act of 1981 gives the Department of Transportation the responsibility for developing a transfer plan, the Act clearly anticipates a role for Congress in the transfer process;

Whereas, in this transfer process, Congress is concerned that Conrail's financial and service improvement since the passage of the Northeast Rail Service Act of 1981 be continued and that the sale of Conrail ensure a financially viable railroad which continues the existing level of rail service in the Northeast and Midwest; and

Whereas, in the pursuit of these goals, Congress is concerned about the interests of affected shippers, communities, and labor in the future of rail service in these regions; Now, therefore, be it

Resolved, That it is the sense of the Senate that Congressional action is necessary to consummate any sale of Conrail, and therefore the Senate Committee on Commerce, Science and Transportation and the House Energy and Commerce Committee should schedule hearings to examine the activities of the Department of Transportation with regard to the sale of Conrail and to consider the interests of those parties affected.

● Mr. LAUTENBERG. Mr. President, under the terms of the Northeast Rail Service Act of 1981, the Department of Transportation is authorized to find a buyer for the Consolidated Rail Corporation in the private sector. The sale of Conrail, which could possibly occur this year, is of vital interest to the Northeastern and Midwestern regions of the United States. Conrail's fortunes are also critical to connecting railroads and shippers throughout the country.

The Federal Government has invested over $7 billion in Conrail since 1976. Congress has a vital interest in insuring that this investment is protected. Shippers dependent on Conrail for service, communities on its lines, and those who work for the railroad have a vital stake in its future.

Since the Supreme Court's decision on legislative vetos, it is unclear what role Congress will play in overseeing the sale of Conrail. The legislative veto provisions in the NERSA contemplated a one-house veto. The Court has held this procedure to be unconstitutional. Thus, the congressional role contemplated by the act is impermissible.

Today I am submitting a Senate resolution expressing the sense of the Senate that congressional action is necessary to consummate any sale of Conrail and to urge early hearings by the Senate Committee on Commerce, Science, and Transporation. Only through the legislative process can the concerns of the affected States, communities, shippers, and employees be addressed.

This resolution merely affirms the intent of the Congress in 1981, when the NERSA was enacted, that the Congress should be involved in the sale process. Early hearings on this issue will permit consideration of substantive amendments to existing law which may be desirable or necessary to consummate the sale.●

AMENDMENTS SUBMITTED

URGENT SUPPLEMENTAL APPROPRIATION

KENNEDY AMENDMENT NO. 2855

Mr. KENNEDY proposed an amendment to amendment No. 2853 proposed by Mr. INOUYE to the joint resolution (H.J. Res. 492) making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, for the Department of Agriculture; as follows:

At the end of the Inouye amendment, No. 2853 add the following: "*Provided*, That no United States personnel, civilian or military, shall be introduced into or over the territory of El Salvador, Honduras or Nicaragua for the purpose directly or indirectly, of combat unless:

"(1) Congress has declared war or authorized the presence of such forces in advance by a joint resolution signed by the President of the United States; or

"(2) The President has determined that the presence of such forces is necessary to provide for the immediate evacuation of United States citizens, or to respond to a clear and present danger of military attack on the United States;

in either case described in paragraph (2), the President shall advise and, to the extent possible, consult in advance with the Congress and shall, in any event, notify the Congress of the basis for such determination within 24 hours of the introduction of such forces.

KENNEDY AMENDMENT NO. 2856

Mr. KENNEDY proposed an amendment to amendment No. 2853 proposed by Mr. INOUYE to the joint resolution (H.J. Res. 492) supra; as follows:

At the end of the Inouye amendment, add the following: "*Provided*, That no United States personnel, civilian or military, shall be introduced into or over the territory of El Salvador or Nicaragua for the purpose, directly or indirectly, of combat unless—

"(1) Congress has declared war or authorized the presence of such forces in advance by a joint resolution signed by the President of the United States; or

"(2) the President has determined that the presence of such forces is necessary to provide for the immediate evacuation of United States citizens, or to respond to a clear and present danger of military attack on the United States;

in either case described in paragraph (2), the President shall advise and, to the extent possible, consult in advance with the Congress and shall, in any event, notify the Congress of the basis for such determination within twenty-four hours of the introduction of such forces.".

DECONCINI (AND THURMOND) AMENDMENT NO. 2857

Mr. DECONCINI (for himself and Mr. THURMOND) proposed an amendment to the joint resolution (H.J. Res. 492), supra; as follows:

On page 5, line 12, after "striking out" insert ", in the first sentence thereof,".

On page 5, strike out lines 17 through 22 and insert in lieu thereof the following:

(2) Notwithstanding any other provision of law, the maximum rates for salaries of full-time and part-time magistrates in effect on the day before the date of enactment of this resolution shall continue in effect until adjusted, or new rates determined, by a law specifically referring to the rates of pay of such magistrates.

On page 5, strike out lines 23 through 24 and insert in lieu thereof the following:

(b) Section 232 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549) is repealed.

On page 6, strike out lines 1 through 3 and insert in lieu thereof the following:

(c) Section 634 (c) of title 28, United States Code, is amended by striking out "subsection III" and inserting in lieu thereof "subchapter III".

On page 6, between lines 3 and 4 insert the following:

(d) Section 225 (f) (C) of the Federal Salary Act of 1967 (2 U.S.C. 356(C)) is amended by striking out "and magistrates".

DECONCINI (AND OTHERS) AMENDMENT NO. 2858

Mr. DECONCINI (for himself, Mrs. HAWKINS, Mr. DOMENICI, Mr. CHILES, Mr. ABDNOR, Mr. COCHRAN, Mr. MATTINGLY, and Mr. RANDOLPH) proposed an amendment to the joint resolution (H.J. Res. 492), supra; as follows:

At the appropriate place in the bill, insert the following new section:

DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For an additional amount for the acqusition (purchase of eight) of highperformance, interceptor/tracker aircraft and other related equipment for drug interdiction purposes, $25,000,000, to remain available until expended: *Provided*, That such aircraft shall be purchased through an open, competitive procurement.

SOLID WASTE DISPOSAL ACT AMENDMENTS

ABDNOR (AND OTHERS) AMENDMENT NO. 2859

(Ordered to lie on the table.)

Mr. ABDNOR (for himself, Mr. STAFFORD, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. SASSER, Mr. HUDDLESTON, Mr.

HATFIELD, Mr. DURENBERGER, Mr. PERCY, Mr. PELL, Mr. MITCHELL, Mr. RANDOLPH, Mr. FORD, Mr. D'AMATO, and Mr. BURDICK) submitted an amendment intended to be proposed by them to the bill (S. 757) to amend the Solid Waste Disposal Act to authorize funds for fiscal years 1983, 1984, 1985, 1986, and 1987, and for other purposes; as follows:

S. 757 is amended at the end thereof the following new title:

TITLE II—ASBESTOS SCHOOL HAZARD ABATEMENT

SEC. 21. This title may be cited as the "Asbestos School Hazard Abatement Act of 1984."

FINDINGS AND PURPOSES

SEC. 22. (a) The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentration far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health and Human Services and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for remedying hazardous conditions in schools;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and students may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without a program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this title to mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) It is the purpose of this title to—

(1) direct the Administrator of the Environmental Protection Agency to establish a program to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos hazards in schools;

(3) provide financial assistance for the abatement of asbestos threats to the health and safety of school children or employees; and

(4) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

ASBESTOS HAZARD ABATEMENT PROGRAM

SEC. 23. (a)(1) There is hereby established a program within the Environmental Protection Agency to be known as the Asbestos Hazards Abatement Program (hereinafter in this title referred to as "Program").

(b) The duties of the Administrator in implementing and effectuating the Program shall include—

(1) the compilation of medical, scientific, and technical information including, but not limited to—

(A) the health and safety hazards associated with asbestos materials;

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers; and

(C) the means of abating the threat posed by asbestos and asbestos containing materials;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State and local agencies and to other institutions for the purpose of carrying out activities described in this title;

(3) the development within 45 days of enactment of this title of an interim or final application form, which shall be distributed promptly to local educational agencies; and

(4) the review of applications for financial assistance, and the approval or disapproval of such applications, in accordance with the provisions of section 25.

STATE PLANS

SEC. 24. (a) Not later than three months after the date of enactment of the Asbestos School Hazard Abatement Act of 1984 the Governor of each State shall submit to the Administrator a plan which describes the procedures to be used by the State for maintaining records on—

(1) the presence of asbestos materials in school buildings of local educational agencies;

(2) the asbestos detection and abatement activities conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials);

(3) repairs made to restore school buildings to conditions comparable to those which existed before the abatement activities referred to in subparagraph (B) were undertaken; and

(b)(1) Not later than six months after the date of enactment of the Asbestos School Hazard Abatement Act of 1984, and annually thereafter, the Governor of each State shall submit to the Administrator a priority list of all schools under the authority of a local education agency within the State that are candidates for abatement.

Such a list shall be made without regard to the public or private nature of the school involved.

(2) The priority list shall rank the potential candidates for abatement action based on the nature and magnitude of the health threat presented by the asbestos materials.

(3) For each school listed, the Governor shall certify that the statement of need contained in the application for assistance accurately reflects the financial resources available to the local educational agency for the asbestos abatement program.

(4) For the purpose of determining the adequacy of the financial resources available to a local educational agency for the abatement of asbestos threats the Governor shall, to the extent practicable, consider the following:

(A) A measure of financial need used by the State in which the local educational agency is located.

(B) The estimated per capita income of the locality of such agency or of those directly or indirectly providing financial support for such agency.

(C) The extent to which the local school millage rate falls above or below (i) the millage rate average of the State and (ii) the millage rate of other local educational agencies with comparable enrollment, per capita income and resource base.

(D) The ratio, expressed as a percentage, of the estimated cost of the project to the total budget of the local educational agency.

(E) The borrowing capacity of the local educational agency.

(F) Any other factor that demonstrates that the local educational agency has limited financial resources.

(c) Not later than nine months after the submission of the plan described in subsection (a), and each twelve months thereafter, the Governor shall submit to the Administrator a report which describes the actions taken by the State in accordance with its plan under such subsection.

FINANCIAL ASSISTANCE

SEC. 25. (a) There is hereby established within the Environmental Protection Agency an Asbestos Hazards Abatement Assistance Program (hereinafter in this title referred to as the "Assistance Program"), which shall be administered in accordance with this section.

(b)(1) Applications for financial assistance shall be submitted by a local education agency, to the Governor, or the Governor's designee, who shall establish a priority list based on the criteria of section 24(b)(2).

(2) Pursuant to section 24, applications shall be submitted, together with the Governor's report and priority list, to the Administrator who shall review and rank such applications pursuant to section 25(c)(2) and propose financing pursuant to the criteria of section 24(b)(4).

(3) The Administrator's priority list and the Governor's certifications of need shall be forwarded to the Secretary of the Department of Education for a review, not to exceed 60 days, and in the Secretary's discretion, comments and recommendations based on the needs of local education agencies for financial assistance. Within 60 days of receipt of the Secretary's report, or expiration of the time allowed for such report, the Administrator shall approve or disapprove applications for financial assistance.

(c)(1) The Administrator shall provide financial assistance on a school-by-school basis to local educational agencies in accordance with other provisions of this section to carry out projects for—

(A) abating the threat posed by materials containing asbestos to the health and safety of children or employees;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring school buildings to conditions comparable to those existing before abatement activities were undertaken pursuant to this section.

(2) The Administrator shall review and list in priority order applications for financial assistance. In ranking applications, the Administrator shall consider—

(A) the priority assigned to the abatement program by the Governor pursuant to section 24(b)(2);

(B)(i) the likelihood of release of asbestos fibers into a school environment, as determined under the Guidance System for Assessing Potential Asbestos Problems in Schools in Appendix B of 34 CFR 231;

(ii) any other evidence of the extent of the hazards caused by the presence of asbestos;

(iii) the extent to which the corrective action proposed by the applicant will reduce the imminent hazards to the health and safety of school children and school employees; and,

(iv) the extent to which the corrective action proposed by the applicant is cost-effective compared to other techniques including management of material containing asbestos.

(3) In determining whether an applicant is eligible for assistance, and the nature and amount of financial assistance, the Administrator shall consider—

(A) the financial resources available to the applicant as certified by the Governor pursuant to section 24 (b)(4); and,

(B) the report, if any, of the Secretary of Education pursuant to section 24(b)(5).

(d) In no event shall financial assistance be provided under this title to an applicant if the Administrator determines that such applicant has resources adequate to support an asbestos materials abatement program. In making such a determination, the Administrator may consult with the Secretary of Education.

(e)(1) An applicant for financial assistance may be granted a loan of up to 100 per centum of the costs of an abatement program or, if the Administrator determines the applicant is unable to undertake and complete an asbestos materials abatement program with a loan, such applicant may also receive a grant (alone or in combination with a loan) not to exceed 50 per centum of the total costs of abatement, in the amount which the Administrator deems necessary.

(2) In approving any grant, the Administrator shall state with particularity the reasons why the applicant is unable to undertake and complete the abatement program with loan funds.

(f) Loans under this section shall be made pursuant to agreements which shall provide for the following:

(1) the loan shall not bear interest;

(2) the loan shall have a maturity period of not more than 20 years (as determined by the Administrator) and shall be repayable during such amounts as the Administrator may specify in the loan agreement; and,

(3) Repayment shall be made to the Secretary of the Treasury for deposit in the general fund; and,

(4) Such other terms and conditions that the Administrator determines necessary to protect the financial interest of the United States.

(g)(1) No financial assistance may be provided under this section unless an application has been submitted to the Administrator within the five-year period beginning on the effective date of this title.

(2) The Administrator shall not approve an application unless—

(A) the application contains such information as the Administrator may require, including but not limited to information describing—

(i) the nature of the asbestos problem for which the assistance is sought;

(ii) the asbestos content of the material to be abated;

(iii) the methods which will be used to abate the asbestos materials;

(iv) the amount and type of financial assistance requested;

(v) a description of the financial resources of the local educational agency; and

(vi) a justification for the type and amount of the financial assistance requested.

(B) the application contains a certification that—

(i) any employee engaged in an asbestos material abatement program will be trained and equipped pursuant to section 26(b)(2)(B); and

(ii) no child or inadequately informed or protected school employee will be permitted in the vicinity of any asbestos abatement activity;

(C) the application contains assurances that the local educational agency will furnish such information as is necessary for the Administrator to make the report required by section 27 of this title.

(3) No financial assistance may be provided by the Administrator under this section for projects described in subsection (a)(2) on which abatement action was completed prior to January 1, 1984.

(B) Except as provided in section 32(b)(1) in approving applications the Administrator shall provide assistance to the local educational agencies having the highest priority among applications being considered in order of ranking until the appropriated funds are expended.

SEC. 26. (a) Within 180 days after the effective date of this title the Administrator shall promulgate rules and regulations as necessary to implement the authorities and requirements of this title.

(b) The Administrator shall also establish—

(1) procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 25 for—

(A) abating asbestos materials in school buildings;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

(2) within 90 days, standards for determining—

(A) which contractors are qualified to carry out the activities referred to in paragraph (1), and

(B) what training, equipment, protective clothing and other information and material must be supplied to adequately advise and protect school employees utilized to carry out the activities in paragraph (1).

(3) Nothing contained in this title shall be construed, interpreted or applied to supplant, preempt or otherwise diminish the level of protection required under State or federal worker protection laws.

(c) In order to effectuate the purposes of this title, the Administrator may also adopt such other procedures, standards and regulations as the Administrator deems necessary, including—

(1) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;

(2) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(3) periodic reporting with respect to the activities that have taken place using funds loaned or granted under this title.

ANNUAL REPORT

SEC. 27. During each of the 10 calendar years after the year in which this title is enacted, the Administrator shall prepare and submit not later than February 1 of each year a report to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives on the loan and grant program authorized by section 25 of this title. The report shall—

(1) describe the number of applications received;

(2) describe the number of loans and grants made in the preceding calendar year and specify each applicant for and recipient of a loan or grant;

(3) specify the number of loan or grant applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals;

(4) describe the types of programs for which loans or grants were made;

(5) specify the estimated total costs of such programs to the recipients of loans or grants and specify the amount of loans or grants made under the program authorized by this title; and

(6) estimate the number of schools still in need of assistance.

SEC. 28. (a)(1) As a condition of the award of any financial assistance under section 25, the recipient of any such loan or grant shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such sections.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from a judgment recovered by the recipient in such suit) shall be used to repay to the United States, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount (i) outstanding on any loan and (ii) of any grant made to the recipient; and

(B) an amount equal to the interest which would have been charged on such loan were the loan made by a commerical lender at prevailing interest rates (as determined by the Administrator).

(b) The Attorney General shall proceed in an expeditious manner to recover the amounts expended by the United States to carry out this title from the persons identified by the Attorney General as being liable for such costs.

SEC. 29. No State or local educational agency receiving assistance under this title

may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

SEC. 30. Except as otherwise provided in section 8, nothing in this Act shall—

(1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or

(2) affect the rights of any party under any other law.

SEC. 31. For purposes of this title—

(1) the term "asbestos" means—

(A) chrysotile, amosite, or crocidolite; or

(B) in fibrous form, tremolite, anthophyllite, or actinolite;

(2) the term "Attorney General" means the Attorney General of the United States;

(3) the term "threat" or "hazard" means that an asbestos material is friable or easily damaged, or within each reach of students or employees or otherwise susceptible to damage (including damage from water or air circulation) which could result in the dispersal of asbestos fibers into the school environment;

(4) the term "local educational agency" means—

(A) any local educational agency as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965; and

(B) the governing authority of any nonprofit elementary or secondary school;

(5) the term "nonprofit elementary or secondary school" means—

(A) any elementary or secondary school as defined in section 198(a)(7) of the Elementary and Secondary Education Act of 1965 owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and

(B) any school of any agency of the United States;

(6) the term "school buildings" means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph;

(7) the term "Administrator" means the Administrator of the Environmental Protection Agency, or the Administrator's designee;

(8) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Bureau of Indian Affairs.

SEC. 32. (a)(1) There are hereby authorized to be appropriated for the asbestos abatement program not more than $50,000,000 for the fiscal year ending on September 30, 1984, $50,000,000 for the fiscal year ending on September 30, 1985, and $100,000,000 for each of the five succeeding fiscal years.

(2) The sums appropriated under this title shall remain available until expended.

(b)(1) A state with qualified applicants shall receive no less than one-half of one percentum of the sums appropriated under this title, or the total of the amounts requested by such applicants, whichever is less. Those amounts available in each fiscal year under this paragraph shall be obligated before the end of that fiscal year. For the purposes of this paragraph the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Bureau of Indian Affairs and, taken together, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Of those sums appropriated for the implementation of this title, up to 10 percentum shall be reserved during the fiscal year ending September 30, 1984, and up to 5 percentum for the fiscal year ending September 30, 1985, for the administration of this title and for programs including, but not limited to, the following:

(A) the establishment of a training center for contractors, engineers, school employees, parents and other personnel to provide instruction on asbestos assessment and abatement;

(B) the development and dissemination of abatement guidance documents to assist in evaluation of potential hazards, and the determination of proper abatement programs;

(C) the development of rules and regulations regarding inspection, reporting and record-keeping; and,

(D) the development of a comprehensive testing and technical assistance program.

SEC. 33. Not later than 90 days after enactment of this title, the Administrator shall report to the Committee on Environment and Public Works and the Committee on Finance of the United States Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the United States House of Representatives on—

(a) the feasibility of financing the programs established by this title by that fund created by the Comprehensive Environmental Response, Compensation and Liability Act (PL 96-510);

(b) the identities and current financial condition of those companies which mined, processed, manufactured or installed the asbestos and asbestos products which are being contained or removed under the title; and,

(c) the most appropriate nature, location and impact of a tax on those firms identified pursuant to subsection (b) if the cost of the programs established by this title were to be borne by the Fund referenced in subsection (a).

Mr. ABDNOR. Mr. President, today, on behalf of myself, Mr. STAFFORD, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. SASSER, Mr. HUDDLESTON, Mr. HATFIELD, Mr. DURENBERGER, Mr. PERCY, Mr. PELL, Mr. MITCHELL, Mr. RANDOLPH, Mr. FORD, Mr. D'AMATO, and Mr. BURDICK, I am submitting an amendment to establish within the Environmental Protection Agency, an asbestos-in-schools abatement program. We will offer our proposal as an amendment to S. 757, the Solid Waste Disposal Act Amendments of 1983. Floor action on this bill, which amends the Resource Conservation and Recovery Act, is expected sometime next week.

Mr. President, exposure to asbestos is known to cause serious diseases of the lungs, including cancer and asbestosis. Children are believed to be especially susceptible to the dangers associated with asbestos exposure.

Several years ago, Congress enacted the Asbestos School Hazard Detection and Control Act of 1980, which authorizes the Department of Education to provide no-interest loans to assist schools in undertaking asbestos abatement activities. This program has never been funded, nor has the Department ever requested funding for abatement assistance.

As a member both of the Committee on Environment and Public Works, which has jurisdiction over EPA, and the Appropriations Subcommittee on HUD-Independent Agencies, which funds EPA programs, I feel strongly that the Agency is far better equipped to administer an asbestos-in-schools abatement program. I know that a number of the Senators who are joining with me in this effort share my feelings.

Mr. President, the Environmental Protection Agency has developed an excellent technical assistance program—TAP—to aid schools in coping with the problem of asbestos. In addition, the Agency is stepping up its enforcement of existing asbestos regulations. Earlier this month, the Agency demonstrated its serious commitment to enforcement by levying its first fine for allegedly failing to comply with existing asbestos requirements against the Goffstown, N.H., School District. The President, in his fiscal year 1985 budget request, is calling for an increase in EPA's toxics program. The Agency plans to use a large portion of the additional dollars requested to escalate enforcement of current asbestos regulations.

Mr. President, one might ask whether the Federal Government is obliged to provide financial assistance to local educational agencies for asbestos abatement projects. While I feel that financing the removal or encapsulation of these materials is primarily a State and/or local responsibility, I believe that the Federal Government has an obligation to assist school systems which, without financial help, are unable to undertake abatement action necessary to protect the health of the children who attend their schools.

Mr. President, the proposal we are introducing today will provide no-interest loans and grants to financially needy LEA's—both public and pri-

vate—for asbestos abatement. In no case may a grant exceed 50 percent of the cost of the abatement project. The Governor of each State will be required to submit to the Administrator the applications for assistance completed by LEA's within his or her State, together with a list of those LEA's, ranked according to the degree of health threat posed by the presence of asbestos in their schools. The Governor is also responsible for certifying the financial criteria contained in the individual applications.

Based on the priority lists submitted by the Governors, the Administrator will compile a national priority list. LEA's on this list, which demonstrate financial need, will receive a loan and/or grant, depending upon their degree of need.

Mr. President, our amendment authorizes $50 million for each of fiscal years 1984 and 1985, and $100 million for each of 5 subsequent years—a total of $600 million for 6 fiscal years. The following education organizations participated in the drafting of our language and are endorsing our efforts:

National School Boards Association, NSBA.

National Parent Teachers Association, PTA.

National Education Association, NEA.

American Association of School Administrators, AASA.

Council on American Private Education, CAPE.

Mr. President, I urge our colleagues to cosponsor and support this amendment to S. 757, the Solid Waste Disposal Act Amendments of 1983.

Mr. HATFIELD. Mr. President, there is a silent hazard which, if left unattended, threatens the future health of our children.

The presence of asbestos in our schools is posing this health hazard. This substance has been proven to cause lung disease, including lung cancer. The Environmental Protection Agency has estimated that 14,000 schools, both public and private, have sprayed on friable asbestos-containing materials. Any time that asbestos or an asbestos product is damaged or disturbed, asbestos fibers are released into the air. Even when asbestos dust is invisible, it poses a threat.

The amendment in which I join my colleagues in submitting would enact a program of technical and financial assistance to schools through the Environmental Protection Agency, to work toward the elimination of any health threat as a result of the presence of this substance in school buildings. Currently, the EPA has a program established to detect and provide technical assistance to those schools where asbestos presents health risks. The EPA has experienced a serious problem of noncompliance in the implementation of this program. The major reason for this noncompliance is that once an asbestos problem is detected, many schools do not have access to the resources either to remove or contain the absestos and eliminate the hazard. This proposal would authorize funding to provide grants and loans to financially needy school districts where asbestos is detected as a health hazard.

I urge my colleagues to adopt this amendment and support this program to protect the future of our school-age children. We cannot afford to bury our heads in the sand and obscure the presence of this problem. It is imperative that this minimal level of funding be authorized so that action to eliminate the threat can be initiated.

I have long been an advocate of preventive health care as a means of lowering our future health care costs. This program of abatement exemplifies the intent of preventive health care in recognizing those hazards that exist and taking action to eliminate them.

Mr. SASSER. Mr. President, I rise today to alert my distinguished colleagues to a serious health hazard which exists in school buildings across the country, the presence of friable asbestos in more than 14,000 school facilities nationwide.

Medical evidence indicates that small children who inhale tiny particles of asbestos face an increased risk of developing lung cancer, or mesothelioma, an often-fatal respiratory disease. However, there are proper inspection techniques for detecting asbestos, and we have the technical ability to adequately encapsulate or remove asbestos in school buildings.

What is missing, Mr. President, is a sound Federal program of financial assistance for school districts to address their asbestos-related problems. While Federal regulations require school officials to inspect for asbestos and to notify parents and school employees of any hazardous asbestos discovered, local school officials are left in a precarious situation, knowing that the danger exists, but lacking the financial resources to take proper action.

Due to this situation, I recently introduced S. 2237, the Asbestos School Hazard Detection and Control Act Amendments of 1984. My bill creates an emergency grant program to provide financial assistance to school districts that have severe asbestos-related problems but lack the resources necessary to solve this problem.

However, I understand that some may object to my bill since it funds the asbestos program through the Department of Education. There is some evidence that the Environmental Protection Agency has the technical expertise to more effectively operate such a program. The inspection activities which have occurred in our school districts have been largely the result of action taken by the Agency.

That is why I have joined as an original cosponsor of legislation being introduced today which creates an asbestos-hazard-abatement program to be operated by the Environmental Protection Agency. This bill transfers the existing program, which was created as part of the Asbestos Detection and Control Act of 1980, from the Department of Education to the Environmental Protection Agency. In addition, the legislation creates a combination grant/loan program of financial assistance to needy school districts determined to have the worst asbestos-related problems.

Mr. President, I have agreed to support this legislation because of the urgency of the situation. Friable asbestos presents a real health hazard which should be removed from our school facilities as soon as possible. I am convinced that the magnitude of the costs involved calls for a solid foundation of Federal financial assistance. I urge my colleagues to join me as a cosponsor of the Asbestos School Hazard Abatement Act of 1984.

Mr. President, the March edition of State Government News included an excellent article regarding the existence of asbestos in school buildings throughout the Nation. I encourage my colleagues to review this article. I ask unanimous consent that the text of this article be included in the RECORD at this point.

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

[From the State Government News, March 1984]

ASBESTOS: STILL A DANGER IN SCHOOLS

(By Elaine S. Knapp)

For Phyliss Adams and Ann Gibbs the last year has been a frustrating one—trying to get their local school board to remove asbestos from the school their children attend.

"It's frustrating, our children are being poisoned and there's not anything we can do," Mrs. Gibbs declared. What the Lexington, Kentucky, housewife has done is work through the PTA, form a group of concerned parents, go door-to-door telling parents of the danger, gather hundreds of signatures on petitions, read volumes on asbestos, call and write federal agencies and confront the school administrator and board.

After a year of parental pressure being applied and at least a decade after school authorities knew of the asbestos hazard, Mrs. Gibbs said, "We don't think anything will be done until the government makes them (the school board)." School authorities maintain the asbestos will be cleaned up if money is available for renovation next year.

Ironically, the major government effort to control asbestos lies in Mrs. Gibbs and others like her. Telling parents and teachers that their school has asbestos and relying on them to pressure local action is the heart of the U.S. Environmental Protection Agency's (EPA) strategy to rectify the nationwide problem of asbestos in the schools.

No effective federal program exists to protest school children from asbestos, state efforts vary widely and local schools often ignore the danger due to the cost of cleanup.

ASBESTOS DANGERS

Any exposure to asbestos involves some health risk, according to the Congress, the EPA and the scientific community. Children are especially vulnerable, according to the EPA guidance document on asbestos sent to schools. Their remaining life expectancy provides the 20 to 40 years it takes for disabling and fatal asbestos-related diseases to develop. Large numbers of children may be exposed in a contaminated school and exposure is continuous during the school year. Children are active and breathe more frequently than adults possibly inhaling more asbestos fibers. Smoking can increase the cancer risk due to asbestos exposure.

Most hazardous is friable asbestos that can be crumbled. It sends deadly fibers into the air which may lodge in the lungs indefinitely, according to EPA's guidance document. Asbestos workers often develop a chronic and debilitating lung disease called asbestosis. Lower and shorter exposures are linked to lung and other cancers. Even brief exposure can result in death many years later.

Asbestos diseases include: 1) asbestosis, a disease in which asbestos clogs the lungs, 2) pleural calcification, a deposit of calcium salts in the lung lining, 3) malignant tumors of the lung, 4) mesothelioma, a rapid and fatal cancer of the lung, and 5) intestinal and uterine cancers.

WHERE IT IS, WHAT TO DO

Use of asbestos materials was common in schools and other buildings from the mid-1940s until EPA banned sprayed asbestos in 1973. Friable (or soft) asbestos-containing material was used for fireproofing, insulation or decoration. It was usually sprayed on overhead surfaces, steel beams, ceilings, walls and pipes.

As friable asbestos material ages, it breaks down and releases fibers into the air. School activities can damage or disturb asbestos, such as a ball hitting a gym ceiling. Asbestos material can be disturbed by maintenance activities, vandalism, water damage or vibration from people or machinery and release fibers into the air.

Many experts believe removal of asbestos is the only final and satisfactory solution to asbestos exposure. However, removal may cost more initially and be more complicated. Temporary measures include encapsulation by spraying asbestos with a sealant or enclosing the asbestos. EPA and other experts warn that such temporary measures make removal more difficult and dangerous later on, and must be constantly monitored.

The EPA guidelines call for asbestos work only after construction of sealed containment barriers and worker protection as mandated by OSHA. All but asbestos workers should be kept out of the sealed area and worker change rooms are required.

HOT POTATO

Asbestos in the schools has been a "hot potato" tossed among various levels of government and federal agencies. One reason is that removal of asbestos can be quite expensive, especially if large areas of buildings are affected. Funding is basically up to local schools as is asbestos detection and control. No federal funds are available and state aid varies.

The U.S. EPA requires schools to inspect for asbestos and notify parents and employees of asbestos hazards. The EPA doesn't require removal or abatement. "The theory is that PTAs and employees would pressure local districts to take remedial action," said Terrell Hunt, assistant to EPA Deputy Administrator Alvin Alm.

However, a recent internal EPA report found that many schools did not meet EPAs June 1983 deadline for asbestos detection, record keeping and notification.

NO FEDERAL FUNDS

Federal funds of $172 million authorized by the Asbestos School Hazard Detection and Control Act of 1980 were never appropriated. Grants were promised for schools to identify asbestos hazards and loans for mitigation of asbestos hazards. But funds were never requested by the Department of Education, reported John Bennett, aide to U.S. Rep. George Miller, D-California, who sponsored the act. In 1983, a $50 million recommendation by the House was omitted in a House-Senate conference.

The U.S. Department of Education had a task force which set standards for state grants in 1980, according to W. Stanley Kruger, deputy director for state and local education programs. However, when the program wasn't funded, the department "deferred to EPA," Kruger said.

Under pressure from Congress, the department reactivated its task force in October 1983 and is gathering information on asbestos to send to chief state school officials, Kruger said. The department also reactivated its requirement that states file plans for asbestos in the schools' programs and report on their progress every six months. All but two states have filed.

EPA'S PROGRAM

The federal effort has largely been a requirement by the EPA that schools inspect for asbestos hazards, sample and analayze material to determine if asbestos is present, keep records of the inspection, post notices, and notify parents and employees if asbestos is found. Although schools were to comply with the rule by June 1983, the EPA doesn't know how many did. It does not require schools to report to it and must send federal inspectors to schools to check their records. EPA staff said when the EPA regulation was written that the administration opposed imposing a data reporting requirement. The EPA recently doubled its field force of inspectors by adding 16 people through a contract with the American Association of Retired Persons, Hunt said. These include retired architects and engineers. Primarily, EPA staff look at school records and physically inspect some schools. However, there's not enough inspectors to cover but a small portion of the nation's schools.

In providing technical advice, EPA can help schools determine the best strategy for evaluating the risk and responding to asbestos, Hunt said. He said that anything short of removal is considered a short-term solution.

Connie Derocco, environmental protection specialist with EPA, said that out of 1,527 schools inspected in 468 districts, some 60 percent did not comply with EPA rules. Most failed to notify and warn PTAs and employees of asbestos materials. Schools know they will be pressured once the word is out, and they are hesitant to deal with the asbestos problem, Derocco explained. After receiving a notice of noncompliance, schools have 30 days to act before the EPA files a civil complaint.

LABOR UNION CONCERN

An estimated 3.24 million school children and 648,000 school employees are potentially exposed to asbestos, according to Kitty Conlan, research analyst with the Service Employees International Union (SEIU).

The SEIU is lobbying Congress to fund the 1980 act for grants and loans to schools. Schools don't have the money to cleanup on their own, Conlan said. "It's definitely a federal responsibility," Conlan said. "It's a nationwide problem which affects the health of millions of people."

SEIU is suing the EPA to require schools to cleanup flaking asbestos. "Schools say if EPA thinks asbestos is so bad, then EPA would require them to get rid of it," Conlan commented.

EPA does give schools good technical advice on how to get rid of asbestos, Conlan noted. But some schools accept the lowest bid rather than follow EPA guidelines. If the cleanup is not done right, the asbestos danger can be worsened.

Conlan said SEIU does not think suing asbestos' manufacturers is worthwhile, citing lack of action on suits filed by asbestos workers. "We are hesitant to have our members litigate themselves to death," she said.

Conlan added that school districts can also be held responsible for asbestos. "They can face a big liability," she commented.

LAWSUITS FILED

A number of lawsuits on behalf of school boards and building owners in Kentucky, Mississippi, New Hampshire, Florida, South Carolina, Alabama and Tennessee, have been filed by a South Carolina law firm.

Daniel Speights noted that legal theories available to school boards against manufacturers of asbestos include: contract (the products were not fit for the uses intended), negligence (the manufacturers were negligent in informing users of the risks associated with the products), strict liability (manufacturers should be strictly liable for failing to warn of asbestos hazards), and restitution (manufacturers have a duty to abate the hazard).

A civil action filed on behalf of the Barnwell, South Carolina, school district notes that school districts and public officials could be held liable for filing to abate a health hazard.

A September 1981 report by the U.S. attorney general to Congress recommended that school authorities seek to recover asbestos abatement expenses from asbestos manufacturers. The report said federal litigation would be inefficient unless Congress imposed liability on asbestos manufacturers.

Asbestos manufacturers are being sued by at least 20,000 people on the grounds that the companies knew of asbestos hazards and covered them up, according to a September article in the *National Journal*.

A 1983 report from the Rand Institute says that asbestos litigation and compensation has cost an estimated $1 billion over the past decade. Only 37 cents of every dollar went for actual compensation to plaintiffs. Estimates of the number of deaths due to asbestos over the next 30 years range from 74,000 to 265,000.

FUTURE PROBLEMS

Generally, 15–40 years can elapse between asbestos exposure and manifestation of certain diseases. For instance, shipyard workers exposed during World War II may only now be filing claims, according to the Rand study. Despite this knowledge, no attempt is

being made to monitor school children exposed to asbestos.

An internal EPA memo written in November 1978 called for long-term surveillance of children who are exposed. The memo noted that when they reach adulthood these children could then be informed and notified of their childhood exposure. They could be medically examined more frequently for respiratory diseases and cancer.

EPA REGIONS, STATES

Because no one tracks data on asbestos in the schools on a national basis, *State Government News* interviewed asbestos coordinators in five of the 10 EPA regions and several state asbestos coordinators.

Generally, the federal regional EPAs have switched their emphasis from providing technical assistance on identifying and dealing with asbestos in the schools to checking school records on asbestos inspections. Most found a high percentage of school either had not inspected or had not notified parents and employees of asbestos in the schools as required by the EPA.

State programs differ widely in scope and authority. While a few states fund asbestos removal and cleanup, most simply help schools identify asbestos or provide other technical assistance.

REGION I

"Compliance is terrible," said Paul Heffernan, asbestos coordinator for EPA Region I covering Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

Five full-time EPA inspectors have visited 160 districts covering 400 schools and issued 58 notices of non-compliance. Of the EPA violations, 37 percent had not even inspected and 53 percent had not notified parents or employees of asbestos found. Many school administrators didn't want to be "bothered," others had not read the regulation and others simply refused to post a warning in the building.

Oddly enough, schools in states which had asbestos programs in the late 1970s were most difficult to convince they needed to inspect for asbestos in ways not done in earlier years. For instance, the latest regulations require inspection of pipes and boiler rooms.

With 3,300 school districts in the region, there is no way EPA can inspect them all, Heffernan said. However, press releases announce schools found in violation, so the hope is that other schools will inspect rather than see themselves in the headlines.

Asbestos abatement efforts vary widely even in the same school district and among neighboring school districts, Heffernan said. He said West Haven, Connecticut, had an effective program while North Haven, next door, had none. While Hartford, Connecticut, spent $6 million on big problems in five schools, it had not tackled "mini-disasters" in 37 others. The same situation existed in Boston.

In the region, New Hampshire sent a checklist of EPA requirements plus abatement actions to help schools comply with the EPA.

Connecticut has granted $6.5 million since 1976 to localities for asbestos control in schools, reported Richard Krissinger, coordinator of school facilities, state Department of Education. State grants range from 40 to 80 percent of cost, depending on the aid formula the town qualifies for. If asbestos is found, the "chances are good it will be removed," Krissinger said. "We treat it as a health violation."

The state "accepts encapsulation" as an abatement measure, but doesn't encourage it. Krissinger said, "We believe removal is the only answer."

Al Siniscalchi, acting chief of the toxic hazard section for the Connecticut Department of Health Services and Education, noted that the state also provides technical assistance to schools. Schools were sent EPA guidelines and seminars were cohosted by the state and EPA Region I.

A job freeze has reduced a former staff of nine to four and most inspections are now done by local health departments. Connecticut does follow-up inspections after asbestos removal to make sure the school is safe. Safe disposal of large amounts of asbestos is supervised by the state Department of Environmental Protection.

Maine is in good shape, according to Roy Nisbett, director of the Division of School Facilities. Most of the asbestos found was confined to pipe wrapping and boiler rooms. The state notified schools of the EPA rule and 90 percent complied with inspection requirements, Nisbett said. The Division of Industrial Safety trained school personnel to conduct asbestos inspections.

A proposed bill in Maine would authorize a bond issue to reimburse local schools for the cost of asbestos removal and repair.

In spite of the fiscal contraints caused by Proposition 2½, public pressure has spurred asbestos abatement in Massachusetts, said Mike Malchik, assistant engineer, Division of Occupational Hygiene. "Parents and teachers are adamant about getting it (asbestos) down," Malchik said. The legislature allocated $2 million in 1983–84 to repay part of school removal costs if removal is recommended by the state.

Massachusetts inspects public buildings and schools, samples, analyzes samples and recommends abatement measures. There are at least five engineers and a project engineer available. The schools are being resurveyed based on new guidelines, as inspections in 1978 only covered sprayed-on asbestos in public areas.

REGION II

EPA Region II asbestos coordinator, Arnold Freiberger, has seven inspectors to check some 3,000 schools in New York and New Jersey. Out of 108 districts inspected, only 13 were in compliance with EPA rules, 32 had minor violations and 63 had either failed to inspect or identify asbestos or to post notices and notify parents and teachers.

New York has provided funds for asbestos control, reported Henry Binzer, associate in school business management state Department of Education. In additon to state grants of $1.75 million annually for the past four years, school districts may tap state building aid for asbestos control.

An annual state survey of school revealed 509,000 square feet of potentially hazardous asbestos.

The New York State School Asbestos Safety Act of 1979 required schools to identify asbestos and, if it is hazardous, take control measures. Encapsulation is most popular with schools. "The problem is that still has to be watched," Binzer noted. Removal is permanent, but expensive.

The state does not give advice on specific jobs, but provides an educational program for contractors and information to schools.

New Jersey doesn't provide specific aid for asbestos removal, but schools can get assistance through the foundation aid program, said Dr. Irving M. Peterson, manager, Facility Planning Services, state Department of Education.

In 1979, a governor's Task Force on Asbestos set minimum specifications for removal of friable asbestos. The specifications, which contractors must follow, require notification of state and federal agencies prior to the start of a project, require documentation of the contractor's qualifications, and require the contractor to follow stringent procedures for removal. The standards do not permit encapsulation (by coating the asbestos-containing layer) in New Jersey.

The state must approve all construction projects, plans, make field inspections to assure the work area is set up properly so contamination doesn't spread and check at the end of the project. Contractors, agents and workers must all attend a one-day state-EPA seminar and carry certification cards on the job.

Out of 2,400 public schools in New Jersey, asbestos removal projects have been approved in 350. Costs have totaled $46 million, for an average of $131,0000 per school. It's up to local districts to remove the asbestos and as many as 100 more may not have acted yet.

EPA's new rule requiring parental notice "triggered a lot of work," Peterson said. As many projects were approved last year as in the previous four years.

REGION IV

EPA doesn't have the resources to inspect school compliance with asbestos regulations, declared Dwight Brown, asbestos coordinator for Region IV covering Alabama, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee.

Most commonly, schools have either failed to inspect or to notify parents, Brown noted. He added that common law requires building owners to identify and notify occupants of hazards, and to provide medical surveillance if there is evidence of exposure.

Region IV also provides technical assistance and its intensive seminars on asbestos are attended by many from outside the region.

Most of the asbestos found in Georgia schools was in boiler rooms or pipe wrapping and has been corrected, said Lovett Fletcher, asbestos coordinator. State environmental, health and education departments worked with the U.S. EPA to provide information and hold seminars for superintendents. In addition, 70 environmental health specialists were trained to assist local systems. Schools with acute problems could get matching state aid through the state capital outlay, Fletcher said.

Kentucky helps schools comply with EPA inspection requirements, but has no money to aid them, said Jim Judge, unit director of property insurance, Department of Education. Asbestos cleanup was estimated to cost $26 million last year, but a survey now underway could change that estimate. Judge noted that the EPA doesn't require removal and many schools "are hesitant to post a warning." Asbestos problems in the state's 180 districts range from major ones with ceilings to boiler rooms.

Affected schools mostly include those built from World War II to the early 1970s. Judge said certain architects used lots of asbestos while others didn't.

South Carolina selected the critical points of EPA's regulations in requiring public and private schools to inspect, sample and analyze for asbestos, said Lee Bacot, asbestos coordinator, Department of Health and Environment. Results of the school surveys and health hazard assessments were re-

quired to be publicized in meetings and by notifying parents.

Out of 1,200 public schools, 1,080 or 90 percent complied with EPA's rule and 270 found friable asbestos. Only about 30 percent of the 450 private schools complied.

Asbestos inspectors must be certified by the state and must send survey results to the state. A one-day course is offered by the state to consultants and state and local staff. Schools are provided information, but the state does not provide specific advice or any funds.

Tennessee had a governor's task force on asbestos in 1978, according to Robert Foster, chief, technical services, Division of Air Pollution Control, Bureau of the Environment.

Out of 1,773 schools, 150 reported potentially hazardous asbestos.

The state provides free analysis of suspected asbestos materials, provides information to schools, and conducts training sessions. Because there is a shortage of EPA inspectors, Tennessee Gov. Lamar Alexander wrote the EPA offering to help enforce the inspections. However, EPA has not responded. The state plans to proceed to develop the data anyway, Foster said.

"We're convinced asbestos in the schools is one of the more important health problems," Foster declared. "It's an absolute human carcinogen. It causes serious irreversible health effects. Even brief exposure can cause painful disease. Children are even at more risk."

The goal should be to eliminate the hazard, Foster continued, while the EPA only requires inspections and warnings which can lead to panic and make schools vulnerable to unscrupulous contractors. People need to be educated on how to abate the hazard, he said. He added that although "most want to do the best, it's hard to convince them that a little dust out of the ceiling will kill them."

"I've gone in schools where the material (asbestos) was hanging off chairs," Foster said. In that case the superintendent closed the schools upon the state's recommendation. More troublesome are marginal situations, Foster noted, where schools don't understand the potential hazard. "They look to the state or federal government," he said. "But hope for federal or state aid is a loser."

REGION V

"There's quite a few violations of EPA's rule," said Anthony Restaino, asbestos coordinator for Region V covering Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin.

Many school officials thought asbestos "was a low priority, didn't take time to inspect, didn't touch asbestos-materials to see if it crumbled or didn't notify parents or employees," Restaino said. Out of 43 school districts inspected, 29 were in violation. The Region V inspection staff was recently doubled to eight.

Illinois treats asbestos as a health and public safety issue, said Ralph Morrisette, architect, school facilities and organization section, State Board of Education.

Under Illinois law, school boards can hire an architect to determine if school building conditions endanger lives. After a survey of the cost to remove the asbestos, the local district can levy a tax for the amount without a referendum. Because schools are able to raise the funds, most of those with asbestos are having it removed, Morrisette said.

Most Wisconsin schools have inspected for asbestos, reported Nori Roden, school asbestos program coordinator, Department of Health and Social Services.

Out of 3,027 schools, 3,006 inspected and 1,089 found friable asbestos. Corrective action was taken by 583: 395 rewrapped pipes, 94 removed asbestos, 33 enclosed it and 61 encapsulated it.

Wisconsin has had an asbestos program since 1980. The Department of Industrial Labor and Human Relations conducted asbestos inspections when it conducted fire and other safety inspections. Samples were analyzed by the state lab. The Department of Public Institutions targeted schools for the free inspections, helped with record keeping, and provided technical assistance and consultation services. The health department computerized and coordinated the data and consults on health effects of asbestos.

A position paper being developed by the health department will most likely recommend removal of all friable asbestos, Roden said. "We're cautious of encapsulation and enclosure," she said. Advantages of the temporary measures include less cost and time, but the disadvantage is the "asbestos is still in the building," Roden said.

Minnesota in 1983 authorized a $25 per pupil unit capital expenditure levy and aid for asbestos removal or encapsulation and PCB cleanup with Department of Education approval.

REGION VIII

The major violation found in Region VIII is that schools "aren't willing to put up notices," said Steve Farrow, EPA asbestos coordinator for Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. Instead, schools are trying to remove or encapsulate the asbestos first, he said.

Of the states, Farrow said that Utah's problems were with pipes and boiler rooms, North Dakota was making progress and Wyoming had few major problems.

Chuck Johanningmeier, technical advisor for the region, said, "Many people hoped it would go away. Medically, it is just getting worse." A Fargo teacher had contacted the EPA after discovering asbestos debris left in a school storeroom. Not long afterwards, the lawyer for the teacher's estate reported the man had died of mesothelioma (a rare cancer associated with asbestos exposure).

Unqualified contractors can do more damage than if the asbestos was left alone, Johanningmeier said. A proposed measure before the Colorado Legislature will require contractors to be certified to work on asbestos.

In another case, a contractor left asbestos which students and teachers dusted up. As a result the EPA is helping write specifications in a contract for cleanup which will be available to others as well.

There are some bright spots as well. Johanningmeier praised the work of Gill Johnson, the asbestos coordinator for a Jefferson County, Colorado, district. Johnson overcame school resistance and succeeded in cleaning up the asbestos in the district's schools.

NO CAVALRY IN SIGHT

Although asbestos was recognized as a nationwide health problem by the Congress in 1980, there's no real federal effort to protect the health of exposed school children. Even though most states have asbestos coordinators, few states mandate cleanup or provide funds for removal. Essentially, asbestos removal or cleanup is left up to local school districts. Local school officials may not be willing or understand how to inspect for asbestos. Some may not understand the health dangers or legal liability they incur by allowing asbestos to remain. Apparently, many refuse to adequately notify parents or teachers if asbestos is found. Even then, students have no choice but to attend the school and teachers may be fearful of retribution if they take action. Many schools don't have or don't want to spend the money it takes to remove or cleanup asbestos.

Alvin L. Alm, deputy administrator of the EPA, recently acknowledged that the agency was reconsidering its approach to asbestos in the schools.

Mr. MOYNIHAN. Mr. President, I rise today to join my distinguished colleagues, Senators ABDNOR and STAFFORD, in offering an amendment to S. 757, the Solid Waste Disposal Act Amendments of 1983. Our amendment would establish within the Environmental Protection Agency (EPA) a program of technical and financial assistance to address the asbestos hazards in our Nation's schools.

Between 1940 and 1973, asbestos materials were applied for fire-proofing and insulating purposes to the ceilings, walls and other parts of thousands of school buildings throughout the country. Asbestos, the common name for a group of natural minerals that separate into thin but strong fibers, is now known to pose a considerable health risk. Asbestos fibers can be released into the air from building materials that are damaged or incompletely sealed. When inhaled, asbestos fibers can cause a number of serious diseases. Epidemiologic evidence shows that asbestos exposure can cause asbestosis, a chronic lung disease that impairs breathing; mesothelioma, a rare cancer of the chest and abdomen; and cancers of the lung, stomach, and colon.

Once in the body, asbestos remains there indefinitely. Moreover, asbestos-induced cancers can occur anywhere from 14 to 40 years after the first exposure. For this reason, there is a special concern when children are exposed to asbestos fibers.

The Environmental Protection Agency estimates that between 12,000 and 14,000 public and private school buildings contain friable asbestos—that is, the type of asbestos that could be released into the air. Many local educational agencies simply do not have the financial resources to undertake a major asbestos abatement effort. Certain States have made some assistance available for abatement programs in schools. But such resources, too, are limited. New York State, for example, has spent $1.75 million annually over the last 4 years to assist school in controlling asbestos hazards.

It is both appropriate and necessary for Congress to provide increased Federal resources to assist in abating a problem threatening the health of millions of American children in public and private schools throughout the Nation. Our amendment would do

this, first, by increasing the resources available to the EPA to provide technical and scientific assistance, and, second, by transferring to the EPA a modified version of the Department of Education's current authority to assist schools in abating asbestos hazards.

Under the current Asbestos School Hazard Detection and Control Act (96-270), the Secretary of the Department of Education is authorized to make loans to assist local educational agencies carry out asbestos abatement projects. The $150 million authorized for this loan program, however, has never been appropriated.

Current EPA regulations, issued in May 1982, require all schools to inspect and test building materials to determine if friable asbestos is present. If asbestos is found, school employees and parents must be notified. Since 1979, the EPA also has conducted a program of technical assistance, to help schools identify potentially hazardous asbestos and provide advice on appropriate abatement actions. The Agency's resources in this area, however, are limited.

Our amendment would authorize the Administrator of the Environmental Protection Agency to make loans and grants to financially needy local educational agencies, to undertake asbestos abatement work. Our amendment also would provide that a percentage of the funds authorized for the EPA loan and grant program would be set aside to carry out an expanded technical assistance program.

Mr. President, we must move ahead in a more systematic and rapid manner to remove the asbestos hazard from our Nation's schools. The amendment we offer today will allow us to do just that. We simply cannot continue to allow millions of schoolchildren to be exposed to the dangers of asbestos. I would urge all my colleagues to support enthusiastically this amendment.

Mr. LAUTENBERG. Mr. President, I am pleased to join with my colleagues Senators STAFFORD, ABDNOR, MOYNIHAN, SASSER, HUDDLESTON, HATFIELD, DURENBERGER, PERCY, PELL, MITCHELL, and RANDOLPH in filing an amendment to be offered to the Resource Conservation and Recovery Act. This amendment authorizes a program of financial assistance to schools to clean up hazardous asbestos problems.

The Environmental Protection Agency currently requires all schools to inspect for crumbling, dangerous asbestos in their buildings and to notify employees and parent-teacher organizations when asbestos is found. However, the schools are not required to remove or otherwise alleviate the danger from asbestos once it is discovered, nor are any Federal funds available to assist the schools with high costs of asbestos cleanup.

Mr. President, the purpose of the amendment that we will be offering is to authorize $600 million in grants and loans to schools over the next 7 years. Each State, and then EPA, will rank the Nation's school districts according to the health hazards in their schools. The priority list will be accompanied by a request for the amount of Federal grants and loans to pay for the needed cleanup, based on the financial resources of the district. The districts with the worst asbestos problem and the least financial resources will have first call on the financial assistance available under this legislation.

I can think of no more eloquent argument in favor of Federal assistance for asbestos cleanup than a letter I received from a small school district in my State of New Jersey. The local elementary school has asbestos in the ceiling. Both the private testing company and the EPA team which inspected the school recommended that the ceiling materials be removed and replaced with nonasbestos materials.

Mr. President, the letter continues with a plea for help.

> The problem is money. Our town is a very small community, about 4,000 people, and it will cost $367,000 to remove the ceilings and replace them. This amount will be a great hardship on our townspeople, especially our senior citizens and others on fixed income. It seems very unfair, and ironic, that the materials were put on the ceilings to conform to regulations at the time; yet now, when they must come down, there are no regulations or funding available to defray the cost. Won't you please help us?

The legislation being introduced today is a response to that plea, and to many others from small towns and large cities all around this country. The loans and grants available under this authority will help schools to take the necessary steps to protect the health of our most precious natural resource, our children.

Mr. President, I urge my colleagues to support this important amendment when it is offered during the debate on S. 757.

● Mr. HUDDLESTON. Mr. President, I am pleased that a number of my colleagues have joined in cosponsoring this amendment to establish a program of financial assistance to school districts that have asbestos hazards. This program is to be under the jurisdiction of the Environmental Protection Agency which has become increasingly involved in asbestos abatement efforts.

Asbestos has been used at many schools in our Nation before it was banned in the early 1970's. Its potential for causing serious lung diseases and cancer is well-known. Often, any signs of disease can remain dormant for as long as 20 to 30 years. We cannot afford to wait any longer to deal with this dangerous health threat.

I have been working for over a year now to secure some funding for this program. Last spring, during consideration of the supplemental appropriations bill, I included language that required the Department of Education to report to Congress on the extent of the problem in our Nation's schools. The report was released on October 28, 1983, and it showed that approximately 14,000 schools had asbestos contamination.

Unfortunately, the report was released a couple of weeks after the Senate considered the Labor-HHS-Education appropriations bill to which I offered an amendment to include $50 million in funding for asbestos abatement. The amendment was not accepted by the Senate because it was felt we should await the results of the Department's report before appropriating any funding. A House-Senate conference committee on the bill also deleted the $50 million in funding that the House had appropriated.

It was only after the conference that many people realized the extent and the seriousness of the problem. This awareness led to the legislation being introduced today.

One of the major changes that this legislation makes in current law is the shifting of the program from the Department of Education to the Environmental Protection Agency. This transfer will be to the benefit of the schools since EPA currently is working with school districts in providing technical assistance in detecting asbestos hazards.

When schools find asbestos hazards, they are not required to take any remedial action. They must only post notices of the hazards and inform parent-teacher organizations. Some schools have taken steps to remove the asbestos, but others just do not have the resources available.

Consequently, this legislation authorizes $50 million for each of fiscal years 1984 and 1985, and $100 million for each of the 5 following fiscal years to help schools with asbestos abatement. This assistance can be provided in the form of a 20-year, no-interest loan, or a grant. It is the intention of the legislation that the financial assistance should go to the most needy districts where the greatest health threat exists.

I hope that Senators recognize the seriousness of the problem we are facing. Action needs to be taken now and we cannot let this opportunity pass us by.

Earlier this year, my colleague from Tennessee (Mr. SASSER) and I introduced legislation to provide emergency grants to school districts with asbestos problems. However, the grants were to be an extension of the existing program under the Department of Education. I am pleased that a number of

the ideas contained in that legislation are included in the new amendment being introduced today.

I wish to emphasize that the amendment being introduced today is only one-half of the battle. Should this legislation be approved by the House and the Senate and signed into law, we still must secure funding for the program. I intend to vigorously pursue funding for asbestos abatement as ranking Democrat on the HUD-Independent Agencies Appropriations Subcommittee. I urge my colleagues to give their support not only to this amendment, but also to our efforts to insure that funding will be provided during the current fiscal year. The health and welfare of our children demand our commitment to this goal.●

BURDICK AMENDMENT NO. 2860

(Ordered to lie on the table.)

Mr. BURDICK submitted an amendment intended to be proposed by him to the bill S. 757, supra; as follows:

At the appropriate place insert the following new section:

"SEC. . Section 8002 of the Solid Waste Disposal Act is amended by inserting after subsection (p) the following new subsection, and redesignating succeeding subsections accordingly:

"(q) EXTENDING LANDFILL LIFE AND REUSING LANDFILLED AREAS.—The Administrator shall conduct detailed, comprehensive studies of methods to extend the useful life of sanitary landfills and to better use sites in which filled or closed landfills are located. Such studies shall address—

"(1) methods to reduce the volume of materials before placement in landfills;

"(2) more efficient systems for depositing waste in landfills;

"(3) methods to enhance the rate of decomposition of solid waste in landfills, in a safe and environmentally acceptable manner;

"(4) methane production from closed landfill units;

"(5) innovative uses of closed landfill sites, including use for energy production such as solar or wind energy and use for metals recovery;

"(6) potential for use of sewage treatment sludge in reclaiming landfilled areas; and

"(7) methods to coordinate use of a landfill owned by one municipality by nearby municipalities, and to establish equitable rates for such use, taking into account the need to provide future landfill capacity to replace that so used.

The Administrator is authorized to conduct demonstrations in the areas of study provided in this subsection.".

Mr. BURDICK. Mr. President, I am submitting an amendment to S. 757, the Resource Conservation and Recovery Act. This amendment instructs the Administrator of EPA to study methods for extending the useful life of sanitary landfills and to explore more efficient ways to use filled or closed landfills.

In North Dakota and all over the country there are thousands of municipalities with landfills that are filled or nearly filled to capacity. Finding sites to replace these landfills, is becoming increasingly more difficult and expensive. Cities in my State cannot find or afford to buy more landfill sites. The city fathers have thrown up their hands in frustration because they do not know where to turn for help. EPA has not studied this problem in any sufficient detail and EPA officials are currently unable to assist those who need help and guidance. Unfortunately this problem will not go away, it will only persist and cause problems for future generations unless something constructive is done. If North Dakota cannot find sufficient landfill sites, consider the problems facing heavily populated urban States.

Now is the time to direct EPA to concentrate on this growing problem of garbage disposal. I am asking them to study the following areas:

First, methods to reduce the volume of garbage before it is placed in the landfills;

Second, more efficient systems of depositing waste in landfills;

Third, ways to make solid waste decompose faster;

Fourth, the possibility of producing methane from closed landfill units;

Fifth, innovative uses of closed landfill sites, including solar or wind energy production and metals recovery; and

Sixth, methods to coordinate use of a landfill owned by one municipality by nearby municipalities, and to establish equitable rates for such use, taking into account the need to provide future landfill capacity to replace that so used.

The Administrator is authorized to conduct demonstrations in the areas of study provided in the amendment. I suggest a good place to consider a demonstration project of this kind would be in Fargo, N.D. Because their landfill is nearly filled to capacity they would value any assistance and guidance EPA could give them.

URGENT SUPPLEMENTAL APPROPRIATION

D'AMATO AMENDMENT NO. 2861

Mr. D'AMATO proposed an amendment to the joint resolution (H.J. Res. 492), supra; as follows:

On page 6, immediately after line 21, add the following:

UNITED STATES INFORMATION AGENCY

Notwithstanding any other provision of law, for necessary expenses of the United States Information Agency $850,000.00 for payment to Nassau County of the State of New York as reimbursement for activities carried out by Nassau County during the 1984 International Games for the Disabled.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee will hold full committee hearings on S. 2489, the Small Business Competition Enhancement Act, and S. 2434, "A bill to amend section 15 of the Small Business Act by requiring the assignment of breakout procurement representatives at major procuring installations," on April 6, 1984, at 10 a.m. in room 428A, Senate Russell, and on April 12, 1984, at 9:30 a.m., in room 428A, Senate Russell. For further information, please contact William Montalto, procurement counsel, of the committee staff at 224-3099.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. KASTEN. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, March 29, to hold a hearing on S. 2403, a bill to transfer lands from the Department of Agriculture to the Cochiti Pueblo in New Mexico.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. KASTEN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, March 29, at 9:30 a.m., to continue marking up S. 1566, program for fraud civil penalties; S. 2300, Civilian Agencies Multiyear Contracting Act of 1984; and to consider the nomination of Bruce Beaudin to be assistant judge of the Superior Court of the District of Columbia.

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

SUBCOMMITTEE ON STRATEGIC AND THEATER NUCLEAR FORCES

Mr. KASTEN. Mr. President, I ask unanimous consent that the Subcommittee on Strategic and Theater Nuclear Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 29, to hold an open hearing to be followed by a closed hearing on strategic command control and communications, which is a part of the fiscal year 1985 authorization bill.

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

ADDITIONAL STATEMENTS

THE OIL MERGER MORATORIUM LEGISLATION

● Mr. PELL. Mr. President, during the Senate's debate on the merger moratorium legislation, I voted in favor of the motion to table the Dole substitute amendment calling for a sense of the Senate resolution in respect to merger activity. I did so because I favored the stronger approach embodied in the amendment offered by my distinguished colleagues, Senators JOHNSTON, RUDMAN, and METZENBAUM.

In my view, a moratorium on prospective mergers—one that did not affect any pending mergers where shareholders' rights were at issue—would have been entirely appropriate at this time. Such a moratorium would have given the Congress time to fully examine the highly complex issues involved in corporate merger trends in the oil industry. I particularly supported the provision in the Johnston/Rudman/Metzenbaum amendment that would have created a nine-member Commission to report to the Congress on the impact of mergers on energy development and exploration, price competition, and increased U.S. dependence on foreign suppliers.

While I regret that the Johnston amendment was not adopted, I am pleased that—as a result of the adoption of the Dole substitute amendment—the Energy and Natural Resources Committee, the Finance Committee, and the Judiciary Committee will examine the significant issues raised by the recent merger activity, and that any legislative changes as a result of these hearings will be retroactive to the date of passage of this legislation. This measure will signal the serious concerns of the Senate in this area, and provide opportunity for the review of the complex issues involved in an area of fundamental importance to the American economy and the consumer.●

THE ERA: MYTHS AND REALITIES IV (ABORTION)

● Mr. HATCH. Mr. President, in order to shed some perspective on the question of the impact of the proposed equal rights amendment on abortion rights, I would like to place in the RECORD an outstanding statement delivered earlier this year before the Senate Judiciary Committee by Prof. John Noonan of the University of California School of Law.

The statement follows:

ERA—EQUAL RIGHTS FOR ABORTION?

(Testimony of John T. Noonan, Jr.)

I am pleased and honored to be here by invitation of this committee. I congratulate the chairman and the committee for their willingness to explore aspects and implications of the proposed Equal Rights Amendment not immediately obvious from a simple inspection of its words—for their willingness to try to understand how the ERA will work in practice.

I come as the representative of no organization and speak only as a law professor with some familiarity with how constitutional provisions are interpreted by courts in the United States. I come with no animus against the ERA. I am a believer in the equality of men and women and a defender of the rights of both sexes. My only concern—I admit it at the start—is that the terrible scourge of legalized abortion which now devastates our country not be wittingly or unwittingly given new strength by any formal amendment of the Constitution. It is plain beyond argument that the abortionists do not have the power to pass an amendment asserting, "Abortion is a constitutional right." It would be a tragedy if the equivalent of such an amendment crept into the Constitution in disguise.

When I approached the examination of the ERA I did so alive to such a danger, but with an open mind as to whether in fact the ERA created such a danger. I should like to set before the committee the assumptions on which I have proceeded, the conclusions I have reached, and the reasons for these conclusions.

ASSUMPTIONS

1. I have assumed that when we seek the meaning of the ERA we are not looking at words abstracted from their context. We are looking at words as they would be understood in 1984 in the United States of America. We are not attempting the exegesis of words unfolded on some scroll set in the heavens. We are looking at a constitutional amendment which has had proponents and a legislative history. We are looking at an amendment which will, if enacted, be interpreted by a federal judiciary pretty nearly the same as it is today. We are trying to ascertain what these federal judges will make of these words with this legislative history.

2. I have assumed that everyone knows that the principal basis on which *Roe* v. *Wade* was decided, and on which its holdings were recently reaffirmed in *City of Akron* v. *Akron Center for Reproductive Rights*, was the court-created doctrine of privacy. No one argues that the ERA or equal rights was the basis for these decisions. The question is whether the ERA would provide a substitute rationale if the privacy doctrine should be abandoned as their basis.

3. I have assumed that cases decided under the Equal Protection Clause of the Fourteenth Amendment and the equal protection component of the Fifth Amendment—in particular the Abortion Funding Cases—are not authoritative guidance as to what the Supreme Court would do under a constitutional amendment specifically banning discrimination "on account of sex."

4. I have assumed that the course of the Court's changing position on Title VII of the Civil Rights Act from *General Electric Company* v. *Gilbert* in 1976 to Newport News Shipbuilding in 1983 does give guidance as to how the present Court would construe a constitutional amendment (the ERA) which so closely parallels Title VII in respect to sex discrimination.

CONCLUSIONS

The conclusions I come to are as follows:

1. It is certain that the ERA would have a substantial impact on litigation involving abortion rights.

2. It is highly probable that the ERA would require the federal and state funding of elective abortions.

3. It is highly probable that the ERA would invalidate existing vestigial restrictions on abortion.

4. It is probable that the ERA would invalidate the exemption now accorded to doctors, nurses, and hospitals objecting on grounds of conscience to the performance of abortions.

5. It is probable that schools and colleges discouraging abortion among their students by disciplinary regulations would lose their status as public charities and their tax exemption under the Internal Revenue Code.

6. It is highly probable that if the Supreme Court abandoned the privacy doctrine as a basis for abortion rights, the ERA would provide a new basis for establishing those rights.

7. It is possible that the ERA would provide two checks on abortion by establishing a constitutional basis for statutes extending to fathers a share in the decision to abort and for statutes prohibiting abortion on the basis of the sex of the unborn child.

8. On balance, although the ERA could be a means of imposing certain limits on the right to an abortion, the net impact of the ERA would be a pro-abortion impact. It is not too much to say that a vote for the ERA as presently drafted is a vote for abortion. It is not too much to say that there is an ERA-abortion connection and that in interpretation and effect the ERA will mean "Equal Rights for Abortion" in the governmental funding of abortion, the elimination of conscientious objection to abortion, the denial of tax exemption to educational institutions discouraging abortion, and the grounding of the abortion right in the text of the Constitution.

REASONS

I reach these conclusions both by consideration of the ERA as explained by its legislative history and by consideration of the decisions of the present Supreme Court. I shall examine these guides to the ERA's meaning in turn.

1. "Strict Scrutiny" and the "Unique Physical Characteristic" Test.

"Equal Rights for Men and Women," the Report of the Senate Judiciary Committee on the ERA in 1972, adopted the views of Congressman Don Edwards and thirteen other members of the House Judiciary Committee as stating "concisely and accurately the understanding of the proponents of the Amendment." According to them, the ERA would make gender a prohibited classification with an important exception. Sex classifications would be permitted if based on physical characteristics unique to one sex.[1] Under this exception the key question is whether abortion is a procedure so dependent on a unique physical characteristic of women that the ERA has no application to it because equality has no meaning when applied to a unique characteristic. In other words, does the ERA simply bypass the whole heated area of the abortion controversy because only women can be pregnant and so only women can have abortions? Would legislation taking into account such a unique physical characteristic of women qua women still be valid if the ERA were passed?

The Senate Committee Report followed a significant article by proponents of the ERA

Footnotes at end of article.

published in the Yale Law Journal in 1971. This article by Barbara A. Brown, Thomas J. Emerson, Gail Falk, and Ann E. Freedman—I shall refer to it as the Brown-Freedman article—was not only a gloss on the proposed amendment by articulate supporters of the amendment. It was distributed to all members of Congress. It was made part of the legislative history of the ERA by the amendment's congressional sponsors—Congresswoman Martha Griffiths introduced it into the legislative history in the House; Senator Birch Bayh, the author of the Senate Report, introduced it into the legislative history in the Senate, observing that it was a "masterly piece of scholarship." The article is authoritative as to what the Senate Report's "unique physical characteristic" exception meant.[2]

According to the Brown-Freedman article, there could be, if the ERA were enacted, legislation which applied differently to one sex, which would not necessarily be invalid. If a law "takes into account" physical characteristics unique to one sex, the law, the authors say, could be valid.[3] But the law would have to be reviewed for constitutionality by the criteria courts use, "when they are reviewing, under the doctrine of strict scrutiny, laws which may conflict with fundamental constitutional rights."[4] The usual example of strict scrutiny review is the review of laws discriminating on the basis of race. Very few statutes impinging on race survive strict scrutiny.

The Brown-Freedman article, and the Senate Committee Report following it, were silent—even though they were written at a time before *Roe* v. *Wade* when abortion was a debated right—as to whether or not abortion laws would survive strict scrutiny. The article did, however, give two examples of laws that would meet the test—laws giving medical leave for the delivery of a child and laws punishing one species of rape.[5] The Senate Committee Report adopted the example of a law paying the medical costs of child bearing.[6] The article also gave laws that would not withstand strict scrutiny—that would be unconstitutional if the ERA were the law of the land. These laws included the White Slave Traffic Act (the Mann Act) protecting girls and women from being used as articles of commerce in "white slavery";[7] laws prohibiting the statutory rape of girls under the age of sixteen;[8] laws prohibiting rape by instrument;[9] and laws defining rape to include a man forcing a woman to have sodomitic intercourse.[10] None of these laws, the authors said, protect a unique physical characteristic of women. They protect an assumed social weakness (the Mann Act, statutory rape laws); or they prohibit acts which could be forcibly performed on men. In either case they are not sexually neutral and so are bad under the ERA. They could not survive "strict scrutiny." It is apparent from these examples that laws precisely and exclusively "taking into account" a physical feature not shared by the two sexes are few. Laws designed to protect women from sexual exploitation and assault are not sufficiently exclusive and precise to qualify.

The authors' approval of a law giving leave for delivery of a child did suggest that if a statute directly related to a woman's reproductive capacity it might survive strict scrutiny—that despite the severity of the test, abortion laws might pass. But this possible inference was dispelled by three of the authors themselves. In 1975 in *General Electric Company* v. *Gilbert* Barbara A. Brown and Ann E. Freedman for the Women's Law Project joined with Thomas I. Emerson and representatives of the American Civil Liberties Union to file an amicus curiae brief with the Supreme Court. The brief explained that the Women's Law Project was "particularly concerned with the theory and implementation of the equal rights amendment" and that the ACLU wanted to end "gender-based discrimination."[11] Jointly the authors of the brief stated how the ERA, if it had been in force, would have applied to General Electric's disability plan which excluded coverage for pregnancy.

GE was defending its plan on the ground that as men had no coverage for pregnancy, there was no discrimination; the sexes were treated alike; what was omitted was medical treatment of a condition physically unique to women. The Brown-Emerson-Freedman brief was scornful of this rationale. Their article had shown that discrimination of this kind would be subject to "strict scrutiny" under the ERA. Strictly scrutinized, pregnancy soon lost its uniqueness.

Pregnancy—Brown, Emerson and Freedman observed—is a condition which "possesses a number of properties, some of them shared with other conditions (need for medical care, period of disability) and some wholly unique (the birth of a child is the usual result). The uterus, too, shares some characteristics with the other organs (subject to disease and malfunction) and has some functions wholly unique to it (reproductive function)." Only if the GE plan related "precisely and exclusively to the reproductive function" would satisfy strict scrutiny. Obviously, it did not.[12]

By the Brown-Emerson-Freedman standard only a statute relating "precisely and exclusively" to a unique physical characteristic can survive strict scrutiny. Could an abortion statute meet this test? Abortion does have some special aspects. It also shares some characteristics with other medical procedures—it is an operation; it is dangerous to the patient; it results in temporary disability. Could a statute be so tailored that it did not bear on these "shared characteristics." It is hard to imagine such a statute. Just as a plan not funding pregnancy as a disability neglected the characteristics pregnancy shared with other medical conditions, so any law touching on abortion affects characteristics which abortion shares with other medical procedures. To regulate—or not to fund—a procedure with shared characteristics would violate the ERA by the Brown-Freedman test.

Moreover, by the Brown-Emerson Freedman standard is there anything so special about abortion that it could be classified as relating to a unique physical feature of women? Abortion eliminates what they say is unique about pregnancy when they acknowledge that "the birth of a child is the usual result." The usual result of an abortion is non-birth. Abortion reduces a woman to a non-childbearing condition. In this respect she becomes undifferentiated from a man. On the Brown-Emerson-Freedman analysis, a statute relating to abortion would not relate to physical characteristic unique to women.

Suppose it is said that abortion relieves a woman of a burden which only a woman can bear—that is what is unique about it. But a man can have a tumor that is unwanted. The operation which removes the tumor is very like an abortion in the eyes of those sympathetic to the abortion liberty.[13] Those sympathetic to the abortion liberty are the great majority of federal judges who have decided abortion cases and a clear majority of the Supreme Court. It would be hard for the present judiciary to acknowledge that there was something so special about the burden relieved by abortion that the operation was not to be classified under the ERA with other operations destroying unwanted growths.

Reflection will convince us that what is to be classified as physically unique depends a great deal on the purposes of the classifier. Let us take some examples from Justice Brennan, another defender of strict scrutiny of sexual classifications, as he dissented in the eventual Gilbert judgment in favor of General Electric. He took note of GE's contention that there was no illegal discrimination because the risk of pregnancy was unique to women and observed that "risks such as prostatectomies, vasectomies, and circumcision . . . are specific to the reproductive systems of men."[14] These risks were covered by GE's plan; hence, Justice Brennan argued, the plan discriminated against the reproductive systems of women. Here the classifier, wanting to prove discrimination, takes as the unit of comparison "the reproductive system." The uniqueness of childbearing disappears. By the same token, a judge sympathetic to abortion could take the reproductive system as the unit of comparison and find that a medical aid program which paid for prostate operations and vasectomies but not abortions failed the strict scrutiny test under the ERA.

Whether the category employed was "reproductive system" or "unwanted tumor" or "medical operation," it would not be difficult to find classifications which eliminated any uniqueness in abortion. By the Brown-Emerson-Freedman understanding of the ERA, any denial then of abortion rights would be constitutionally improper. Existing vestigial restrictions on abortion and abortion funding would be swept away by the ERA along with the White Slave Traffic Act, statutory rape and sodomitic rape.

2. "Strict Scrutiny" and the "But For" Test.

To this point I have explored the possibility that abortion would be an exception on the basis of the legislative history of the ERA. I now turn to the test developed by the Supreme Court in expounding a statute parallel to the ERA, Title VII of the Civil Rights Act. But as prelude to that test it must be noted that the Brown-Freedom exception on the basis of unique physical characteristics has not been adopted by all proponents of the ERA. Indeed, some interpreters of state ERAs take the opposite view—the more a distinction is based on a unique feature of gender the more likely is it to be discriminatory.

In 1978, for example, certified providers of Medicaid abortion services moved to intervene in a suit seeking to enjoin Hawaii from funding elective abortions. The intervenors declared, "Abortion is a medical procedure performed only for women; withdrawing funding for abortions while continuing to reimburse other medical procedures sought by both sexes or only by men would be tantamount to a denial of equal rights on account of sex."[15] In 1980, the Civil Liberties Union of Massachusetts, an affiliate of the ACLU, attacked the Massachusetts restriction on abortion funding, stating in its complaint, "By singling out for special treatment and effectively excluding from covering an operation which is unique to women, while including without comparable limitation a wide range of other operations, including those which are unique to men, the statutes constitute discrimination on the

basis of sex, in violation of the Massachusetts Equal Rights Amendment."[16] In 1982 the Women's Law Project, "particularly concerned with theory and implementation of the equal rights amendment," filed a complaint against Pennsylvania's restriction on abortion funding. The complaint declared: "Pregnancy is unique to women. 62 P.S. sec. 453 and 18 Pa. C.S.A. sec 3215(c), which expressly deny benefits for health problems arising out of pregnancy, discriminate against women recipients because of their sex."[17]

These interpreters of state ERAs were moving in the direction predicted for Supreme Court by Ruth Bader Ginsburg (the director of the ACLU's Women's Rights Project, now Circuit Court Judge Ginsburg). She wrote in 1978, "Eventually the Court may take abortion, pregnancy, out-of-wedlock birth, and explicit gender-based differentials out of the separate cubbyholes in which they now rest, acknowledge the practical interrelationships, and treat these matters as part and parcel of a single, large, sex equality issue."[18] In short, all the issues related to reproduction by women were to be handled under the rubric of equality. Judge Ginsburg was in fact prophetic. Her vision is, in fact, the one that the Court's recent decisions under Title VII make likely to be a reality if the ERA becomes the law of the land.

In the 1978 case of *Los Angeles Department of Water and Power* v. *Manhart*, the Supreme Court considered the lawfulness under Title VII of a city pension plan which made women contribute more than men on the ground that women live longer than men. The Court held the plan unlawful. Writing for the Court, Justice Stevens observed that the plan was based not on a fictional nor on a prejudicial stereotype of women. The plan was based on a reality. "As a class women live longer than men."[19] Although the plan was based on a biological characteristic unique to American women as a class, it was an unlawful, gender-based discrimination. It was a discrimination which responded precisely to a physical characteristic of American women taken as a sex. In Justice Stevens' words, "Sex is exactly what it is based on."[20]

Being based on sex made the discrimination unable to pass what Justice Stevens characterized as a "simple test." The test was whether the evidence showed "treatment of a person in a manner which but for that person's sex would be different."[21] by this test, if "but for" a woman being a woman she would be treated differently, such treatment by anyone subject to Title VII violates federal law. There is reason to believe on the basis of two cases decided in the 1983 Term that the present Supreme Court would use the "but for" test in applying the ERA to abortion.

In *Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans* v. *Norris*, Arizona arranged for women employees of the state to be paid smaller monthly annuity benefits than men employees. The Court struck down the scheme as it had struck down the Los Angeles plan and for the same reason. Writing for the Court, Justice Marshall reaffirmed the validity of the "but for" test. He did not dispute the actuarial basis for the Arizona scheme, that women do live longer. He equated the use of this biological characteristic of the class with the use of race in actuarial computations. Just as the use of race as a predictor might be actuarially sound but federally illegal, so was the use of sex.[22] By the "but for" standard, a legal provision which was based on gender could not be the basis of state action.

Now it might be thought that both the Los Angeles and Arizona plans were unlawful because they discriminated against individual women who were shorter-lived than the average and in fact in each case the Court laid stress on the statutory language of Title VII forbidding discrimination to "individuals." But as Justice Powell, dissenting, pointed out, all insurance is based on averages.[23] No individual as such is harmed by being made a member of a class on which the average is based. There is harm only if the class as a whole is one which the law will not permit to be established. In both the Los Angeles and Arizona cases, it is the whole class which as a class possesses a unique, gender-based characteristic—longevity. It is this class constituted by a unique physical characteristic which fails the "but for" test of legality. As the class is unlawfully constituted, so every individual within the class who is harmed has a basis for objection. The same would hold of a class constituted by reproductive capacity.

It might still be argued that longevity as a physical characteristic is different from the capacity to bear children. Not every woman, it might be said, is long-lived, but every woman, qua woman, is capable of reproduction. Such an argument, it is obvious, appeals to fiction not fact. A substantial number of women are incapable of having children. The physical characteristic is true of the majority, as longevity is true of the majority, not of every individual. If classification by longevity is unlawful when the class is determined by sex, so is classification by reproductive capability.

We do not have to speculate about what the present Supreme Court thinks about the "but for" test applied to the reproductive capacity of women. In the same 1983 Term in which it decided the Arizona annuity case, the Court decided *Newport News Shipbuilding and Dry Dock Co.* v. *Equal Employment Opportunity Commission*. The issue was whether a disability plan which gave medical disability benefits to employees and their spouses was violative of Title VII because the plan covered the medical expenses of the spouses of female employees but omitted to cover the medical expenses for pregnancy of the spouses of male employees. The Court held the plan illegal. In form, the discrimination was against the male employees—they did not get the same coverage for their wives that female employees got for their husbands. In substance, the basis of the discrimination was the unique physical characteristic of women—only women could have a baby; only the medical treatment which childbearing required was denied coverage.[24]

Writing for the Court, Justice Stevens rejected the test the Court had used in 1976 when in *General Electric Co.* v. *Gilbert* it upheld G.E.'s exclusions of pregnancy from its disability plan.[25] Then the Court had thought it enough to say that the company did not intend an invidious discrimination. Gilbert had been overridden by Congress enacting the Pregnancy Discrimination Act, but that act appeared to relate only to the pregnancy disability of female employees. In fact, in an exchange on the Senate Floor, Senator Williams, the bill's sponsor, had so assured Senator Hatch.[26] Going beyond Congress' reversal of Gilbert, the Court found that the reasoning of that case had also been repudiated. Gilbert, Justice Stevens explained, had "concluded that an otherwise inclusive plan that singled out pregnancy-related benefits for exclusions was nondiscriminatory on its face, because only women can become pregnant."[27] Now the Court, following the line indicated by Congress, but going further, held that the plan discriminated because of "sex." The Court repeated, endorsed and applied what was again called "the simple test" of "but for."[28]

It is widely recognized that Title VII sex discrimination cases are valuable precedent for knowing how the ERA will work: as Mary Dunlap put it, in these cases "the past is prologue" to the ERA.[29] It is also widely recognized that "but for" is a test not only of simplicity but power. In the field of torts if "but for" is used as a test for causation, "there is no place to stop."[30] Analogously, there is no place to stop when "but for" is made the test of sex discrimination. The Supreme Court in the "but for" Title VII cases has adopted a test that eliminates even such exceptions as Brown-Freedman once imagined to be compatible with the ERA.

A "but for" standard virtually makes certain that any time a person is denied a right because of a physical characteristic unique to his or her sex, Title VII is violated. Distinctions based on unique gender characteristics become paradigm cases of unlawful discrimination. "But for" what is uniquely female or uniquely male, the person would be getting the same benefits as those of the opposite sex. What is true under the language of Title VII ("because of" sex and "on the basis of" sex), we have every reason to believe would be true under the parallel words of the ERA, "on account of sex." Strikingly, Congress has found it necessary to write into the law where "because of" sex and "on the basis of" sex are defined a specific exception stating that these definitions do not require an employer to pay for nonlife endangering abortions.[31] Without the statutory exception, elective abortion would be included. The ERA has no similar exception. Discrimination focusing on a unique feminine characteristic would be a paradigm case of unconstitutional discrimination.

It may be objected that the Court did not adopt this approach in interpreting the Equal Protection Clause in the cases involving a state's refusal to fund elective abortions—*Maher* v. *Roe* in 1977 and *Williams* v. *Zbaraz* in 1980; and that similarly the Court avoided this approach in interpreting the equal protection component of the Fifth Amendment in *Harris* v. *McRae*, the federal abortion funding case. It has indeed been objected that the Abortion Funding Cases show that the Court still approaches abortion funding as a question relating to privacy and "summarily" dismisses the equal protection argument. The conclusion has been drawn that, as long as the privacy rationale for *Roe* v. *Wade* dominates the Court's approach, the ERA will have an insignificant effect on abortion funding or abortion rights generally.[32]

These objections and this conclusion result from attempting to answer the question, "What is the effect of the ERA?" and then assuming, contrary to the basis of the question, that the ERA is not in effect. Of course, as long as there is no ERA, abortion supporters and the Court will depend on the privacy rationale. But let it be enacted, how the situation would be changed!

Contrary to the objections, the Court in fact took very seriously the equal protection arguments the pro-abortion advocates were able to muster in Maher, Williams, and McRae. In Maher four pages are devoted by

the Court to the equal protection claims; in *Harris* (which was also dispositive of Williams) five pages.[33] This is scarcely summary consideration. But the equal protection provisions of the Constitution do not use the language of Title VII or the ERA. There is no language in them referring to discrimination "because of sex," "on the basis of sex," or "on account of sex." The Court was not prepared to bring its new Title VII approach to bear on the constitutional provisions on equal protection. Consequently what the Court did in interpreting two parts of the Constitution lacking the language of the ERA has little if any precedential value for interpreting the ERA itself. If the Equal Protection Clause were adequate for the objectives sought by the proponents of the ERA, there would be no need of the ERA. It is the new language of the ERA that is crucial. As to the meaning of that language the recent Title VII cases are clear precedent.

In the light of these cases—Los Angeles Water, Arizona Governing Committee, Newport News Shipbuilding—we do have helpful guidance as to how the present Supreme Court would apply the ERA, if enacted, to legislation related to abortion:

1. If a state funded medical operations but did not fund abortions, would a woman seeking an abortion be denied a right to medical treatment which, but for her sex, she could have? By the simple "but for" test, the Court's answer would be a clear Yes.

2. If a statute permitted a doctor, nurse, or hospital to refuse to participate in an abortion on the ground of religious objection to the procedure, would a woman seeking an abortion be denied a right to medical treatment that, but for her sex, she would have. By the same Simple test, the Court's answer would be Yes. Reliance by the doctor, nurse or hospital on the exempting statute would constitute state action, bringing the ERA into play. The further question would then be presented whether First Amendment freedom of religious exercise would prevail over the right conferred by the new constitutional amendment we have hypothesized as adopted. It seems probable that the new amendment would control. On this point the 1983 case of *Bob Jones University* v. *United States* is enlightening: here, governmental policy, carrying out a constitutional principle of nondiscrimination on account of race, outweighed religious liberty.[34] It is likely that discrimination "on account of sex" under the ERA would be treated as discrimination on account of race is now treated under the Fourteenth Amendment.

3. If a college or even a school with a religious commitment enforced a policy denying abortion to its students or disciplining students who had abortions or expelling students who espoused, promoted and advocated abortion, it would under the ERA be under grave danger of losing its tax exemption. As Bob Jones University made clear, a charity ceases to be a public charity if it adopts disciplinary rules "at odds with the common community conscience" as that conscience is construed by the Supreme Court interpreting the Constitution.[35] Under the ERA and the "but for" test, any singling out of abortion in disciplinary measures or choice of students would be contrary to public policy. As religious commitment was subordinated to public policy in Bob Jones University, so it could be subordinated here in finding the committed schools and colleges to be no longer tax exempt and gifts to them no longer deductible as charitable contributions. It would be open to individual taxpayers to challenge the tax exemption of discriminating institutions as black taxpayers successfully challenged an exemption for certain discriminatory schools in Mississippi.[36] At a minimum the committed schools and colleges would face prolonged and dangerous litigation; at a maximum they would be stripped of their charitable status.

4. Could the state still require notice to a parent of their immature daughter's intention to have an abortion? Could the states still require parental or judicial consent to the abortion of a minor? Could the state still require a second physician in late term abortions?[37] By the simple "but for" test, a notice requirement, a "substitute consent" requirement and a second physician requirement would all be equally invalid. If a woman asked for an abortion at any time during pregnancy, could a state constitutionally deny her access to the medical treatment she sought. By the simple "but for" test she would be, if denied, denied because of her unique physical capacity as a woman to have an abortion. The law preventing such abortion would, under the ERA, be held constitutionally invalid if the "but for" criterion were used, with the possible exception of two situations set out in (5).

5. If a statute recognized a husband's right to consent to an abortion, it could, under the ERA, be upheld. To deny a husband the right to participate in the decision to kill a child he has participated in conceiving would, arguably, be to deny him a right on account of his sex. The Court would be faced with a choice between denying a woman a right to medical treatment on account of her sex or a man a right to participate in the abortion decision on account of his sex. Given the present Court's preferential treatment of the abortion right, it would probably decide in favor of the woman.

Suppose, however, a statute were enacted prohibiting abortion as a means of sex selection. If a strong demonstration was made of what is widely believed to be the case—that some abortions reflect a sex perference in favor of male babies and against girl babies—the Court could uphold the constitutionality of the statute. The Court would have to choose between discrimination "on account of sex in the womb and discrimination on "account of sex" in supplying medical treatment. The argument that "but for" their being girls the girl babies would not be killed should have a strong reception under the ERA.

The preceding questions have dealt with the impact of the ERA on the assumption that *Roe* v. *Wade* remained the law. Suppose that the present Supreme Court heeded the contentions of numerous authorities on constitutional law that the Court-invented right of privacy has been stretched beyond reasonable limits in invalidating the laws regulating abortion. Suppose that the Court abandoned the privacy rationale of *Roe* v. *Wade*. Already in Akron Justice Powell has declared that Justice O'Connor's dissenting opinion "rejects the basic premise of Roe and its progeny."[38] Already the Harvard Law Review says that, in Akron itself, the Court "subtly evades women's abortion rights even as it purports to affirm them."[39] Suppose the Court recognized its error, and, as it has on numerous past occasions, decided to correct its interpretation of the Constitution. Would its path be blocked by an enacted ERA? Clearly, yes, by the "but for" test.

With the ERA in place, and "but for" the criterion, any statute regulating abortion, with the two possible exceptions just discussed, would be unconstitutional. When a woman is denied medical treatment of her reproductive system because it is a reproductive system, the discrimination is because she is a woman with a unique physical feature, but for which she would be treated. In Justice Stevens' words, "Sex is precisely what it [the discrimination] is based on.[40] With "but for" the test, the ERA unless overridden by another express constitutional amendment would lock the abortion liberty into the Constitution.

THE DILEMMA OF PROPONENTS OF THE ERA

The proponents of the ERA in formal testimony before the Congress have been remarkably reticent in speaking of the relation between the ERA and abortion. The famous Brown-Freedman article, which was so informative about the many criminal laws which the ERA would invalidate, was silent about abortion. Application of the privacy doctrine to abortion had not yet been attempted by the Supreme Court. The ERA was either applicable or it was not applicable to the criminal statutes regulating abortion. Brown-Freedman said nothing. Was the silence the result of confusion or of doubt or of prudence?

Senator Bayh's Report for the Judiciary Committee also said nothing. *Roe* v. *Wade* was still undecided; Senator Bayh was later to be a strong defender of the abortion liberty. Did Senator Bayh have no views, one way or the other, on how the ERA would affect abortion law?

One prominent proponent of the ERA, Professor Thomas I. Emerson, has abandoned this coyness and described the ERA-abortion connection as "pure red herring."[41] But he has not shown why either by his own test or by that of the Court interpreting Title VII there is not a close connection. The contrary opinion that the ERA would decisively affect abortion law has been authoritatively stated by the chairman of this committee, Senator Orrin Hatch; by Senator Sam Ervin; and by Rex E. Lee, the present Solicitor General of the United States.[42] The red herring is really Roe and its primary rationale which the ERA would effectively supersede and surpass.

With so much legislative history and such clear Supreme Court precedents to the contrary, it is difficult to believe that any informed proponents of the ERA can now maintain that abortion is a red herring when the effects of the ERA are considered. If the proponents do not want the ERA to be affected by the abortion controversy they have an easy option: to agree to an amendment of the ERA specifying explicitly that nothing in the ERA confers a right to abortion or the funding of abortion. They appear to be unwilling to agree to such an amendment.

The dilemma that the proponents of the ERA face is this: If they acknowledge that the ERA will have an enormous impact on abortion legislation, abortion litigation, and schools, colleges, and hospitals opposed to abortion, they will lose crucial votes in the Congress and in the state legislatures. They will be in effect sponsoring an amendment rejected by the seventy per cent of the country that rejects abortion on demand.[43] But if they disclaim any effect of the ERA on abortion they will abandon the legislative history of the amendment and the Supreme Court's interpretation of Title VII. They will also offend, perhaps mortally,

that small, unrepresentative but militant band which rejoices that ERA means Equal Rights for Abortion.

QUALIFICATIONS OF THE WITNESS

John T. Noonan, Jr., a member of the Massachusetts Bar and the Bar of the United States Supreme Court, is Professor of Law at the University of California, Berkeley. He is the author of seven books, including two on abortion rights under the United States Constitution. He is the former editor of the American Journal of Jurisprudence and a former editor of the Harvard Law Review. He is a member of the American Law Institute and of the American Academy of Arts and Sciences. He has given the Law in a Free Society Lecture at the University of Texas, the Messenger Lectures at Cornell University, and the Oliver Wendell Holmes Jr. Lectures at Harvard Law School.

FOOTNOTES

[1] Committee on the Judiciary, "Equal Rights for Men and Women," *Senate Report* No. 92-689, 92nd Cong., 2d Sess. (1972) pp. 11-12.

[2] See Brief Amici Curiae of the Women's Law Project and the American Civil Liberties Union, December 23, 1975 in *General Electric Company* v. *Gilbert*, United States Supreme Court, Docket No. 74-1589, [hereafter *Women's Law Project Brief*] p. 14 (on the use of the article in Congress); Minority Views of Mr. Ervin in *Senate report* No. 92-689, p. 36 (Senator Bayh's tribute).

[3] Barbara A. Brown, Gail Falk, Thomas I. Emerson, and Ann Freedman, "The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women," 80 *Yale L. J.* 871 (1971) at 893.

[4] *Ibid.* at 894.

[5] *Ibid.* at 894.

[6] *Senate Committee Report* at 12.

[7] Brown-Freedman, "The Equal Rights Amendment" at 964.

[8] *Ibid.* at 957.

[9] *Ibid.* at 955, note 205.

[10] *Ibid.* at 956. The *Senate Report* authored by Senator Bayh says broadly at p. 12 that "rape" could still be a crime but fails to take up the examples given by Brown-Freedman. Elsewhere the *Report* at p. 16 suggests that statutes void for being "under-inclusive" under ERA could be amended by the courts. Clearly no court has the power to amend a criminal statute to embrace a new class. The courts would simply have to declare the laws unconstitutional.

[11] *Women's Law Project Brief* 1, 2.

[12] *Ibid.* 16-19.

[13] Note such respectable federal judges as Frank Coffin of the First Circuit Court of Appeals comparing the termination of childbearing capacity by sterilization to "excisions of benign tumors which could cause subsequent neurological problems," *Hathaway* v. *Worcester City Hospital* 475 F.2d 701 (1st Cir. 1973) at 705; Judge Jon O. Newman of the Second Circuit declaring *Roe* v. *Wade* conveyed the teaching that basically abortion and childbirth "are simply two alternative medical methods of dealing with pregnancy," *Roe* v. *Norton* 408 F. Supp. 660 (D. Conn. 1975) at 663, n. 3; and Judge Clement Haynsworth of the Fourth Circuit reading *Roe* to mean that "the fetus in the womb is neither alive nor a person," *Floyd* v. *Anders* 440 F. Supp. 535 (D So. Car. 1977) at 539.

[14] *General Electric Co.* v. *Gilbert* 429 U.S. 125 (1976) at 152 (dissenting opinion). Justice Brennan's examples are particularly appropriate because his approach "illustrates the approach contemplated by the ERA," Ann E. Freedman, *Statement Concerning H.J. Res. 1*, November 3, 1983, before the Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee. Freedman's comments relate to Justice Brennan's position in *Geduldig* v. *Aiello* 417 U.S. 484 (1974), a position which he carried over into *Gilbert* and that has now become the position of the Court, see *infra* at notes 24-25.

[15] *Hawaii Right to Life, Inc.* v. *Chang, Director of Department of Social Services and Housing*, Civ. No. 53656, Hawaii First Circuit Court, 1978, cited in Karen J. Lewis, "A Legal Analysis of the Potential Impact of the Proposed Equal Rights Amendment (ERA) on the Right to an Abortion or the Funding of an Abortion." (Congressional Research Service, October 20, 1983) p. 10.

[16] Complaint, *Moe* v. *King*, Supreme Judicial Court of Massachusetts, Civil No. 80-286, filed July 9, 1980, cited in Lincoln C. Oliphant, "ERA and the Abortion Connection," 7 *Human Life Review* (Spring 1981) 43.

[17] *Joanne Fischer et al.* v. *Department of Public Welfare*, Commonwealth Court of Pennsylvania, No. 283 C.D. 1981, filed December 15, 198_, p. 24 (unpublished).

[18] Ruth Bader Ginsburg, "Sex Equality and the Constitution" (the 1978 George Abel Dreyfous Lecture at Tulane University), 52 *Tulane Law Review 451* (1978) at 462. The difference should be noted between this approach and Kenneth M. Davidson, Ruth Bader Ginsburg and Herma Hill Kay, *Text, Cases and Materials on Sex-Based Discrimination* (St. Paul: West Publishing Co., 1974) 108 where "physical characteristics unique to one sex" are seen as an exception to the ERA.

[19] *Los Angeles Department of Water and Power* v. *Manhart* 435 U.S. 702 (1978).

[20] *Ibid.* at 713.

[21] *Ibid.* at 711.

[22] *Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans* v. *Norris*, 103 S. Ct. 3492 (1983) at 3498.

[23] *Ibid.* at 3509 (dissenting opinion).

[24] *Newport News Shipbuilding and Dry Dock Company* v. *EEOC* 103 S. Ct. 2622 (1983).

[25] *Ibid.* at 2628.

[26] 123 *Cong. Rec.* S 15,038-39 (September 16, 1977), also quoted by Justice Rehnquist in *ibid.* at 2635-2636 (dissenting opinion).

[27] *Ibid.* at 2631.

[28] *Ibid.* at 2630-2631.

[29] Mary C. Dunlap, "The Equal Rights Amendment and the Courts," 3 *Pepperdine Law Review* 42 at 63 (1975), a study commissioned by the Equal Rights Amendment Project, California Commission on the Status of Women.

[30] *Prosser on Torts* (4th ed., 1971) 239.

[31] 42 *U.S. Code* sec. 2000e(k).

[32] Ann E. Freeman to Congressman Don Edwards, Chairman, Subcommittee on Civil and Constitutional Rights, House Judiciary Committee, November 7, 1983.

[33] *Maher* v. *Roe* 432 U.S. 464 (1977); *Harris* v. *McRae* 448 U.S. 297 (1980); cf. *Williams* v. *Zbaraz* 448 U.S. 358 (1980).

[34] *Bob Jones University* v. *United States* 103 S. Ct. 2017 (1983).

[35] *Ibid.* at 2029.

[36] *Green* v. *Kennedy* 309 F. Supp. 1127 (D. D.C.) *app. dismissed sub nom. Cannon* v. *Green* 398 U.S. 956 (1970).

[37] See *Planned Parenthood of Missouri* v. *Ashcroft* 103 S. Ct. 2517 (1983) (second physician and substitute consent requirements upheld); *H. L.* v. *Matheson* 450 U.S. 398, 406 (1981) (notice to parent for immature minor upheld).

[38] *City of Akron* v. *Akron Center for Reproductive Health* 103 S. Ct. 2481 (1983) at 2487, n. 1.

[39] "The Supreme Court, 1982 Term," *Harv. L. Rev.* (1983) at 86.

[40] *Supra* at n. 21.

[41] Thomas I. Emerson, "Statement on Proposed Resolution to Rescind Connecticut's Ratification of the Equal Rights Amendment," *Hearings on S.J. Res. 134 before the Sub-Committee on the Constitution of the Senate Judiciary Committee*, 95th Cong., 2nd Sess. (1978) at 138.

[42] Orrin G. Hatch, *The Equal Rights Amendment. Myths and Realities* (Savant Press, 1983) 48; Sam Ervin to the Eagle Forum, September 22, 1975, quoted in *Ibid.* 48; Rex E. Lee, *A Lawyer Looks at the Equal Rights Amendment* (Provo: Brigham Young University Press, 1980) 128 n. 27.

[43] See John T. Noonan, Jr., *A Private Choice* (New York: The Free Press, 1979) 73-74.●

ARMS CONTROL VIOLATIONS

● Mr. LEAHY. Mr. President, in a recent report to the Congress, President Reagan indicated that the Soviet Union has violated, is probably violating, or has almost certainly violated its obligations and commitments under several ratified and unratified arms control agreements.

These are extremely serious charges, and require the most careful consideration by Congress. In the interests of the future of arms control, the Soviet Union must respond adequately to legitimate American concerns about certain of its actions relevant to existing arms agreements, a point I made directly to Chairman Yuri Andropov in Moscow last August. It is open to question whether the likelihood of our gaining positive actions by the Soviets to allay American compliance concerns has been helped or hurt by the President's action in making his charges public.

How to deal with compliance issues is politically and technically difficult. This is partly because of potential security implications, partly because of the ambiguity in some of the information relevant to Soviet actions, and partly because some technologies now being exploited potentially may have multiple applications, or may serve military as well as scientific purposes. Nevertheless, it is essential that the the Congress and the executive branch address the compliance problem in a way which recognizes the Nation's vital security interest in maintaining a viable arms control process.

In this connection, Mr. President, I commend to my colleagues an article by Mr. Michael Krepon in the March/April 1984 edition of Arms Control Today, a publication of the Arms Control Association. Mr. Krepon reviews how the United States and the Soviet Union have dealt with compliance issues in the past, and compares this with the approach of the current administration. He then analyzes the elements of a strategy for obtaining a satisfactory resolution of American concerns. This article should be of interest to all those who want to develop a more positive approach to the compliance question.

Mr. President, I ask that an article by Michael Krepon, entitled "Decontrolling the Arms Race," from the March/April issue of Arms Control Today be printed in the RECORD.

The article follows:

DECONTROLLING THE ARMS RACE—THE UNITED STATES AND THE SOVIETS FUMBLE THE COMPLIANCE ISSUES

(By Michael Krepon)

The nuclear arms competition between the United States and the Soviet Union is entering a new stage. Washington and Moscow are not simply intensifying their weapons buildups, they are also moving to deregulate existing controls on the competition.

To be sure, arms control still has a prominent place in the official pronouncements of both capitals. Reagan Administration officials point to the decline of nuclear warheads and megatonnage since the 1960s, while the Kremlin lends its support to a nuclear freeze. Both sides champion deep reductions in nuclear forces and offer visions of nuclear free world. But their actions convey an entirely different agenda.

"Modernization" programs proceed at a brisk pace. Over the next decade, the U.S. and U.S.S.R. plan to deploy the MX, Midgetman, Trident I and II, Pershing II, SS-20, SS-21, SS-22, SS-23, SS-24, SS-25, SS-N-20, and SS-N-23 missiles, air-, ground-, and sea-launched cruise missiles, Trident and Typhoon submarines, B-1, stealth, Blackjack and Bear H bombers, and assorted tactical nuclear weapons. These forces will provide further additions to the size and capabilities of superpower inventories, now estimated to total over forty thousand in number.

Many of these new weapon systems reflect the firm commitment by defense establishments in both nations to place opposing nuclear forces at risk. Nuclear war-fighting capabilities have become a central requirement for "effective" deterrence and "favorable" outcomes in the event deterrence fails, notwithstanding official rhetoric about there being no winners in a nuclear war.

In contrast to the evolution of strategic doctrine and nuclear forces, arms control negotiations remain stagnant. Progress to foreclose future avenues of competition in satellite warfare and nuclear weapon testing has been stymied by the Reagan Administration's refusal to resume negotiations in these areas, dormant since 1979. Future progress in negotiations will be mortgaged to developments in the interim, including repeated U.S. tests of an advanced anti-satellite weapon and the generation of new nuclear weapon requirements for space warfare.

Those areas where nuclear arms control negotiations were resumed after 1979 are now either deadlocked or suspended. The fears and rigidities of both Washington and Moscow have been mutually reinforcing, producing the current impasse. In the Strategic Arms Reduction Talks, the Reagan team promised a far better deal than SALT II, but on terms that no Soviet leader could accept. Congressional interventions subsequently moderated these proposals, but not before the Kremlin's position hardened. Meanwhile, in the INF talks, the Kremlin's insistence that no new missiles be deployed by NATO only reinforced the Reagan Administration's objective of responding to Soviet missile capabilities in kind. The result was predictable: instead of being a forum for negotiated settlement, the talks become a test of wills over new NATO deployments.

With failed negotiations, prospective improvements in nuclear capabilities, and strained superpower relations, the fabric of previously agreed limits on the nuclear competition has begun to unravel. Both Washington and Moscow have now publicly accused each other, with varying degrees of certitude, of violating or circumventing several arms control agreements. In so doing, the prospect of ironing out these disputes quietly through established diplomatic channels has become more remote, at least in the near term. The slide toward deregulation continues.

Compliance questions are bound to arise even during periods of detente, because no arms control agreement can regulate every eventuality and because there will always be those who wish to pursue activities that are not expressly forbidden. In the current political environment the impulse to hedge bets at the expense of arms control agreements is for greater and the checks against doing so are weakened. The SALT I Interim Agreement expired six years ago. The SALT II Treaty was never ratified; its provisions are set to expire within two years. These limitations are in place through informal and highly conditional statements by U.S. and Soviet officials. With current negotiations deadlocked, who within the councils of government in either Washington or Moscow would argue against a colleague's proposal because it would undermine current agreements, or make new pacts more difficult to reach? In the past, duly ratified arms control agreements have not fared well during periods of increased international tension. There is no reason to expect that unratified and expired agreements will fare any better in the 1980s, unless the current state of U.S.-Soviet relations improves.

President Reagan set the stage for SALT deregulation at his first press conference when he characterized his negotiating partners as "liars and cheats." His first Secretary of State, Alexander Haig, declared that "We consider SALT II to be dead. We have so informed the Soviet Union and they have accepted and understood that." His Secretary of Defense, Caspar Weinberger, declared that U.S. defense programs were in conformity to SALT I and II restraints as a matter of coincidence rather than design, and the President's White House counselor, Edwin Meese III, stated that the Reagan Administration had no moral or legal commitment to abide by expired or unratified SALT agreements. When legal experts of the State Department and Arms Control and Disarmament Agency challenged this assertion, the White House issued a defense of Mr. Meese's position, calling it "entirely accurate."

The Reagan Administration gave substance to these public pronouncements by championing several military initiatives that could not be pursued within the confines of the SALT agreements. The ill-conceived Dense-Pack deployment scheme for the MX would have required digging holes for new missiles, an activity prohibited by the SALT I and II agreements. Administration officials explained that the excavations would be allowed because they were for new "hardened capsules" rather than silos, and would be completed after the expiration of SALT II, in any event. Later, the President agreed to press ahead with a second new ICBM—the Midgetman—to complement the MX. Again, its deployment would be permitted because it would begin after the terms of the SALT II agreement—which permitted only one new ICBM—were to expire. The President has also endorsed a "Star Wars" defense against nuclear attack which cannot be tested in space or deployed without violating the ABM Treaty. New phased-array radars are under construction for permitted purposes, but which can eventually have ABM applications.

While the Reagan Administration's military initiatives suggest prospective compliance problems, Soviet military activities are of immediate concern. Flight testing is proceeding on two new land-based missiles instead of the one new type permitted by the SALT II agreement. The Kremlin insists one of its two new missiles is a permitted variant of an older missile. Arguments will persist over whether the missile in question can be shoehorned into a profile permitted by SALT II, especially as the Soviets encrypt virtually all of the data generated by its flight tests—another practice inconsistent with the agreement. A large, phased-array radar is under construction in Siberia which the Kremlin states is for tracking objects in space but which appears far more suited as an early-warning radar. The former is allowed in this location under the ABM Treaty; the latter is not.

Concern over Soviet compliance with the SALT agreements has been magnified by evidence that Soviet troops and Soviet-equipped Vietnamese forces have used "Yellow Rain" in Afghanistan and Southeast Asia. The Reagan Administration contends this constitutes repeated violations of the Geneva Protocol and the Biological Weapons Convention (BWC). Questions about Soviet compliance with the BWC have also been raised by an accident at a suspected biological weapons facility in Sverdlovsk in 1979.

In the past, the U.S. has ratified arms control agreements, like the Biological Weapons Convention, which had no verification or compliance provisions. The reason for doing so seemed straightforward: the U.S. had no military interest in these weapons. For nuclear arms control agreements, American presidents from Kennedy to Carter demanded different verification standards. The treaties in question had to be "adequately verifiable." This meant that the U.S. had to be in a position to "identify attempted evasion if it occurs on a large enough scale to pose a significant risk," and to do so "in time to mount a sufficient response." These were the instructions of President Richard Nixon to the SALT I delegation; similar guidelines were used to draft and defend the Limited Test Ban and SALT II treaties.

Compliance questions were also handled in a remarkably similar fashion in congressional ratification debats. Previous administrations argued that the Kremlin bureaucracy, having become associated with an agreement, would not then turn around to undermine it. Moreover, U.S. detection capabilities presented a formidable deterrent to violations. Finally, the U.S. could always abrogate the treaty in question if violations were detected.

Clearly, this approach to compliance issues is no longer valid, if indeed it ever was. It does not account for the ambiguities that inevitably arise over the nature of agreed limitations, or the habitual efforts of some within defense establishments to take advantage of those ambiguities when conceivable advantages could result. These instances call for a response other than treaty abrogation.

As in the past, American presidents will have to argue persuasively that treaty compliance can be verified. In the future, administrations will also have to present coherent strategies for securing the viability of agreements when compliance questions arise. The available evidence does not suggest that we are dealing with a committed treaty violator. We are, however, dealing with an extraordinarily difficult negotiating partner that is looking for advantage where it can prudently be gained, even within the confines of negotiated agreements. In response, the U.S. needs an effective compliance strategy for the same reasons we seek agreements in the first place: to assure the public that the nation's security is being advanced, and to foreclose destructive avenues of competition that can not work to either side's advantage.

An effective compliance strategy begins with a question: Is the maintenance of the arms control agreement still in the national security interest of the U.S.? The answer to this question will then guide subsequent actions. If it is in the nation's interest to maintain the viability of the agreement, a two track approach is required.

First, the U.S. should work exhaustively through diplomatic channels to clear up am-

biguities in the agreements, "fence in" problems when they occur, and work out agreed understandings to prevent them from being undermined.

Second, if diplomatic solutions fail to be satisfactory or if offsetting military actions are required, the U.S. should adopt proportional countermeasures within treaty constraints to send the appropriate political and military messages to Moscow. For example, in response to the construction of the new Soviet radar, the U.S. can accelerate programs to improve the penetration capability of U.S. nuclear forces, or construct a new space-tracking radar of our own, depending on which course of action appears the most effective at least cost. These countermeasures are allowed under the terms of the ABM Treaty and can effectively offset whatever advantage may accrue from Soviet pressing at the margins. While these countermeasures are underway, the object of diplomacy is to maintain the viability of the ABM Treaty by working out agreed limitations on new radar construction, since the ABM Treaty can be undermined by the proliferation of powerful modern radars, even for permitted purposes. Each compliance question will require different U.S. responses; all should reflect the two track approach suggested above, combining adroit military countermeasures with patient diplomatic efforts

A significant segment of the Congress and the American public will continue to take a lively interest in compliance questions, fueled by periodic news leaks asserting Soviet violations. Some of these charges will be entirely groundless; others will be cause for concern. All will strike a resonant chord in a large segment of the American public that does not expect the Soviets to live up to their treaty obligations. Administrations have a responsibility to inform the public and their elected representatives on compliance questions, but they also must weigh this responsibility against the need for confidentiality in negotiations, particularly delicate negotiations to iron out compliance problems.

As a general rule, it makes sense for an administration to issue periodic reports on compliance questions that have been satisfactorily resolved, and to avoid negative conclusions in ongoing disputes, since publicizing grievances is likely to make their satisfactory resolution more remote in private exchanges. But at what point should an administration "go public" when its concerns have not been satisfied? The answer will depend on the particulars in each case. There are three key questions that relate to the timing of public disclosure: Is the activity in question militarily significant? Are there humanitarian reasons for eartly disclosure? Are there treaty provisions for handling compliance questions in private? Where consultative provisions exist and when there is no urgent need to act quickly, it makes sense to exhaust diplomatic remedies before concluding in public that violations have occurred. On the other hand, public expressions of concern are quite appropriate when the U.S. receives no satisfactory explanation for possible violations of agreements without compliance mechanisms, or when the U.S. needs to act quickly for security or humanitarian concerns.

The avenues of public diplomacy chosen are critical, however, because maladroit public initiatives can earily make appropriate solutions more difficult to achieve. For multilateral agreements like the Geneva Protocol and the Biological Weapons Convention which have no provisions to handle compliance questions in private, the focus of U.S. Government activity should usually be to establish compliance procedures and to disseminate information on questionable practices. Where there is evidence of noncompliance in such cases, the U.S. cannot generate international political pressures solely by diplomatic demarches. We must build a case and present it to other treaty signatories.

An entirely different approach is needed for bilateral agreements, like the SALT agreements, which have established channels to iron out compliance issues. Here, the Standing Consultative Commission (SCC) worked reasonably well during the Nixon, Ford, and Carter administrations. During this period, both nations recognized that this forum was being used to iron out potential problems rather than to prosecute cases of noncompliance. Problem areas could also be ironed out because both nations believed it was in their separate as well as mutual interests to maintain the viability of the SALT I accords. However, compliance questions often require patient diplomacy. Take for example, the case of the Surface-to-Air Missile (SAM) radar tests "in an ABM mode." In 1973 and 1974, the U.S. intelligence community noticed that a Soviet SA-5 radar had been used to track strategic ballistic missiles during flight. This appeared to be inconsistent with Article VI of the ABM Treaty, which prohibited each side from testing SAM radars "in an ABM mode." The picture was clouded, however, because there was no common agreement on what constituted tests in an ABM mode and because the U.S. maintained that tests for range safety and instrumentation were permitted.

In this case, the Nixon, Ford and Carter administrations all could have asserted that the Soviets violated Article VI of the ABM Treaty. None chose to do so. At first, wishing to protect intelligence sources and methods, the U.S. did not raise this issue at the SCC. When the Ford Administration did raise the subject of the Soviet SA-5 radar, the practice stopped. It then required approximately two years of quiet diplomacy during the Carter Administration for the two SCC delegations to work out a common agreement governing these practices.

The Reagan Administration has adopted an entirely different approach to compliance diplomacy, with markedly inferior results. In part this is due to the downturn in U.S.-Soviet relations and Soviet practices that are clearly worrisome. Domestic factors have also played a significant role. This administration's compliance diplomacy has been muddled and ineffective because it has not decided whether it wants to uphold the nuclear arms control agreements the Soviets are allegedly violating. Indecision has bread confusion. Press reports indicate that the Reagan Administration initially declined to discuss SALT II compliance questions at the SCC, then asked for a special session to discuss urgent concerns in the summer of 1983, and then was unable to agree on negotiating instructions to the U.S. delegation when the SCC convened in the fall.

Unlike his predecessors, President Reagan acted quickly when SALT compliance questions were not resolved to the satisfaction of his advisers. On the basis of the guidelines presented here, the Administration's report of Soviet violations and "probable" violations seems premature and ill-advised in all cases but one—the use of Yellow Rain. Here, the evidence is far from conclusive in a laboratory sense, but it is suggestive enough to warrant official, public concern, given the lack of private channels to handle chemical weapons compliance questions and the continuing, although diminished, reports of toxic weapons attacks.

In contrast to the Yellow Rain case, SALT compliance questions are perfectly suited to private consultations in the SCC. The Reagan Administration short-circuited this process with its public report on Soviet noncompliance. For example, on the serious problem of the new Soviet radar in Siberia, the Administration reportedly concluded that a violation had "almost certainly" taken place after a single, inconclusive session of the SCC. In this instance, public officials who are prepared to wait stoically for ten years while a new weapon system is deployed apparently found the pace and prospects of diplomatic progress intolerable after several weeks of effort.

With the premature release of SALT "violations," President Reagan has temporarily placated irreconcilables in the Senate, but he has made it extraordinarily difficult for the U.S. delegation at the SCC to make headway on outstanding compliance problems. The U.S. delegation, led by General Richard Ellis, is quite capable of ironing out these issues. However, the Kremlin may conclude there is little incentive to be forthcoming if such exchanges are unlikely to change the Reagan Administration's conclusions. Thus, in operational terms, the practical effect of the Reagan team's compliance strategy is to close off diplomatic solutions, while the approach pursued during the Nixon, Ford and Carter administrations kept them open.

Whatever satisfaction skeptics of arms control may gain from the report on Soviet noncompliance and the possible end of business-as-usual at the SCC must be weighed against broader implications of the Reagan Administration's approach to compliance diplomacy. A report, after all, is no substitute for an effective strategy either to secure Soviet compliance with arms control agreements or to improve U.S. security. New agreements are built on those that have preceded them. If this scaffolding falls down, how can it be reconstructed, and what shall take its place? The key to arresting the slide toward arms decontrol is an ability to iron out compliance questions that undermine current agreements and work against ratification of new ones. Success can only come with improved U.S.-Soviet relations and more effective leadership in both Washington and Moscow.●

A SALUTE TO THORNE G. AUCHTER

● Mr. NICKLES. Mr. President, it is rare in Washington when a public official comes to town, declares what he will do and then actually goes ahead and does it. Today I salute Thorne G. Auchter, who is resigning his position as Assistant Secretary of Labor for Occupational Safety and Health on March 30 to work in the private sector.

Mr. Auchter came to an agency that was in need of strong leadership. When he arrived in Washington early in 1981, he took charge of the Occupational Safety and Health Administration, an agency which had succeeded

in pleasing no one and which had failed to achieve its statutory goal of reducing workplace injuries and illnesses. OSHA had managed to alienate labor and management and failed to build the broader public support necessary to do its job.

Mr. Auchter promised to do certain things: First, he would give OSHA strong management. Next, he vowed to eliminate the combative and confrontational posture OSHA had taken toward the Nation's business community. Finally, he said that he would make OSHA effective in removing on-the-job hazards from American workplaces.

He has kept his promises. He has established management systems that the agency had never previously employed, as for example, a regulatory management system which allows OSHA to rationally determine the need for and the best standard to address a workplace hazard. OSHA, for the first time, has data systems to measure the agency's progress in each of its field offices and to compare the Federal program with State occupational safety and health programs. Improved management has brought wider public acceptance. Almost 98 percent of employers and employees responding to questionnaires distributed by OSHA have indicated a favorable impression of the professionalism of the inspector who visited their workplace.

To reduce the confrontational atmosphere of the past, Mr. Auchter made it clear that OSHA represented neither labor nor management. OSHA represented safety and health. Instead of concentrating on only its enforcement and standard-setting duties, OSHA began showing its helpful side, paying attention to consultation, education, training, and voluntary protection programs. OSHA has entered into a more cooperative and supportive relationship with the 21 States and three territories which operate their own safety and health programs.

One of the results of reduced confrontation was a dramatic decrease in the number of OSHA inspections that are contested by employers. Today this figure is about 4 percent compared with a 25-percent contest rate in 1980. This means that workplace hazards are being eliminated promptly instead of litigated, on the average, of from 1 to 3 years while the workplace hazards remained uncorrected. This means that OSHA inspectors are spending their time in workplaces instead of courtrooms and therefore, the number of inspections in high hazard workplaces has increased over the past 3 years.

Finally, Mr. Auchter kept his promise to reduce on-the-job hazards. In 1981 and 1982 the rate of workplace injuries and illnesses fell significantly, from 8.3 injuries and illnesses per 100 workers in 1981 to 7.7 in 1982. By comparison, this figure was 9.5 in 1979. Between 1981 and 1982 the number of job-related injuries dropped by nearly 530,000.

Mr. Auchter, I salute you for a job well done, and I wish you well in future endeavors.●

MAINE HONORABLE SERVICE MEDAL PRESENTED AT ARLINGTON NATIONAL CEMETERY

● Mr. MITCHELL. Mr. President, on Friday, March 23, 1984, at the Tomb of the Unknown Soldier in Arlington Memorial Cemetery, Gov. Joseph E. Brennan of Maine honored the memory of the hundreds of Maine citizens who have died in the service of their country. The bronze plaque Governor Brennan placed in the Memorial Hall bears a replica of the highest award the State of Maine can bestow: The Maine Honorable Service Medal. I beleive the words Governor Brennan spoke then bear repeating here:

A few steps form this historic shrine are inscribed words spoken by George Washington in June of 1775.

"When we assumed the soldier," General Washington told the Provincial Congress of New York, "we did not lay aside the citizen."

Just a few days before Washington's address, the citizens of a coastal Maine village called Machias had captured a British ship in what some historians consider the first naval battle of the Revolution.

And three days after that skirmish in the waters off Machias, Maine men fought and died at Bunker Hill.

And since that day, Maine citizens have never hesitated to become American soldiers.

Our fishermen and farmers, our woodcutters and shopkeepers fought to win a nation's liberty.

In the War Between the States, the sons of Maine fought to preserve the nation.

Down through the years, the Maine citizen-soldier has answered the call.

It was a regiment from Maine led by Joshua Chamberlain that saved the day at Gettysburg.

And it was another Maine unit, the First Maine Cavalry, that suffered the heaviest losses of any cavalry regiment in the Union Army.

In all, about one of every twelve citizens in Maine fought in the Civil War, a higher percentage, some believe, than any other state.

Americans know that eternal vigilence is the price of liberty.

But we have learned there is another, higher cost.

The white markers that line this beautiful hillside solemnly testify to that.

We in Maine know that other generations since Gettysburg have also paid that price—in the trenches of France in 1918, and on the islands of the South Pacific, in the mountains of Korea, and in the jungles of Vietnam, and even in the past six months.

Not too long ago, it was my sad duty to represent the people of my state at services for two marines who died in Beirut, two more Maine citizens, two more American soldiers, who lost their lives in the service of their fellow citizens.

And so, the true cost of liberty is fresh in our memories.

As we present this Honorable Service Medal, we do so not to glorify war, or to celebrate death in combat, for more than 14,000 of our people have died for our country, each one a loss for their families, their communities, their state, each a tragedy of unfulfilled promise.

Maine presents its medal today as a small symbol of our lasting gratitude for what they did and what they gave to keep Maine and our nation free.

We grieve for them, we honor them, and we thank them.

We hope that never again will Maine citizens have to die as American soliders.

And so, in the name of our war dead, and to honor their memory, we will strive for peace.

On behalf of the people of Maine, and in honor of Maine's citizen-soldiers and their families, it is my privilege to present the Maine Honorable Service Medal to Arlington National Cemetery and to the people of the United States.●

COMMEMORATING THE 66TH ANNIVERSARY OF BYELORUSSIAN INDEPENDENCE DAY

● Mr. D'AMATO. Mr. President, on March 25, 1984, we commemorated the 66th anniversary of the establishment of the Byelorussian Democratic Republic by the Byelorussian National Council.

The roots of independence and nationalism grow deep in the soil of Byelorussia; the Byelorussian principalities of Polotsk, Smolinsk, and Turor served as the core of the Grand Duchy of Lithuania. In 1569, the Grand Duchy and Poland were joined to form a commonwealth.

The partition of the commonwealth between 1772 and 1795 brought Byelorussia into the Russian Empire. During this period, the people of Byelorussia were subjected to the czarist policy of russification, which was designed to eliminate their unique culture. In 1863, a massive anti-Russian uprising was led by Kastus Kalinouski. This significant event clearly demonstrated the desire of the Byelorussian people to live in peace. Their struggle for independence continued.

With the declaration by the National Council in Minsk on March 25, 1918, the Byelorussian people regained the independence, which they had so bravely fought to achieve. Unfortunately, Byelorussian sovereignty was short lived.

The Communist regime, in a blatant act of aggression, seized power in Byelorussia and brought to a tragic end the independence and prosperity which the Byelorussian people had enjoyed. The Soviet Union illegally annexed the free and independent Byelorussian Democratic Republic. Since this incorporation, the freedom-loving people of Byelorussia have been sub-

jected to some of the most brutal forms of oppression instituted by the Kremlin.

Under Stalin, Khrushchev, Breshnev, Andropov, and the new party chief, Konstantin Chernenko, thousands of Byelorussians have been slaughtered, deported, exiled, imprisoned in slave labor camps, or committed to psychiatric institutions. Meanwhile, the Soviet Government has repeatedly, and ironically, voiced its support of such important documents on human rights as the U.N. Universal Declaration on Human Rights and the Helsinki Final Act.

In addition, these ruthless dictators have continued to follow the policy of russification first implemented by czarist Russia. Accordingly, they have attempted to eliminate every vestige of Byelorussian culture and national identity, including the native language, religion, art, and music.

Despite Soviet denial of even the most basic of human rights, however, the people of Byelorussia have struggled heroically in their efforts to break the chains of Soviet domination. Their steadfast belief in the principles of independence and their deep-rooted desire for freedom have enabled Byelorussia to endure Communist oppression.

The free spirit of the Byelorussian people will not be broken. Their search for self-determination will continue.

On March 25, Byelorussians throughout the world, including the more than 1 million Byelorussian-Americans iving in our Nation, joined in solidar y with their countrymen in observance of Byelorussian independence. In light of our Nation's dedication to the principle of independence and our commitment to protection of civil liberties, it is appropriate that we commemorate the 66th anniversary of Byelorussian independence. It is imperative that the United States send a clear and strong signal of moral support to the 10 million Byelorussians living under Soviet tyranny and that our Government continue to champion the cause of independence for Byelorussia.●

ANTISATELLITE WEAPONS

● Mr. LEAHY. Mr. President, I am pleased that my friend from South Dakota (Mr. PRESSLER) has raised Senate Joint Resolution 129 as a possible amendment to Senate Joint Resolution 492, the urgent supplemental. I share with him his frustration at the difficulty in getting the Senate to address the pressing and increasingly dangerous threat of the arms race spreading into space.

Senate Joint Resolution 129 would put the Senate on record in support of three critical steps by the President to bring antisatellite weapons under control. First, it calls for an immediate, mutual, verifiable and limited ban on the testing, production, and deployment of antisatellite weapons. Second, it calls for the resumption of talks aimed at banning antisatellite weapons. And finally, it calls for the negotiation of a comprehensive, verifiable treaty which would prohibit the testing, production, and deployment or use of any space directed or space based weapon.

The United States is on the verge of testing a sophisticated antisatellite system. The Soviet Union has an old, rather primitive ASAT system, but will without doubt emulate us if we introduce our ASAT. The current Soviet ASAT is a massive rocket launched, orbital explosive device. The planned U.S. ASAT will be a small homing device carried on a small rocket, itself carried by and launched from an F-15 aircraft. It will be versatile, capable of being based almost anywhere, and worst of all from the arms control point of view, easily concealed. Verification will be extraordinarily difficult if the Soviets, as they usually do, follow our lead.

But, the problem is even more serious than this. The President wishes to pursue a massive program of research into exotic types of ABM weapons, including systems which can be based in space. Obviously, these technologies can lead directly to laser and other types of ASAT weapons. Costs of such a race between vital American reconnaissance and early warning satellites, ASAT defenses, and competing ASAT systems will be staggering. The GAO has estimated that the costs of an American ASAT could cost the taxpayer tens of billions of dollars. We are already searching for ways to control defense costs and make prudent cuts. Entering upon a dangerous, uncertain and immensely costly ASAT race without making a serious, determined effort to negotiate limitations and controls.

Senate Joint Resolution 129 recognizes and attempts to take into account a simple reality: both sides, but especially the United States, rely on satellites for a host of military purposes ranging from reconnaissance to early warning to communications. With worldwide force deployments, the United States is certainly more dependent on satellites than the Soviet Union. Should we enter into an arms race in space, the United States will be less secure than at present, and the nuclear balance will be less stable.

Mr. President, I find the administration's attitude toward the dangers of an ASAT competition and the potential role of arms control disappointing. From what I read in the newspapers, the administration has decided, or is close to deciding that no ASAT limitations would be verifiable. If that is indeed the case, I challenge such estimates. We cannot know exactly what kinds of limitations might be included in an ASAT agreement until we sit down at the negotiating table with the Soviets. We cannot know what kinds of verification arrangements might be possible until we are talking to Soviet negotiators. Yet, the administration appears determined not even to attempt to negotiate. Reluctantly, I am being driven to the conclusion that we are about to have a replay of the tragic MIRV issue of the late 1960's. A chance to halt a trend in strategic weaponry ultimately very disadvantageous to American security is being thrown away because we have an ephemeral lead of perhaps a few years in a certain weapons technology.

Mr. President, of course passage of Senate Joint Resolution 129 is no guarantee this administration would seek to negotiate on ASAT. Nor is it any guarantee that the Soviets would respond positively. On the other hand, if the Congress does not attempt to influence the President on ASAT, I believe his course is a foregone conclusion: U.S. deployment of ASAT, and refusal to try the path of negotiation. The Soviets will not be far behind with their own counter. The end result is terribly predictable—less security, less stability, greater defense costs, endless rounds of deployments of new weapons which do nothing to make us safer.●

THE WATER RESOURCES DEVELOPMENT ACT

● Mr. ABDNOR. Mr. President, S. 1739, the Water Resources Development Act of 1983 is Senate Calendar No. 625. In my judgment this legislation is one of the most important items on the Senate calendar in this Congress. This is legislation which the Senate must consider, debate, and pass as soon as possible. This is legislation of great importance to each and every Member of the Senate.

On March 12, the leadership of the Committee on Environment and Public Works wrote the distinguished majority leader urging that floor action on S. 1739 be scheduled. On March 16, a bipartisan group of 14 of my colleagues, who are not members of the Committee on Environment and Public Works, wrote a similar letter to the majority leader. Mr. President, I believe that the long-term effects of congressional inaction on water resource development legislation for the last 8 years are finally being felt across the Nation and are generating demands for action.

Perhaps the best example of this demand for action comes from the American Association of Port authorities. My colleagues are all aware of the many disparate elements within the port community. However, on one

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point they are now in agreement: There must be a water bill this year and, therefore, S. 1739 must be brought to the Senate floor for resolution as soon as possible.

Mr. President, I would like to include in the RECORD at this point a copy of the letter on this matter which was sent to me by the president of AAPA, J. Ron Brinson and the chairman of AAPA, Mr. Lloyd Anderson.

The letter follows:

AMERICAN ASSOCIATION OF PORT AUTHORITIES,
Washington, D.C., March 27, 1984.

Hon. JAMES ABDNOR,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ABDNOR: On behalf of the U.S. port industry, we are writing to urge that the Senate consider as soon as possible S. 1739, the Water Resources Development Act of 1983, as reported by the Committee on Environment and Public Works.

Our organization, founded in 1912 and headquartered here in Washington, represents virtually all public seaport entities in the United States, and is the U.S. seaport industry's principal national advocate. The United States has a well-defined need for continued development of its seaport system into the next century—a need measured by the growth of foreign trade, the general expansion of waterborne commerce, and national security. In the United States, it is non-federal public and private interests that initiate, plan, finance and construct shoreside marine terminal infrastructure. But the success of these efforts necessarily depends on the concomitant development of the federal navigation system. Not a single new deepdraft navigation project has been authorized by Congress in seven years. That void of action has made it increasingly difficult for the port industry to plan effectively to provide the facilities that will be needed to accommodate the future growth of the nation's commerce and the attendant national interest.

It is of major importance, both to our industry and to the nation, that a program of navigation development projects, with equitable federal funding formulas, be authorized this year. Title 10 of S. 1739 would authorize 24 deepdraft projects. H.R. 3687, the House counterpart, contains 32 deepdraft project authorizations. The earliest possible enactment of some composite of these two measures would provide the U.S. port industry with the assistance it must have in responding to the national need for port facilities.

In urging timely consideration of S. 1739, we note that many of our ports hold divergent positions on may of the issues raised in the bill. Our industry is united, however, in the view that these differing opinions can be best addressed by amending S. 1739 when it comes before the full Senate. A number of amendments, we understand, are now being prepared.

We very much appreciate your consideration of our concerns and our interest in having timely Senate consideration of S. 1739.

Respectfully,

LLOYD ANDERSON,
Chairman.

J. RON BRINSON,
President.

Mr. ABDNOR. Mr. President, AAPA is not alone in seeking swift action on S. 1739. The prestigious Journal of Commerce in an editorial in support of AAPA, on March 20, called upon Congress to consider S. 1739 quickly. Mr. President, at this point in the RECORD, I include a copy of this editorial.

The editorial follows:

THE DREDGING STRUGGLE

Remember the boom days of the coal craze a few years ago, when virutally every U.S. port that had a chance of getting a share of the coal trade wanted to dredge its harbor to handle deep-draft super-colliers?

The boom has bottomed out, and the United States, because of the high cost of its coal, has resumed its position as a residual supplier on the world coal market. Many of the ports that caught coal fever have recovered and most of their ambitious development plans have been shelved.

The need for a number of dredging projects, however, remains alive. Coal may be on the back burner, but port development is not. Nor should it be.

Congress has not passed an omnibus water projects bill since 1976. Unfinished water projects and proposals that have been authorized but not yet funded total some $50 billion worth of work.

President Reagan took office with a lot of talk about user fees. When that came to dredging projects, America's ports split. In essence, the small ports wanted a federal user fee that would be collected, and parceled out much as federal funding theoretically is today. The larger ones, with more financial clout, wanted each port to levy and keep its own user fees to finance its own projects.

The ports finally reached a compromise last fall by agreeing to support much of a water-projects bill proposed by U.S. Rep. Robert Roe, D-N.J. It calls for federal funding to deepen channels to 45 feet and has a cost-sharing formula for deeper projects. It is expected to reach the House floor in May.

A bill that contains a similar compromise is being pushed in the Senate by Sen. James Abdnor, R-S.D., and an American Association of Port Authorities committee fears it may be held up in the legislative labyrinth. J. Ron Brinson of the AAPA says all ports do not favor all parts of the bill, but all agree that delaying it would be harmful to the port industry's prospects.

That's good to hear, and all ports should also move on their own to encourage Congress to act. Congress has been sitting on needed dredging projects for too long. Now that the port industry has finally come together, it must demand action.

Mr. ABDNOR. I want my colleagues to note, Mr. President, that AAPA and the Journal of Commerce call upon Congress to take action on S. 1739 even though they do not fully approve of all of its current provisions. They seek what is only reasonable after 8 years of inaction: A full and forthright debate on the Senate floor of the issues surrounding water development, followed by the passage of consensus legislation.

Mr. President, the Senate must take this action and I believe the vast majority of my colleagues concur in this assessment. I therefore hope that we can see floor action scheduled on S. 1739 as soon as possible.●

THE 45TH ANNIVERSARY OF LONG ISLAND B'NAI B'RITH LODGE NO. 1353

● Mr. D'AMATO. Mr. President, I rise today to acknowledge the achievements of Long Island Lodge No. 1353 of B'nai B'rith, which will be celebrating its 45th anniversary of April 17. Since the founding of the lodge, its members have made significant contributions to the growth and development of the community.

The Brethren of lodge No. 1353 have dedicated themselves to benevolence, brotherly love, and harmony. They are committed to the betterment of members of the Jewish community, strengthening the State of Israel, and enhancing the commitment of understanding for all people. Lodge members are involved in a wide-variety of community projects, including participation in youth services programs career counseling, youth leadership training, and Project HOPE.

I commend members of Long Island Lodge No. 1353 of B'nai B'rith for their many accomplishments and I wish them continued success in the coming years.●

A VISIT WITH THE CREW OF THE 10TH SPACE SHUTTLE MISSION

● Mr. TOWER. Mr. President, on Thursday, March 22, I had the distinct pleasure of visiting with the crew of the 10th space shuttle mission, one of whom is a son of Texas. Robert L. Stewart, from El Lago, Tex., served as a mission specialist on this flight; before joining the NASA astronaut corps in 1978, he distinguished himself as a U.S. Army aviator, logging approximately 5,000 hours of flight time in 38 types of airplanes. He received his masters degree from the University of Texas. I salute Mr. Stewart, the Commander Vance Brand, the pilot Robert "Hoot" Gibson and the other two mission specialists Bruce McCandless and Ronald McNair for their successful mission aboard the shuttle *Challenger.* This 10th mission was launched on February 3 from Kennedy Space Center, spent 8 days in orbit performing a variety of tasks and returned to Kennedy for the first landing of the shuttle in Florida.

One of the primary objectives of this mission was to flight test the gas-powered backpack, known in NASA parlance as the manned maneuvering unit (MMU), which is critical for procedures involving satellite servicing. The next mission of the shuttle scheduled for April 6 will be to repair an in-orbit damaged satellite known as the Solar Maximum Observatory.

Resembling its ancestor flown inside the skylab orbital workshop in the early 1970's, the MMU is a self-contained backpack with nitrogen gas propulsion that will allow the crew members to move outside the payload bay to other parts of the orbiter or to other spacecraft. The MMU latches to a spacesuit backpack and can be donned and doffed by an astronaut unassisted.

Mission specialists Robert Stewart and Bruce McCandless conducted the space shuttle's second extravehicular activity (EVA) or space walks on the fifth and seventh day of the mission—the first EVA occurred during the fifth space shuttle mission. These space walks evaluated the performance of the backpack and checked out other critical equipment and procedures essential for successful servicing of satellites in general and for the successful completion of the solar maximum repair mission; and were particularly thrilling, especially to the astronauts, because they were conducted untethered—without life lines. Both Stewart and McCandless flew untethered a distance of 150 feet from the orbiter the first time and a distance of 300 feet during the second space walk.

Again, I commend the astronauts from the 10th space shuttle mission and the rest of the astronaut corps who have helped to make the reusable space transportation system a success.●

RABBI IRWIN I. HYMAN

● Mr. D'AMATO. Mr. President, I rise today to honor a man who has been an integral figure in the spiritual and civic character of Syracuse, N.Y., for almost five decades. Rabbi Irwin I. Hyman of the Temple Adath Yeshurun is living testimony to the fact that great men speak softly, but quietly lead through compassion, quest for knowledge, and a desire to serve their fellow man.

Our world has undergone many dramatic changes since that day in 1935 when a Rabbi Hyman, all of 2 weeks out of the Jewish Theological Seminary, first arrived to assume the pulpit in Syracuse. Through the upheavals of war and the triumph of human spirit, Rabbi Hyman has done far more than exhort his Temple members to noble action. Instead, he has given of himself to provide inspiration to all members of his community, and to demonstrate the simple beauty of a man's commitment to the high ideal of service to mankind.

Rabbi Hyman's deep love of country was gallantly displayed during World War II. Enlisting as a lieutenant in the Army's chaplain service, Rabbi Hyman distinguished himself through self-sacrificing dedication to the spiritual needs of our forces serving on the European continent. His service was rewarded with promotions to the rank of major and presentation of the Bronze Star for outstanding religious contributions to military and civilian personnel which aided the morale of all involved.

It was during this same period of time that Rabbi Hyman was called on to face one of the greatest challenges of his career of spiritual service. Working closely with our Armed Forces as town after town in Europe was liberated, Rabbi Hyman confronted the full brutality of the Holocaust that had murdered millions of his spiritual bretheren. Facing the ultimate degradation of the human spirit as manufactured by Nazi totalitarianism, the rabbi fully committed himself to rendering comfort and aid to the survivors of the death camps. He became energetically active in addressing the needs of the millions of displaced persons who were left without hope or basic needs in the wake of the war. In all of his actions to render assistance, the rabbi never asked about sectarian denomination. Instead, he sought only to alleviate suffering and to provide sustenance to those in need.

The post-World War II years have shown a remarkable diversification of Rabbi Hyman's interests and service. Educator, musician, public servant, researcher, linguist, and religious leader—all of these titles have rested comfortably on this tireless champion of the common man. And always at the heart of his efforts is his warm, enduring relationship with the people of Temple Adath Yeshurun. No contract exists between the temple and Rabbi Hyman. Only the type of bond that cannot be captured on paper continues to join this special man and his congregation year after year.

Now, as he approaches 50 years of service to the community of Syracuse, Rabbi Hyman is delighting in participating in the religious growth of the great-grandchildren of congregants who he originally married. He has watched his efforts bear rich fruit throughout the great State of New York, the Nation, and abroad. He will be honored repeatedly by his community as he nears his silver anniversary of service. But, perhaps the finest comment that can be said about this rare and talented man is based upon his own comments made 25 years ago as he discussed his love of mankind.

Everyone has status and a feeling of importance, some in larger and more eminent areas, others in their limited family circles. In a very deep sense, therefore, I have a sense of reverence for a human being as a human being.

Mr. President, it is with great pride that I pay tribute to a fellow New Yorker who has served so nobly in the name of decency and spirituality. I am greatly honored to have been selected along with Rabbi Irwin I. Hyman as "Man of the Year" by Temple Adath Yeshurun of Syracuse, N.Y.●

IN RECOGNITION OF JOHN D. REARDON

● Mr. D'AMATO. Mr. President, as a member of the Senate Footwear Caucus, I am pleased to rise this afternoon to recognize the achievements of Mr. John D. Reardon, president of the Daniel Green Co. located in Dolgeville, N.Y. An interview with Mr. Reardon recently appeared in FN Magazine.

Mr. President, I request that the full text of this article appear in the RECORD. I commend Mr. Reardon and the employees of Daniel Green for their commitment to the production of quality footwear and I wish them continued success.

The article follows:

[From the FN Magazine, Mar. 1984]

JOHN D. REARDON: THE GOOD SHEPHERD OF DOLGEVILLE

(By Kay Harrington)

"I am an anachronism," states John D. Reardon, president and chief executive of Daniel Green, the slipper and leisure footwear company. Take a look at his surroundings to understand his remark.

The upstate New York village of Dolgeville, where the company is located, is picture-postcard pretty, a small, serene haven of trees and creeks and friendly neighbors. The factory building, which started life as a stable back in the 1800s, is a short stroll across a rustic bridge from Reardon's home, a Victorian-style yellow clapboard mansion built the same year as the factory by Alfred Dolge, who left a lasting imprint on the town, its citizens and the Daniel Green company itself. It was Dolge who inspired the idea that resulted in the birth of Daniel Green slippers; Dolge Avenue, one of the few privately owned streets in New York State, leads straight to the house and the Daniel Green factory.

Reardon, whose bearing recalls the years he served in the U.S. Marine Corps during World War II and the Korean conflict, gazes fondly at the American flag set on a standard in a corner of his office. He is, he continues, "a typical product of a small town," shaped by his environment.

The small-town theme resounds often in Reardon's account of his life. "I was born in Dolgeville, went to school here and picked up good values and principles that I use in business today, things like every invoice paid on time and no special deals, no discounts, no house accounts for customers. They pay the same price for Daniel Green footwear, whether they buy 10 pair or 10,000 pair," he says, adding, "I also learned that a business often reflects the character of the people who run it."

Reardon began working in the Daniel Green stockroom after school when he was 14. "I made 25 cents a hour," he recalls, "and I was demoted to the coal bunker because of high jinks in the stockroom. It was a great day when I was promoted to the maintenance gang."

The Reardon family and its involvement with Daniel Green company is a tradition in Dolgeville, where John and his father, the late Warren J. Reardon, have headed the company for 66 years of its 101-year existence.

The main building, built from hand-cut native limestone and now on the National Historic Register, is smack in the center of town. The slipper factory is the oldest industry in the village employing 700 persons, who live within a 10-mile radius—near enough to go home for lunch, a practice encouraged by Reardon.

The image of an uncaring, profit-hungry corporate Big Brothers does not in way apply to Daniel Green. The footwear company participates in a range of charities and community projects. In winter, the village ambulance is housed in a heated garage supplied by the company, and employes get full pay for time spent on volunteer ambulance duty; each autumn, fifth-graders from Dolgeville Central School travel to Utica to see the Shrine Circus as guest of Daniel Green; no Dolgeville resident is buried in a Potters Field, because the company considers it a "duty" to underwrite a decent funeral. Another example: When the Dolgeville High School football team was competing in a regional championship game in Syracuse, N.Y., Reardon closed down the factory early so everybody could go to the game. "I wanted to go myself," he admits.

"The citizens of this area are the lifeblood of our company," Reardon tells visitors surprised at the depth of the firm's community involvement. "Four generations of some Dolgeville families have been employed by Daniel Green. Many of our young workers learned the shoe business by osmosis at the dinner table.

"We have a niche in this town, and being off the beaten path has proved an advantage," he continues. "It has meant we have stayed in touch with our employes and with our community."

Reardon, who is on a first-name basis with everyone in the company, keeps in touch with his employes by inviting each and every one to his office twice a year for an informal, homey chat. The discussion centers on family, home, hobbies, town problems and everyday life. Reardon claims that an employe with a problem takes precedence over all other visitors—and the problem need not concern the job.

Loyalty is fierce and rewarded. An employee getting married receives an extra week's paid vacation and those who complete half a century with Daniel Green are treated to a three-week holiday for two in Hawaii.

Reardon is singularly devoted to the smooth functioning of his business, which, despite the homey atmosphere, is no small operation. The 269,000-square-foot factory complex on East Canada Creek produces nearly 14,000 pairs of slippers and leisure footwear a day, along with the green and white boxes they come in. Footwear bearing the Daniel Green label as well as the trade names Outdorables, Comfys and Dee-Gees, goes to more than 7,100 retailers in the U.S. and Canada. In 1980, net sales totaled over $17 million. Reardon projects 1983 sales to range between $25 million and $26 million.

The company president takes the same personal interest in the nuts and bolts of business as he does in his employe relations. He still visits 25 small accounts, sometimes once a month, "to get the feel of the business." He asks with a smile, "What other company president do you know who takes orders for as few as 150 pairs of slippers?"

If it's beginning to sound as if Reardon is a man whose personal life is inextricably bound with his business, the assessment would not be far from the mark. Not exactly thrilled with giving interviews, he will talk freely about his business but shies away from talking about himself.

"In some circles, I have a reputation for being a little 'crustatious' to deal with," he admits, breaking into a wide grin over his coined word. "My friends call me that when they are drunk. My enemies say it when they're sober. I think this comes from the inclination to do honorable evaluation. We don't fall all over our customers, but we have stores that have been buying Daniel Green slippers for 85 or 90 years."

Reardon puts a high value on integrity, both for himself and for his company. "High standards are like peanuts," he quips. "Pick them up all day and you'll have a bag full."

Honesty. Integrity. Community. These factors are echoed when one talks to Daniel Green insiders. "I enjoy working with honest people in an honest company for a boss who cares," says William E. Homrighaus, executive vice-president and a "home town boy;" Jack Dowd, vice-president of sales, and Dave Savageaux, vice-president in charge of manufacturing, are the only three executives, besides Reardon himself, who make up top management at Daniel Green. "We build shoes, not staff," remarks Reardon. "We are all trained in each other's jobs. If one of us falls out, one of the three others can step in. No one is trained in just one function."

"This idea of flexibility at the top is patterned after the system the U.S. Marines use under fire, involving primary, alternative and supplementary skills. It works in business, too. We use the plan for salesmen as well, training an extra one so that, if a regular falls out, it is not a terminal case."

Reardon says he is "bullish" on the future of his country. It should surprise no one that every piece of Daniel Green footwear is stamped "Made in USA." As Reardon puts it, "I am not going to ship my neighbors' jobs out of the country. To hell with having work done overseas."

The footwear might also be stamped "Made in Dolgeville." Company personnel travel around the country and to Europe to spot new trends in lingerie and leisure wear, but the ideas gathered on these trips are brought back to the design room, where new styles are born. All the footwear is manufactured in Dolgeville. "Nothing is contracted anywhere else," emphasizes Reardon, and the tone of his voice implies this will be the case as long as he is in charge.

The pride Reardon displays in his company is reflected in the museum that was opened on the top floor of the main building in 1982, the 100th birthday of the company. This fascinating collection tells the rather improbable story of how the slipper business began: In the late 1800s, Daniel and William Green, then salesmen for a Utica shoe company, looked in on Alfred Dolge's new piano felt factory in the village that was to bear his name. The Greens noticed that workers, standing on cold, damp stone floors, had fashioned crude slippers from scrap felt to keep their feet warm. The Greens decided to make up a few of these felt slippers for Christmas gifts for their customers, fashioning the first pairs in the kitchen of their home in Canastota. The slippers were an immediate success, especially for trips to the outdoor privy! Customers asked for more and in 1882, when Dolge hit financial difficulties, the brothers took over the factory and started making carpet slippers, also called "everettes," under the Daniel Green name. "A customer could get everettes in any color—as long as it was black and gray," jokes Reardon.

Until a couple of years ago, in fact, the Daniel Green factory turned out a few wool felt slippers "for old times sake." But, as Reardon explains, "The felt cost $18 a yard and the slippers sold for $14, so profit was not the motive."

Reardon, the ex-Marine with a soft spot for "old times," likes to relax with his wife, Marie, at his camp on Otsego Lake near Cooperstown, where he boats, hunts, and goes fishing. The Reardon's oldest daughter, Melissa, is studying for a doctorate in biochemistry at the University of Indiana. Another daughter, Bethany, is a financial manager for General Electric and a son, Warren Joe, attends Siena College near Albany.

A successful man with a great deal of influence over the affairs of the town where he has spent his life and as sense of the power he wields in the lives of his employes, Reardon remains a dignified, low-key figure. He himself sums it up best when he says, "I want to lead my life like a well-cut suit—that means being a good fit but never drawing attention to myself."●

THE PORTLAND YOUTH PHILHARMONIC

● Mr. HATFIELD. Mr. President, the Portland Youth Philharmonic stands as a tribute to creativity skill, commitment, and, above all, excellence. Founded in Portland, Oreg., in 1924, the group is composed of around 100 talented young musicians between the ages of 12 and 20. Since its creation, the Portland Youth Philharmonic, the first group of its kind in the Nation, has gained an international reputation for its high standards. As Oregon senior Senator, I am proud to congratulate the group on the role it has played in the Portland community and the opportunities it has provided for the young people of my State.●

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, while I check with staff on both sides to see if there is any wrap-up, I am prepared, I believe, to ask the Senate to stand in recess.

The PRESIDING OFFICER. Is the majority leader moving to recess?

Mr. BAKER. No, Mr. President, I have not yet done that. 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. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDERS FOR FRIDAY

ORDER FOR RECESS UNTIL 10 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the

Senate completes its business today, it stand in recess until 10 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATOR PROXMIRE

Mr. BAKER. Mr. President, I ask unanimous consent that on tomorrow, after the recognition of the two leaders under the standing order, the Senator from Wisconsin (Mr. PROXMIRE) be recognized on a special order of not to exceed 15 minutes.

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

ORDER FOR PERIOD FOR TRANSACTION OF MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the execution of the special order, there be a time for the transaction of routine morning business until 10:30 a.m. in which Senators may speak for not more than 1 minute each.

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

PROGRAM

Mr. BAKER. Mr. President, on tomorrow, the Senate will convene at 10 a.m. After the recognition of the two leaders under the standing order, there will be a special order in favor of one Senator. After the execution of the special order, there will be a brief period for the transaction of routine morning business until 10:30 a.m. At 10:30 a.m., the Senate will resume consideration of the pending business, which is the supplemental appropriations bill. It is anticipated, Mr. President, that on tomorrow there will be rollcall votes.

DEATH OF REPRESENTATIVE EDWIN B. FORSYTHE OF NEW JERSEY

Mr. BAKER. Mr. President, I send to the desk a resolution on behalf of the two Senators from New Jersey and ask that it be stated by the clerk.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 363) relative to the death of the Honorable Edwin B. Forsythe, of New Jersey:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable Edwin B. Forsythe, late a Representative from the State of New Jersey.

Resolved, That a committee be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

Without objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 363) was agreed to.

The PRESIDING OFFICER. The Chair, pursuant to the resolution just agreed to, appoints the Senators from New Jersey (Mr. BRADLEY and Mr. LAUTENBERG) as the committee on the part of the Senate to join the committee on the part of the House of Representatives to attend the funeral of the deceased Representative.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I now move, in accordance with the provisions of Senate Resolution 363, as a further mark of respect to the memory of the deceased Hon. Edwin B. Forsythe, late a Representative from the State of New Jersey, that the Senate now stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and, at 10:55 p.m., the Senate recessed until tomorrow, Friday, March 30, 1984, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 29, 1984:

DEPARTMENT OF STATE

Robert Thomas Hennemeyer, of Illinois, 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 The Gambia.

The following-named career members of the Senior Foreign Service, class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period:

Lawrence S. Eagleburger, of Florida.

Arthur Adair Hartman, of New Jersey.

DEPARTMENT OF JUSTICE

Bohdan A. Futey, of Ohio, to be chairman of the Foreign Claims Settlement Commission of the United States for the remainder of the term expiring September 30, 1985, vice J. Raymond Bell, deceased.

NATIONAL TRANSPORTATION SAFETY BOARD

Patricia A. Goldman, of the District of Columbia, to be a member of the National Transportation Safety Board for the term expiring December 31, 1988 (reappointment).

EXTENSIONS OF REMARKS

FRED VAN WORT—JOURNAL-NEWS BUSINESS PERSON OF THE YEAR

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to inform my colleagues of the tribute being made to one of my outstanding constituents—Fred Van Wort, who was just named the Journal-News "Business Person of the Year" for Rockland County, N.Y. It is altogether fitting that Fred receive this award, and I am proud to be able to bring Fred's achievements to the attention of the House of Representatives. For it is not only Fred's excellence in the business world that is recognized today, it is also Fred's compassion for his fellow citizens that distinguishes him.

In addition to serving as the president of Provident Savings—the largest banking institution with Rockland headquarters—and successfully leading his bank through a number of changes and rough times, Fred has been deeply committed to numerous civic and charitable endeavors in Rockland County. Fred's dedicated service as chairman of the Industrial Development Agency, acting president of the Board of Directors of Rockland Community College, secretary-treasurer of the Private Industrial Council, trustee for the Boy Scouts, trustee for the Good Samaritan and Tuxedo Hospitals, treasurer of the Village of West Haverstraw, chairman of the Administrative Board of the United Methodist Church, director of the Rockland County Center for the Physically Handicapped, and also his 14 years of service as a member and past chairman of the Salvation Army Adviser's Board have caused Fred to be recognized as an exceptional distinguished member of our community. Fred's contributions have made Rockland County a better place to live for everyone. His determination, dedication, and heart-warming concern for others have touched many Rockland citizens in a very positive way.

It is no surprise that Fred is being honored as the Journal-News "Business Person of the Year" on Tuesday, April 3. Yet, it may be even more appropriate to note that Fred Van Wort, the businessman, is not merely a man of business but moreover, a man of humanity. I take great pleasure in paying tribute to Fred today, and I am pleased to represent Fred and his family in Congress.

I would like to take this opportunity to insert the Journal News at this point in the CONGRESSIONAL RECORD to further inform my colleagues about the caring qualities and successes of Fred Van Wort.

FRED VAN WORT—A COMMUNITY LEADER YOU CAN BANK ON

(By Daniel Janal)

The green playing fields of his youth in Garnerville are now covered with housing complexes, office parks and regional supermarkets. Gone are the Norman Rockwell days, the simpler times.

As President of Provident Savings—the largest banking institution with Rockland headquarters—Fred Van Wort has changed with the times. He has guided his bank through the basic changes of the industry, and has managed to devote a considerable amount of his time to serving the county's civic organizations.

His dual commitment to community and business over the years has earned him the Business Person of the Year award by The Journal-News this year. He will be honored at a luncheon this spring.

The 59-year-old Garnerville resident was nominated for the honor by several anonymous admirers. One of them wrote: "Fred has given his talents, time and efforts to many causes over the years. He has been active in Boy Scouts and similar organizations, but in addition, he has served and is still serving on many economic development boards in the county.

"All this time, he has managed to steer his own organization through some very difficult times and still come out on top. A very astute businessman, with a very great heart."

Another wrote: "As chairman of the Industrial Development Agency and Rockland Community College, office of Private Industry Council and many community and charitable organizations as well as chief executive officer of Rockland's largest banking institution, he has promoted Rockland's future, its infrastructure and the development of new business and economic concepts."

Van Wort has long recognized a need to contribute to the community. If Who's Who published a book of those who've contributed heavily to civic organizations, Van Wort would have to rank high on the list.

His credits include chairmanship of the Rockland County Industrial Development Agency, secretary-treasurer of the Private Industry County, trustee of Good Samaritan Hospital and Tuxedo Hospital, treasurer of the village of West Haverstraw, chairman of the administrative board of United Methodist Church, director of the Rockland County Center for the Physically Handicapped, trustee of the Boy Scouts and acting president of the board of directors of Rockland Community College.

Jack Peters, director of Salvation Army Development Program, has seen Van Wort in action for the past 14 years as member of Salvation Army Advisory Board and a past chairman.

"He is an outstanding, compassionate guy who cares for people. Fred will go out and deliver a food basket to somebody. He will sit down and write a check to someone in need. That's the kind of guy he is," said Peters. "He has been a dominant factor in planning and developing Salvation Army services and programs throughout the county. He is presently heading our building fund for a new corps community center to meet the needs of people in Rockland. He is truly interested in helping others and making our county a better place to live and work for all. We are fortunate to have such an outstanding business professional on our number one team."

Van Wort said he always knew the importance of civic duty.

"I'm very interested in Rockland County and what goes on in Rockland County. I think when the good Lord passed out the talent to someone, he should use it," he said. "Apparently there are several people who feel I can be helpful to them in their civic organizations."

He has used his skills in supervision and execution of plans for those agencies. And that involves a lot of work—sometimes the kind most people don't relish—such as fundraising.

NO NEED FOR NOSTALGIA

He seems more comfortable in his wood-paneled office in the Haverstraw branch of the Provident Savings and Loan. Dressed in a blue, pinstriped suit with a vest that carries a pack of cigarettes, the white haired man with a strong jaw looks the part of a dapper bank president.

From his desk he can see the stark view of an asphalt parking lot, partially hidden by window coverings. But when Van Wort turns to face a visitor, he can soothe his eyes with the relaxing scenes represented in the prints of folk artist Normal Rockwell that share one wall with a painting of the bank itself.

The pictures tell the story of a bygone America, and a bygone Rockland—where the green playing fields of his youth in Garnerville now are covered with housing complexes, office parks and regional supermarkets.

"I think everyone has a streak of nostalgia in them," he said. "There are a great many additional advantages today that we didn't have as kids. We have modern appliances that make life easier. Now it is possible for everyone to have a vacation, get away, relax. These were things seldom done when I was a boy. I don't think I want to turn the clock back. I don't think I'd turn my life back."

He has seen a great many changes in Rockland, the county in which he was born and reared.

"Growth is the number one difference. The fields we used to play in as kids are now housing developments," he said. The past half-century has seen the introduction of the regional shopping area, growth in business and industry in the county and the development of a bedroom community.

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

Looking to the future, he sees a variation on that trend.

"I think we'll see a continued growth of small, light manufacturing and corporate office facilities in the county and a lessening of the single-family home. Most residential building will be condo and townhouse," he said. "The great housing boom has passed, although some new housing will be built."

Despite a need for low- and middle-income housing in the county, it probably won't be built because land costs too much for developers to make a profit, he said.

ENJOYS BOATING, GOLF

It was the cost of a house that helped to change Van Wort's life.

"I came to Provident to get a mortgage and I got a job," he said. "When I graduated from college I was in retailing. I spent five years in that and decided that wasn't what I wanted for a career. I moved back to Rockland and found a house we liked."

He filled out a mortgage application and the officers were probably impressed with his background, which included a bachelor's degree in business from the highly regarded Wharton School of Finance and Economics at the University of Pennsylvania.

"It just happened they had an opening," he said. "I never had any experience in banking. I had an accounting background. That's what they needed at Provident at the time."

That was 1956. He moved here with his wife Jean, to whom he has been married for 37 years. They raised their four children and now enjoy the pleasures of their first grandchild.

The Van Worts enjoy motorboating on the Hudson. In his spare time, Van Wort also enjoys golfing at Rockland County Club and reading a good detective novel.

He held nearly every job in the bank and fifteen years after he entered its doors, he took command of the president's office.

He still enjoys the work.

"The continuing challenges we have every day" and meeting and helping the public with their financial affairs ranks among his pleasures. "It's not a dull job. There is something new every day."

Those challenges keep him sharp.

"I get my most satisfaction by being presented with tough problems and working them through," he said.

That was a skill he needed to face what he called his biggest challenge—the deregulation of the banking industry.

"While the businesses are still the same (loans, savings) the manner in which you approach them has changed," he said. "The changes in the last three years have been tremendous."

That might be an understatement. Spurred by Congress' move to deregulate the banking industry and years of high inflation that has hurt many banks across the nation, Provident had lost nearly $1 million in each of 1981 and 1982.

"All of a sudden they (Congress) deregulated interest rates and we had to pay higher rates for our money," he said. "We had to pay higher interest rates to retain savings, which is the basis used for capital on loans."

Provident seems to have met the challenge.

The savings and loan posted a profit of approximately $218,000 at the end of 1983. Provident had $258 million in local assets as of the end of last year.

"We've expanded, added new departments and restructured existing areas, (such as commercial loan and consumer installment loans) to take advantage of new powers we have and survive," he said.

He looks to more challenges in the future from institutions not traditionally thought to be in the banking business. Financial supermarkets, such as Sears and Shearson/American Express are competing for investment dollars.

"I don't know of anyone who has been hurt by that kind of competition," he said. "Competition is not always negative. It keeps you on your toes. It is beneficial to the public."

But he worries about the trend.

"If we get all the financial services concentrated in a few banks, it will not be beneficial to the public. We have to be careful. The small individual bank must be allowed to exist," he said.

Yet he sees those trends developing.

"There has already been a consolidation in the industry. There probably will be more. You'll see nationwide conglomerates in the industry. They're already in existence. They will continue to expand," he said. "To a limited extent, you'll see stock brokers in the banks. Eventually, the banks will be in the insurance business. But all of these will be as subsidiaries. Banks will be primarily for the convenience of the public. The primary business of banks will not change. Savings and loans will be primarily mortgage lenders. All of the other things we can get into will be profit centers to provide the margin to stay in business."

Consumers of the future will see other changes in their local banks.

"With the next generation of people you will see a lot more electronic banking. The kids who are in school today use computers in grammar school. They are used to the machines. They understand it and will not resist it the way some of my generation does," he said, "No home banking effort has been successful yet. People have resisted the machine."

Computer tellers will be introduced to Provident customers in a few years, he said. Other banks in the county have offered the 24-hour machines to their customers.

But some qualities of yesteryear will serve tomorrow's customers and leaders well.

"You need the ability to be able to accept change and alter your thinking to new concepts, ideas and changes. You have to be somewhat progressive. If you are too conservative, you cannot accept the change, you will not make it," he said. "You have to have a good work ethic. A desire to want to achieve."

Those qualities have withstood the test of time and kept Van Wort fresh, while aging prints have turned gray.●

THE DEATH OF PRESIDENT AHMED SEKOU TOURE OF GUINEA

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. DELLUMS. Mr. Speaker, on Monday, March 26, 1984 the world lost a great human being, President Ahmed Sekou Toure of Guinea who died of a heart attack while undergoing surgery at the Cleveland Clinic in Ohio. Ahmed Sekou Toure was President of Guinea from 1958 to the time of his death. Africa and the world have lost a great freedom fighter and champion of African unity. Sekou Toure's contribution to the struggle against European colonialism is comparable only to that of the late Kwame Nkhruma of Ghana.

As Guinea's first and only President since achieving independence from France in 1958, Sekou Toure championed the struggle to rid the African continent of European colonial domination. He was one of the three founding members of the Organization of African Unity (OAU). President Toure was not only concerned with the struggle taking place on the African continent; he became actively involved in the civil rights movement of the 1950's and 1960's here in the United States.

President Toure, to the time of his death, had been a frequent contributor to the journal, Black Scholar, published here in the United States over the past 20 years. The Black Scholar journal, edited and published by Robert Chrisman, is based in California. In these articles, President Toure sought to inform Afro Americans of the interrelationship of our struggles to that of the broader struggles taking place on the African Continent. An avowed Pan-Africanist socialist, Sekou Toure not only sought to bring about African unity on the continent, but throughout the world by appealing to Africans wherever they are to be found throughout the world.

President Ahmed Sekou Toure, in short, was the embodiment of Marcus Garvey, W. E. B. DuBois, Malcolm X, Martin Luther King, Jr., and Steve Biko. He was an intellectual giant in his own right whose relentless commitment to the self-determination for the peoples of Africa and the rest of the Third World, made him one of Africa's most controversial and misunderstood contemporary leaders.

His principled, unwavering stance on the issue of African independence brought him into constant confrontation with European colonial designs in Africa. His unflinching commitment to the cause of African unity placed him in the forefront of African political life in the postcolonial era.

The conditions under which he has led the nation and people of Guinea earned criticism from his Western adversaries. Western nations were always quick to critique his style of leadership, often pretending to forget that the very conditions which they criticized him for were in fact their own doings. European colonialism, Toure constantly pointed out when confronted by his adversaries, destroyed Africa's internal synthesis creating the very conditions which earned so much criticism.

In recent years, President Toure was criticized for human rights violations by groups such as Amnesty Interna-

tional. The questions raised in regard to the character and methods of his rule toward the end of his reign, however valid, cannot and must not overshadow his tremendous contribution to the struggle for African independence. I rise to salute this great giant of African unity and peace. If the last President Ahmed Sekou Toure is to be remembered, let him at least be remembered for his contributions to the advancement of the nationalist struggle of continental Africa.●

MY ROLE IN UPHOLDING OUR CONSTITUTION

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. SCHAEFER. Mr. Speaker, the Voice of Democracy is the voice of youth; it is refreshing to me to see the ideals of our country reflected in the views of its young citizens over 200 years later. Robert Maynard Hutchins said that:

> The death of democracy is not likely to be an assassination from ambush. It will be a slow extinction from apathy, indifference, and undernourishment.

The future of our country lies in the hands of enthusiastic people like Lee-Ann Jourban, the Voice of Democracy winner from my district in Colorado. Mr. Speaker, I submit for publication in its entirety in the CONGRESSIONAL RECORD the test of Lee-Ann's speech; we can be sure, reading her speech, that democracy will not suffer any slow death from apathy or indifference.

MY ROLE IN UPHOLDING OUR CONSTITUTION

"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, and secure the blessings of liberty to ourselves and our prosperity do ordain and establish this constitution for the United States of America." These stirring words from the Preamble of our constitution ushered in a new era in government with the beginnings of what was to become the greatest democratic federal republic in the world. These words are as relevant today as they were in the 1700's. And what is my role in upholding the constitution? First, it is my duty to exercise my right to vote. So many people are apathetic when it comes to exercising this precious right. In the American Revolutionary War thousands of patriots died so that we, today could have the privilege of voting. In so many countries around the world, people are willing to die for their right to vote the sacrifices made by those who brought the constitution into being would cease to be relevant.

A second role that I play in upholding the constitution is the paying of taxes. The running of this vast and complex country depends on each and everyone of us paying taxes. When England once ruled the United States, the cry of the people was, "No taxation without representation," it is therefore incumbent on myself, as well as on everyone else to pay our taxes, since it is stated in the constitution which is the supreme law of the land. Taxes are necessary to run this powerful country in an orderly and disciplined manner, as well as to aid the nation is social, military and technological projects.

A third duty that I must uphold is the compliance with all the laws that are stated in the United States Constitution. The adherence to the rule of law is most important in building the character and strength of a nation, because without this, there is a breakdown of order which can lead to chaotic conditions. I have to help everyone in my own way live according to the rules and regulations of America. As President John Kennedy said in his remarks on the James Meredith case dealing with defiance of law, "Americans are free to disagree with the law, but not to disobey it, for in a government of laws and not of men, no man, however prominent and powerful, and no mob, no matter how unruly or boisterous is entitled to defy a court of law. If this country should ever reach the point where any man or group of men, by force or threat of force, could long defy the commands of our courts and constitution, then no law would stand free from doubt, no judge would be sure of his writ, and no citizen would be safe from his neighbors." Those words of President Kennedy should be heeded by myself and every other individual in the United States of America. The motto of our Marines is "Semper Fidelis" which is Latin for "Always Faithful" and I would like to recommend that this motto be adopted toward our Flag, our anthem, our constitution, and all that they stand for.●

TAX REFORM AND TAX REDUCTION

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. PAUL. Mr. Speaker, a massive tax revolt is underway in this Nation, and with good reason. An increasing number of Americans are fed up with high taxes and runaway Government spending. Furthermore, one has only to look at the thousands of pages of the Internal Revenue Code or the hundreds of different tax forms to know that something is wrong with our current tax structure. It is a gross understatement to characterize our tax system as unjust, nonproductive, and a disgrace.

Consequently, the tax revolt is gathering momentum. State legislators are being recalled, tax avoidance and tax evasion are increasing, and the underground economy is growing. Estimates are that those Americans who have managed to escape the clutches of the Internal Revenue Service are now responsible for a large portion of our actual national product. This growth in off-the-book economic activity is directly related to the huge tax increases of the past several decades and the invasions of privacy that are part of our tax collection system.

In recent years, the various manifestations of the tax revolt and the demand for tax reform have captured some attention in the media and among legislators. Yet nothing of substance has been done. Furthermore, the ballooning deficit and massive national debt demonstrate the urgency for taking definitive action.

The time has come for tax reform and tax reduction.

The first step is to enact a 10-percent flat rate income tax proposal such as I have introduced. This legislation is the result of much concentrated effort, undertaken with several important goals in mind. First and foremost, it would reduce revenue to Government. This action is necessary in order to stem the growth of Government and Government spending; only by shutting off the spigot of taxpayers' money can the budget be brought under control and the deficit reduced. Just as oxygen feeds a fire, tax revenues feed the appetites of a gluttonous Congress.

It is important to realize that tax increases have little or no effect on deficits. In the summer of 1982, the leaders in Congress promised to reduce spending by $3 for every $1 in tax increases the President would support. The resulting legislation was the Tax Equity and Fiscal Responsibility Act, the largest tax increase in peacetime U.S. history. This bill raised taxes by $218 billion over 5 years. However, did it make even a dent in the deficit? No, instead of $3 in spending cuts, Congress increased spending by $1.25 for every dollar in tax increases, thus exacerbating the deficit problems. That is why tax reduction is essential if spending is to be brought under control and the deficits reduced.

The second reason for supporting a 10-percent flat rate income tax is to simplify the current complicated and onerous income tax collection system. Each year, Americans spend an estimated $60 billion trying to figure out how to comply with the tax laws. It is disgraceful that Americans must hire tax accountants just to figure out what they owe. A flat rate tax could be filed on one page and would require that individuals divulge much less personal information to the Government.

Another reason for a 10-percent flat rate tax reform is to rid our Nation of the injustice and inequity of graduated rates. The graduated income tax does violence to the principle of equal treatment before the law. Instead, it applies different tax rates to different citizens. A flat rate tax would spread the burden more evenly among taxpayers. As the 19th century economist J. R. McCulloch warned:

> The moment you abandon the cardinal principle of exacting from all individuals the same proportion of their income or of their property, you are at sea without a rudder or compass, and there is no amount of injustice and folly you may not commit.

We have, indeed, committed much injustice and folly since 1913, as tax rates have gone as high as 91 percent.

Another important reason for replacing our graduated rates with a flat rate is that it eliminates the incentive for Congress to inflate taxpayers into higher tax brackets through so-called bracket creep. Government has reaped a windfall in additional revenue by destroying the value of the dollar. Taxpayers who manage to get pay increases that keep pace with the cost-of-living are pushed into higher tax brackets and end up with a reduced after-tax income. A 10-percent flat rate income tax would end bracket creep.

Some argue that a 10-percent rate would benefit the wealthy. In fact, this charge lacks merit. Certainly any cut in tax rates benefits those in the highest marginal tax brackets. However, under a 10-percent rate, many individuals who currently escape paying taxes by using tax deductions and shelters would begin to pay, while those in the middle class would experience much-needed relief. Certainly the very wealthy would benefit less than middle-income Americans from a 10-percent flat rate.

The sole purpose of a system of tax collection should be to raise revenue for the legitimate functions of Government. The tax system should not be used to redirect business activity or redistribute the property of the people. In fact, the distortion of economic activity and destruction of incentive caused by a graduated tax system with high marginal rates and myriad deductions, credits, and exemptions, cost the American people billions of dollars in lost jobs and lower living standards.

The typical American worker pays more in taxes than he does for food, clothing, medical care or any other expense. Therefore, it is important that the 10-percent rate be viewed as a ceiling on the amount Government can take from any one taxpayer. Certainly a lower rate would be preferable, but Americans must never again be forced to give Government more than one-tenth of what they earn. Unfortunately, some flat rate tax proposals would actually increase revenue to Government so that it can continue its spendthrift ways at the taxpayers' expense.

Some charge that a 10-percent rate is too low to fund Government at its current level. In fact, this is one of the positive aspects of such a proposal. Almost everyone agrees that Government spending is too high; a reduction in revenue to Government would force a spending reduction, in order to prevent an explosion in the deficit. A 10-percent flat rate tax proposal should be combined with across-the-board spending reductions, a balanced budget requirement, and an end to printing press money.

Before genuine tax reform and reduction can be achieved, the American people must decide what type of Government they want. If our taxes are too high, it is because the Government is too large. The Federal Government is currently funding many activities that have no constitutional justification. For example, a large proportion of the defense budget goes to subsidize the defense of other nations; the President's 1985 budget request contained a 42-percent increase in foreign aid; and direct transfer payments to individuals, which now constitute 42 percent of the Federal budget, will cost the American taxpayers over $440 billion in the next fiscal year. There is no constitutional warrant for such massive redistribution of wealth.

I hope my colleagues will join me and vast numbers of the American people in supporting genuine tax reduction. There is no need for an inquisitorial tax collection agency that relies on intimidation and duress to collect taxes; there is no need to hire tax accountants and lawyers to figure out one's taxes. Most important, a 10-percent tax rate would mean a reduction in the confiscatory burden of taxes which threatens the liberty of the American people. To the extent that individuals retain a larger portion of their earnings, the economy will experience greater productivity and a higher standard of living—for all.

Certainly a free and decent society, such as ours is meant to be, can begin the process of restoring limits on the power to tax.●

OUR IMPROVING ECONOMY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. GILMAN. Mr. Speaker, it is indeed a pleasure to note that our Nation's economy is recovering much more rapidly than had been expected. The pessimists and critics of yesterday are now muffled by today's surge. There are some who still criticize current economic policies, but many of these same critics are the ones who orchestrated the unsuccessful policies of the past. All too often criticism is more political than constructive. A good look at present statistics support an optimistic outlook.

The inflation rate has continued to drop from a high of 13.3 percent in 1979 to a low of 3.8 percent in 1983. Since the present administration implemented its economic policies, our inflation rate has continued to fall. The outlook for 1984 through 1988 projects an inflation rate of no more than 5 percent. This rosy forecast provides the consumer with more buying power per dollar than at any previous time since 1972.

Low inflation spurs economic growth. The economy grew at an inflation adjusted 6.1 percent between the fourth quarter of 1982 and the fourth quarter of 1983. This was the largest growth since 1972, when the economy grew 7 percent. The gross national product (GNP) was 6.1 percent, up from the last administration's GNP of minus 0.6 percent. Real GNP rose 3.5 percent in 1983 while the index of leading indicators increased a moderate 0.6 percent. Productivity has also surged 3.1 percent in 1983.

New American automobile sales increased an average of 31 percent over the last year. General Motors sales rose 35.4 percent; Ford was up 51.7 percent, and Chrysler improved sales by 47.3 percent over last year. Electronic sales soared, capital spending increased 9.4 percent, and personal spending also grew 6.7 percent in 1983. Moreover, personal income rose 1.1 percent in January 1984 while business investment spending rose at a rate of 22.3 percent.

The resurgence of housing sales also reflects the good economic news. In January 1984, 1.92 million housing units began construction—an increase of 15 percent over December's rate of 1.66 million—and the best housing starts report since 1978. The 1983 housing sales increased 51.7 percent from the 1982 level. Americans are spending their money and investing in new homes, thereby helping themselves and our economy.

Unemployment, although still too high, has dropped significantly. The average annual rate for 1983 was the lowest level in more than 2 years. Unemployment was down to 8.2 percent in December 1983, 0.5 percent lower than October 1983 and 2.5 percent lower than the previous December. This steady drop has continued into the new year when in February of 1984 civilian unemployment fell to 7.8 percent.

Since November 1982, civilian employment has grown 3.9 percent—the best growth since 1950. In December 1983 a record 102.9 million Americans were at work. Black unemployment has also decreased 6.6 percent since December 1983, although it too has plenty of room for improvement.

All of these rosy figures, although sure signs of an economic recovery, are tied to the resolution of the budget deficit. The deficit problem must be addressed, and President Reagan has under taken steps to act on this vital issue. The President's bipartisan commission on the deficit is a sound and serious attempt to rectify differences in policy and direction on the deficit. So, too, the President's budget reduction down payment of $100 billion over 3 years deserves serious consideration.

Since the deficit is a serious matter, we must act together to counter the red ink rather than to place blame. For if we do not take measures in hand now, we all may lose later. Through cordial, frank, and dedicated diplomacy, I am confident that we can achieve bipartisan support for a deficit reduction plan.

Truly, when all is considered, America is well on the way to a full recovery. Our economy is steadily improving, confidence is high, and all leading indicators show optimism for the future. Although the job is not yet finished, the economic news is encouraging. I find it healthy and important to speak positively when policies are working and worthwhile. Criticism has no value unless sound, viable alternatives are offered. The facts show that the economy has recovered substantially. Let us be thankful and appreciative for this development while at the same time continuing our work to improve the many facets of our Nation's economy.●

RELIEF FOR INDIVIDUALS INJURED BY HAZARDOUS WASTE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. FLORIO. Mr. Speaker, a recent editorial in the Washington Post contained some thoughtful comments on the Superfund reauthorization bill, H.R. 4813, which I have introduced. The editorial suggested that the Congress should give careful attention to crafting well-designed provisions for compensating those injured by exposure to hazardous substances.

For example, the Post suggests that if the standards of proof for any such system are too weak, the system could create unwarranted obligations for both industry and the Government. This is absolutely correct and we must guard carefully against liability which is too broad. There are too many examples of well-intentioned programs which have cost more than anyone thought they would because of open ended liability. The standard under H.R. 4813 requires that injured individuals prove that it is reasonably likely that their exposure to a hazardous substance could have "caused or significantly contributed" to the injury they suffered. To meet this burden of proof, individuals must be able to prove, first, for how long and how much they were exposed to hazardous substances, and, second, whether the chemical at issue can cause the illness they suffered.

After this burden is met, there are only limited damages available under the administrative system. The purpose of the administrative system is to get people through emergencies. For adequate compensation they must go elsewhere.

An administrative system to deal with emergencies must have the right balance. Those of us sponsoring this legislation will continue in our efforts to set up a system with the proper balance because we cannot ignore the plight of many in this country who have been harmed by exposure to hazardous wastes.

The Post editorial follows.

RUNAWAY COMPENSATION

Medical science keeps piling up evidence that various chemical substances may, in sufficient quantity, produce toxic effects in humans. Most of these threats are not large—far smaller, for example, than the known effects of poor diet and of smoking on human health. Still, the cumulative effect of long-term exposure to certain chemicals warrants strenuous efforts to limit further exposure. How far, however, is the society prepared to go in requiring compensation for people exposed in the past to toxic substances—especially when the effect of that exposure is far from clear?

Because the financial and legal ramifications of this issue are enormous, far more attention ought to be paid to the victim compensation provisions of the Superfund hazardous waste cleanup amendments now headed for markup in a House subcommittee. The bill, sponsored by Rep. James Florio and 22 others, sets up an administrative system that would pay lost wages and medical costs to people who can establish that there is a "reasonable likelihood" that toxic substance exposure contributed "significantly" to disability or death.

For example, claimants could show that they were exposed to a certain chemical in some manner for a certain period of time and provide evidence (including, according to the bill, studies with very limited sample sizes) that "tends to establish" that such exposure can produce disabilities. It would then be up to the Environmental Protection Agency to prove that the exposure did not contribute significantly to their disability. In the administrative claim proceedings (although not in the separate tort actions that claimants could also file in federal or state courts for additional damage payments and legal costs), businesses alleged to have caused the exposure would not be allowed to participate or provide contrary evidence.

These relatively weak standards of proof could create potentially enormous obligations for both industry and the government. (The bill limits reimbursements to part of the tax-based Superfund, but it is hard to imagine that claims would be denied to equally eligible parties when that small fund was exhausted.)

But there are larger, ethical questions involved as well. Suppose that it could be established beyond a reasonable doubt that living near a chemical dump raised the risk of some form of cancer by, say, 3 percent. That means that for every 103 people in the community who got the disease, 100 would have gotten it anyway. Is it fair for the taxpayer to make large payments to every one of the 103—since there is no way of telling which 3 in the group owe their cancer to the dump—while people in other communities with the same disease receive no compensation at all? With plaintiffs' lawyers poised to file hundreds, perhaps thousands, of suits claiming chemical exposure, Congress needs to address this issue carefully.●

STANDING TALL ON JERUSALEM

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. BORSKI. Mr. Speaker, our colleague, TOM LANTOS, has written a cogent article on why we should move our embassy in Israel to Jerusalem.

I encourage all of us to read our colleague's article from the Los Angeles Times:

[From the Los Angeles Times, Mar. 21, 1984]

LET'S STAND TALL AND MOVE OUR EMBASSY TO JERUSALEM

(By Tom Lantos)

The United States maintains diplomatic relations with 136 nations. In 135 of these countries our embassy is located in the capital. As a routine matter, when a capital is moved we move our embassy. When the government of Brazil decided to move from Rio de Janeiro to Brasilia, we moved our embassy to the new capital. And when the government of Saudi Arabia recently indicated that it would like to have embassies in Riyadh, we followed traditional diplomatic practice and began building ours in Riyadh.

This is as it should be: An embassy should be in the same city as the government to which it is accredited. In one case, however, our embassy is not located in the capital, despite the expressed desire of the host country that this be done. Although Jerusalem is the capital of Israel, our embassy is in Tel Aviv.

In a futile attempt to curry favor with Arab countries, the State Department has refused to move our embassy to Jerusalem and is vigorously opposing efforts in Congress to do away with this particular form of appeasement. However, refusal to move the embassy to Jerusalem has not accomplished this purpose. Prostituting our principles only backfires.

The argument that the United States should not move its embassy to Jerusalem because the United Nations adopted a resolution calling on member states to remove their embassies from that city is a farce. After the invasion of Grenada, when the United Nations condemned the United States and called on us to remove our troops, the State Department ignored and denounced the resolution. Why should we observe a resolution that requires us to violate a universal principle of diplomatic practice and offend our only democratic ally in the Middle East?

Jerusalem has been the capital of Israel since 1949. Even Harold Saunders, assistant secretary of state for the Near East during the Carter Administration and an avowed opponent of moving our embassy to Jerusalem, recently said that "two Presidents of the United States, five secretaries of state and each American ambassador have done business with the government of Israel at the seat of that government in West Jerusalem." No less a figure than Egyptian President Anwar Sadat addressed the Israeli Knesset in Jerusalem in 1977.

Moving the American Embassy to West Jerusalem would not affect any of the issues surrounding the peaceful resolution of the Arab-Israeli conflict. West Jerusalem has been an integral part of Israel since 1949:

This has been recognized by all nations with which Israel maintains diplomatic relations.

Consider the example of Berlin. East Germany claims East Berlin as an integral part of its territory, but the United States does not recognize this claim and maintains that East Berlin and West Berlin have a unique status guaranteed by the four occupying powers. Nevertheless, when we established diplomatic relations with East Germany we located our embassy in East Berlin.

At that time the State Department affirmed: "The United States government proceeds on the basis that the locations and functions of an American embassy in East Berlin, where it will be convenient to the government offices with which it will deal, will not affect the special legal status of the Berlin area."

If we are broad-minded enough to observe this rational principle in dealing with a communist dictatorship, should we not follow that same rational principle in dealing with a democratic ally?

Likewise, the special status of Jerusalem as a holy city should not be an issue. Unlike the Jordanian government during its stewardship, the Israeli government welcomes people of all religions to Jerusalem. As Sadat found during his visit, Muslims are free to pray at the al Aqsa mosque and any other Muslim religious site. During the 19 years Jordanian rule, Jews were denied access to the Western Wall, their holiest of shrines, and the area around it was allowed to deteriorate into a slum. Even Christian and Muslim citizens of Israel were not allowed to visit any of their holy places.

Support for the House legislation to move our embassy to Jerusalem has been thoroughly bipartisan. A Senate bill introduced by Daniel Patrick Moynihan (D-N.Y.) enjoys the same bipartisan support. House Republican leaders Trent Lott of Mississippi and Jack Kemp of New York are among the more than 200 current co-sponsors of the House bill; my Republican co-author is Rep. Benjamin A. Gilman of New York. My colleagues Tony Coelho (D-Merced) and Guy Vander Jagt (R-Mich.)—the chairmen, respectively, of the Democratic and Republican Congressional Campaign Committees—are also co-sponsoring the bill. Support for this measure covers the entire political spectrum.

U.S. foreign policy has been the most successful when it has been rooted in reality. Failure has followed when our policy has been founded on fiction. For years we maintained the fiction that the People's Republic of China did not exist. The only beneficiary of that policy was the Soviet Union. One of the great bipartisan achievements of recent foreign policy was the opening of a U.S. embassy in Peking. Abandoning the fiction that the People's Republic did not exist strengthened the American position in Asia and throughout the world.

"Standing tall"—a phrase that the President likes to use—has many meanings. In fact, its only real meaning is standing for principle. We will be respected abroad only if we adhere to our principles; policies based on appeasement cannot succeed. We should abandon the hypocrisy of keeping our embassy out of Israel's capital.

It is time to stand tall—in Jerusalem.●

THE HUMAN DEFICIT IN SOCIAL SERVICES

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. HAWKINS. Mr. Speaker, the act of establishing and reordering the economic goals of this Nation should not be taken lightly. For if we commit ourselves to the process, and are serious in our actions, we will develop economic goals which will ultimately foster prosperity and economic growth; create jobs; restrain inflationary pressures; and facilitate an economic environment wherein access to equal opportunities is not viewed as reverse discrimination.

Although some of my colleagues may question the legitimacy of setting goals to achieve full employment, the process outlined in the Humphrey-Hawkins bill does work toward the best interests of this Nation. The establishment and reordering of our national economic goals puts this Nation on a chosen course—a course of growth and expansion of employment opportunities. But establishing and reordering our national economic goals must not be done without examining the social service concerns of this great Nation.

Our economic goals must be tempered and debated within the confines of the real world. Global abstractions on economic models and their relationship to GNP and trade deficits, along with other important economic variables, must not solely dictate this Nation's economic goals and policy directions. Abstractions and observations that are not grounded in reality, as well as balanced against long-term goals and short-term realities, will ultimately increase the pain and suffering of most Americans whose futures we are pledged to protect and defend.

America's strength does not solely depend on her ability to develop and bear arms. America's strength depends jointly on her capacity to lift the tide which through economic prosperity generates jobs, and provides equitable access to opportunities. More importantly, America's strength depends on America's longstanding capacity and compassion to assist those in our society who must fend off the long-term devastation of poverty, with little or no economic strength or social standing of their own. Poverty in both the long and short term must be dealt with or we run the risk of condemning countless precious lives to ultimate devastation. Thus we imperil the strength of our Nation by stockpiling potential human genius if we do not order our economic goals to address social service needs.

Unfortunately, social service concerns such as adequate access to quality health care, have not received priority attention under the Reagan administration. In fact, social services programs have been the prime target of budget reductions. Since this administration took office social services programs have been scuttled, leaving the most vulnerable American—children and the elderly, without adequate access to social services and quality health care.

More specifically, programs for the poor would bear a highly disproportionate share of the cuts contained in the new Reagan administration budget. Forty percent of the budget cuts in domestic programs targeted on low-income individuals and families, despite the fact that these programs make up only 19 percent of the domestic budget, have already been cut far more deeply than any other parts of the budget.

Based on the administration's own budget documents, the appropriations for low-income programs that are not entitlements would be reduced 21 percent below the levels that the budget itself says are necessary to maintain current service, adjusted for inflation. When low-income entitlement programs are included the overall reductions in appropriations for all low-income programs would be 10 percent below current services levels.

Among the most severe cuts in the budget would be cuts occurring in fiscal year 1984, in the special supplemental food program for women, infants, and children; the WIC program. This program provides nutrition supplements to low-income pregnant women, infants, and children which are determined to be at nutritional and medical risk. According to the Center on Budget and Policy Priorities, a nonprofit organization based here in Washington, more than 500,000 women, infants, and children would have to be terminated from the program this spring because of inadequate supplemental appropriations by the administration. Programs such as Head Start, job training, compensatory education for disadvantaged children, and low-income energy assistance will also be drastically cut. These programs, along with low-income housing and financial aid for needy students, would receive reductions below the appropriations level needed to maintain current services levels.

Hardest hit would be the legal services program, the community services block grant, the work incentive program and supplemental educational opportunity grants. These programs would all be abolished.

The economic policies presently being followed by this administration have extracted some inflationary pressures from the economy. But this has been accomplished with a great deal of sacrifices and pain being borne by the

many poor and hard working citizens across this country. This has often occurred at too high a personal cost.

This year as we consider establishing economic goals, let us move forward into the process with an eye toward developing policies that will balance efforts to decrease monetary deficits, with efforts to limit potential human deficits. I caution my colleagues that we must take the task of establishing our Nation's economic goals seriously. For if we forfeit the opportunity to establish balanced economic goals that are sensitive to the social service concerns of this Nation, we will definitely face irreversible human deficits in the not too distant future. The choice is ours to make.●

ACID RAIN REFORM LEGISLATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. GILMAN. Mr. Speaker, were a blight to strike, destroying in its wake hundreds of trees, thousands of lakes, and threatening many many more acres of land, would not both farmer and business person, lawmaker and corporation, be united in our efforts to stop such a terrible ill? In that same spirit I call upon my colleagues to join with me in supporting H.R. 3400, the Acid Rain Deposition and Control Act of 1983.

Throughout the United States the ravages of acid precipitation are becoming increasingly apparent. Stagnant lakes where fish once thrived and forests where the branches no longer create a ceiling because damage to the vegetation is so extensive, can be found from coast to coast, crystalizing the fact that this is not simply a regional problem. While I would like to take this opportunity to commend President Reagan on his recent pledge to increase the Federal Government's efforts with regard to acid rain research, I feel strongly that we in Congress must also take an active part in responding to the acid rain problem. Accordingly I have cosponsored H.R. 3400.

H.R. 3400 provides a national solution to this countrywide problem by seeking a total sulfur dioxide and nitrogen oxide emission reduction of 14 million tons. This end would be achieved without threatening jobs in the coal industry or imposing escalating utility costs on select portions of the country.

This legislation acts affirmatively to arrest the problem by requiring:

First, the 50 utility plants among those that burn medium- and high-sulfur coal, and which are the largest emitters of sulfur dioxide, to install scrubbers to reduce these emissions by 7 million tons by 1990;

Second, the 48 contiguous States to make an additional 3 million-ton reduction of sulfur dioxide in accordance with the proportion of each State's emissions; and

Third, the reduction of the new source performance standard (NSPS) for stationary sources of nitrogen oxide so that an additional 1.5 million tons reduction in this emission can be achieved by 1995.

The beautiful and majestic Hudson River winds it way through the historic Mid-Hudson Valley, a portion of which I am proud to represent. There is not a constituent in my district, even those whose homes and businesses are miles from the river's banks, who do not feel that the Hudson profoundly affects their lives. Rising on the west bank of the Hudson are the lush Palisades and Bear Mountain State Park where thousands of visitors come from all over America to walk along the paths and enjoy the splendid panorama.

These special places and others like them all across this Nation must be protected and preseved, for one fact from the debate remains irrefutable; many of the effects of acid rain are irreversible. In upstate New York, it has been found that the fish populations of 212 lakes and streams have been irrevocably eliminated by acid rain. We cannot allow ourselves to dismiss the prevalent danger of acid rain any longer, or these rivers, lakes, forests, and fields, as we now know them, may simply cease to exist.

The Subcommittee on Health and the Environment under the direction of its distinguished chairman and bill sponsor, HENRY WAXMAN, has held acid rain field hearings throughout the United States in New York, Minnesota, Indiana, Ohio, and Illinois. The hearing transcripts reveal that citizens in all of these regions, environmentalists and State government officials alike, are calling upon Congress to implement a national control strategy.

As the Health Subcommittee holds its hearings here in Washington, D.C., I ask my fellow colleagues to take a close look at this legislation. If you are not already a supporter, I invite you to join us in our effort to arrest and control acid deposition, so that future generations may be allowed to enjoy our riches—the forests, lakes, and fields, that we may have so carelessly squandered.●

TWO-YEAR COLLEGES OFFER HAVEN FOR MANY HISPANIC STUDENTS

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. COLEMAN of Texas. Mr. Speaker, the Chronicle of Higher Education recently profiled the vital role played by the El Paso Community College in serving the higher education needs of a predominantly Hispanic area. Nationwide, over 70 percent of all Hispanics in higher education are in community colleges, and these provide an important step for many students who go on to 4-year institutions. The Chronicle highlights the story of Mr. Alfred Corchado, the editor of the highly respected student newspaper, El Conquistador. Mr. Corchado attributes his own personal success to the El Paso Community College, and the article, which follows, depicts the college's contribution to him and countless other students.

TWO-YEAR COLLEGES OFFER HAVEN FOR MANY HISPANIC STUDENTS

(By Charles S. Farrell)

Only a few years ago, Alfredo Corchado was a high-school dropout who had resigned himself to a future in the fields, picking crops as his parents had and as their parents had before them.

Now the El Paso County Community College student envisions a future in a different field—journalism.

It is the community college that gave Mr. Corchado the chance and the will to succeed. At one time, he considered attending the University of Texas in El Paso, but he balked because he found the place too imposing. "It is just enormous," he says. "I felt I wasn't prepared. Here, it is more like a high school. I got the basics and gained confidence."

Indeed, he now has so much confidence that he takes courses at both the community college and the university.

Two-year colleges, like the one here, have become havens for many Hispanics who choose to attend college. In 1980, the last year for which figures were available, 54 per cent of Hispanic college students were attending two-year institutions—compared to 36 per cent of white college students.

But many Hispanic educators complain that too many Hispanics are trapped in two-year institutions because they never get the encouragement, support, and courses they need to go on to four-year institutions.

Raphael J. Magallan, executive director of the Hispanic Higher Education Coalition, an organization that advocates increased higher-education opportunities for Hispanics, says many Hispanics limit themselves to junior colleges because they receive poor advice when they are in high school.

Once in a two-year institution, many Hispanic students remain confused about additional opportunities because they continue to get poor counseling, Mr. Magallan says. "Community colleges are the least-well-funded institutions," he says, "so they generally don't have the staff to deal appropriately with counseling." As a result, many

Hispanics drop out even before completing junior college.

Mr. Magallan adds that community colleges generally suffer from an inferiority complex, making Hispanic students less sure of their abilities.

"They slack off from high expectations," he says.

Robert E. Shepack, president of El Paso County Community College, says that in view of the projected growth in the Hispanic population over the next decade and of the low percentage of Hispanics who go to college, an increase is needed in the number of Hispanics going on from two-year to four-year institutions.

"It is up to institutions like us to make it happen," he adds.

The college, founded in 1969, has labored since its beginning to develop a sound scholastic reputation, Mr. Shepack says, and it has not been easy. Because of the high concentration of Hispanic students, now 63 per cent of the total three campus population of 21,000, the college was dubbed "Taco Tech."

Mr. Shepack bristles at the derogatory label. "Community colleges are always viewed as second-class institutions—second-class citizens." He says "People didn't understand our purpose, and most universities still don't. We are here for community service and community development."

Richard A. Drum, dean of instructional resources, says the college has rapidly gained respect and acceptance because of "a commitment to being the kind of college this community needs. We are actively involved in the needs of the community in terms of economic development and social development. We work with and for the needs of the community."

It is a community that is 63 per cent Hispanic and increasingly hungry for education, Mr. Drum says, but it is also a community that historically has been denied or has not sought education opportunities. The community college, he says, due to less strict admissions requirements than four-year institutions, as well as a lower cost, is for many Hispanic students the only avenue to a career.

NOT SO MUCH AN IVORY TOWER

The community college offers a more practical avenue than do most four-year institutions, which are more research-oriented, says Carmen L. Delgado, coordinator of instructional development services. "This is not so much an ivory-tower type institution," she says. "We're technology-oriented. We're designed to meet changes in technology and make programs relevant to students' needs.

"For Hispanics, it is basically a matter of survival," she adds. "But that doesn't mean we don't place a value on education. We do value education, but the point is, we Hispanics have to survive."

The college offers about 100 vocational programs. But it is also striving to improve its academic offerings while maintaining a setting that is culturally comfortable and supportive for Hispanics.

"We have to be a nurturing institution," Mr. Shepack says. "Because the more this college helps, the more likely it is that people will be interested in education and the more likely they are to encourage others to go here."

That is important, he says, because college remains a first-generation experience for most Hispanics. "We have to build an interest that will be sustained. And we have to be sympathetic to the needs of those who want to go on."

The college's sympathy to those needs has encouraged students like Mr. Corchado, who is editor of the student newspaper, El Conquistador.

"Parents of white students have always encouraged their children, but Hispanic parents have not, so we've been on our own and isolated," he says. "A lot of Hispanics would simply drop out, but this community college offers the basic confidence to go on and to sort of come out of a shell."

He adds that he and many others, given Hispanics' unfamiliarity with college, would have been lost going to large universities, assuming they could have got in. Many Hispanic students, he noted, start at the University of Texas at El Paso but transfer to the community college.

Going to a two-year college may not be as prestigious as attending a four-year institution, he adds, but "at least we're proving that we're not dumb. We're proving we can be educated."

AN IDEA OF WHAT TO EXPECT

Angelica Hernandez, a second-year business-administration major, says the community college gave her "an idea of what to expect in college, and now I know more about what I want."

Ms. Hernandez, who hails from a small town 50 miles from El Paso, says that if she had gone first to the university, "the first semester would have been enough for me. I would have felt uncomfortable."

Her apprehension is based, in part, on a belief that her cultural identity might suffer. "In high school," she says, "whites made me feel very low. I felt that at the university they would make me feel that I had to change, that that would be the only way I could get somewhere."

The community college "has put more pride in me," she says. "I'm encouraged not to change, but to also know I can make it in the white world. They've given me the preparation for a white environment."

Ms. Hernandez now says she has the confidence to go on to the university's El Paso campus, an institution that has itself grown more sensitive to the needs of Hispanics. About 48 percent of all students at the university are Hispanics.

The attitudes of students like Mr. Corchado and Ms. Hernandez indicate that there is increased Hispanic interest in four-year institutions, but many barriers still remain.

Carlos Aguilar, an instructor in economics at the college, says students are better qualified and less fearful than they used to be. But he adds, "While they seem to try harder, many still don't know what they want to do. There are lingering self doubts when they are faced with alternatives to the community college. One thing we have to do is diminish that awe of the university. Many students still tell me that UTEP [the University of Texas at El Paso] scares them because of the swim-on-your-own attitude. Lack of confidence continues to be a drawback for many Hispanic students, and many still settle just for the community college."

Community colleges can eliminate some of the educational barriers that prevent Hispanics from enjoying full access to higher education, he says, but the students themselves will have to eliminate the barriers caused by their own perceptions of college.

But the barrier that Hispanics complain about most is one that is imposed by four-year institutions.

The higher admissions requirements of four-year institutions deny most Hispanic students initial access, they say, and then block junior-college transfers by limiting the number of credits that can be transferred.

"The problem is not a community-college problem; it is a university problem," says Mr. Shepack. "Universities have to develop enveloping curriculums so they can recognize what we do but still get what they want. And they have to be less imposing. They blame us for their not having more Hispanic students, but they are the ones who refuse to change.

"It is too bad the universities don't do more to serve Hispanics and accommodate their uniqueness. Why do they have to fit everybody into the same mold? They have no right to perpetuate a system that denies an equal opportunity for an education."

MAKING IT EASIER TO TRANSFER

In the last few years, the El Paso community college has worked closely with the university to make it easier for students to transfer, and many students take classes at both institutions simultaneously. Part of the problem has been that students have taken community-college courses that were never intended to offer credit that could be transferred.

But a parallel program now allows students at the community college to major in 40 areas acceptable for transfer to the university.

That is the type of alliance that Mr. Magallan says more two-year and four-year institutions must forge. "Only in a few places in the country are there well-thought-out programs that follow through a matriculation," he says. "More attention from institutions, particularly universities, is needed, because we're not moving an appropriate number of Hispanic students into the track of four-year institutions. "

Improved course transferability is essential, Mr. Magallan says, because many Hispanic students with the desire to go to four-year institutions find themselves on a treadmill as they try to accumulate the needed credits. "It is like a mouse in a maze." he says "After a while they get frustrated."

Four-year institutions also must work on diminishing their imposing perception, he say. "They have to demystify their bigness, so that students will have the opinion that if they do well as community colleges they can do well elsewhere," he says.

But many community colleges continue to have academic shortcomings, Mr. Magallan says. "They have to give more language skills and skills in math and science and urge students to move on."

As the U.S. Hispanic population increases, the role of the community college will become increasingly important, he says. "What happens in comunity colleges, given the current enrollments, could affect the education-participation rates of the future. They have to force partnerships that will improve the condition of education for Hispanics, because they already play a critical role for Hispanics today."●

BAD REASONING BY TV NETWORKS

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. SWIFT. Mr. Speaker, recently, this excellent editorial appeared in the

Ferndale Record, a newspaper in my district in Washington State. I am pleased that it gives favorable mention to the resolution I have introduced—along with the gentleman from California (Mr. THOMAS)—with regard to early projections of election returns, but most important is the point it makes about a fundamental lack of consistency on the part of the television networks.

As this editorial accurately observes, there are many instances, including all kinds of sports events, in which the networks delay broadcasting information. And yet, when it comes to one of the most fundamental processes of our democracy—our elections—they piously insist that there is some journalistic imperative dictating that they cannot wait. They have no choice but to rush onto the air and announce who they believe has won, even before all American voters have had an opportunity to cast their ballots.

BAD REASONING BY TV NETWORKS

(By Sonja Nelson)

The TV lords work in wondrous ways. On the one hand those at ABC, the official Olympic Games network, pretended that Rosalynn Sumners did not skate in her final competition until prime time, even though the results of the Gold Medal skate had been reported all day over the radio. And on the other hand the national networks have refused to hold off on election day projections because of a difference in time zone.

In the telecasting of the Olympics, reality did not concern ABC. But when it comes to the elections they say they must adhere to reality. The only conclusion one can draw is that the through line of these decisions is not reality but their pocketbook.

But perhaps the networks have wrongly assumed what its audience wants in these situations. To pretend that an Olympic competition is live and that no one in the audience already knows the outcome is to asume that the audience cares nothing about reality.

The Olympic Games are for many people more than a little entertainment on TV. It is news, and to assume that the news has not happened when, in fact, it has is to belittle the audience. The action of the network also denigrated the Olympic Games themselves, turning them into some kind of a game show.

Rosalynn Sumners, along with Debbie Armstrong, Phil and Steve Mahre and Bill Johnson (and all the other non-Washington medal winners) are much more than entertainers. They are exciting proof that Americans can achieve excellence and can excel in competition against other talented people in the world.

In spite of the fact that most of the American athletes say they do it for themselves, they elicit feelings of patriotism in a lot of viewers in an era when patriotism is hard to come by.

ABC insisted on distorting this reality, whose accurate reporting has benefit to the country, but the networks insist on "accurate" reporting during the election, when it obviously does damage to the democratic process.

They want to tell the West Coast how the East Coast is voting as quickly as a poll can be made of voters leaving the voting booths in New York and other eastern states.

West Coast voters listening to the polls may well decide not to vote or may change their votes to go with a winner. In the 1980 election, results were projected at 5:15 PST.

Rep. Al Swift has the right idea when he introduced a resolution calling on broadcasters to "voluntarily refrain from projecting election results before the polls close.

Neither Swift nor other supporters of the resolution want to lay down legal and binding restrictions on the media. But they would like to see a voluntary restraint on election poll projections which hurt the West Coast most of all.

If the networks can tell its audience that Rosalyn Sumners is doing something now that she actually finished doing hours before, they should be able to refrain from telling half its audience what they think the other half did in the voting booth a few hours before.

I would also like to observe another instance in which one of the networks has decided that delay is alright after all. On "Super Tuesday," that network had its election wrap-up at 10 p.m. Subsequently, however, it was reported that the ratings for that show were so low that the network has gone back to having its wrap-up at 11:30 p.m., along with the other two networks. So much for journalistic imperatives.●

REAGAN: BEST SINCE FDR

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. PHILIP M. CRANE. Mr. Speaker, our country faced a loss in our national pride both at home and abroad during the past few administrations. The basic concepts upon which our Nation is based, liberty and free enterprise, were being eroded away. President Reagan has reversed these trends, bringing a new sense of order and humanity back to our Government.

In the early 1960's the Supreme Court rendered a series of opinions which had the effect of banning prayer in the public schools of our Nation. President Reagan has led the effort to bring prayer back into our public schools, and has challenged the erosion of our national spirit.

Mr. Thomas F. Roeser has written an outstanding editorial in the Chicago Sun-Times on the subject of our President and his efforts to bring humanism back into Government. I hope that my colleagues will take a few moments to read it.

The editorial follows:

[From the Chicago Sun-Times, Feb. 13, 1984]

RONALD REAGAN: GREATEST PRESIDENT SINCE FDR

(By Thomas F. Roeser)

The night the tipsy, middle-aged ex-actor and playwright consumed too much Rhenish wine and pickled herrings, following which he strolled, coatless, from stifling pub into the chill air of April, 1616, where he caught a fatal cold, is, for many, the cresting-point of English literature.

When he died, William Shakespeare was regarded as merely a successful dramatist, but no eternal star blazing in the firmament. It fell to Ben Jonson to instruct all England that his old drinking partner had surpassed Sophocles in tragedy, Aristophanes in comedy.

Not that Shakespeare had been perfect. Adoring actors, Jonson recalled, had boasted that Shakespeare had never blotted a line. "Would that he had blotted a thousand," growled Ben. Nevertheless for all the defects, said he, Shakespeare belonged not just to his time, but to the ages.

As great presidents must also be dramatists (designing scenarios to meet their political needs rather than accepting ones that events impose), Ronald Reagan will someday be called the greatest chief executive since the modern model to whom all predecessors must be compared, Franklin D. Roosevelt.

The comparison is not as extravagant as it seems, but for which I shall assuredly be lashed by liberal essayists in this place.

Roosevelt and Reagan are identical in that as dramatists they instilled a certainty that offset many blotted lines. "There is nothing to fear," proclaimed Roosevelt. "There is a new feeling on the part of the American people," Reagan declared, "a belief in themselves and their country."

Though touted as a pragmatist with no fixed beliefs, it was the certainty ingrained by Groton, its headmaster Endicott Peabody, and the Episcopal vestry that emboldened FDR to save the capitalistic system and Western civilization in the two most audacious gambles of all time.

He rescued capitalism from the scrap heap of disillusionment by contriving a corporate state; he won his crown, however, by maneuvering us into a war—secretly, yes even duplicitously, but necessarily—which saved Western civilization.

Reagan's first task is accomplished. He restored presidential prestige after debacles by Lyndon Johnson, Richard Nixon, Gerald Ford and Jimmy Carter. Now he faces the greater—for the ages—task. It is to preserve peace by intriguing a kind of Catch-22 bluff, that we can only forestall war if we believe freedom is worth striving and, in the last analysis, dying for.

His task is formidable. The nihilism in which we have been indulging is secular anti-humanism, the view that man is merely an advanced autonomoton, the feeling that since we cannot know whether God exists we must save ourselves any way we can—a view that permeates government, courts, media and churches.

Reagan has done more than assail secular anti-humanism; he has linked it to weakness of the life-urge that counsels we should lay down on defense, spare only the unborn who will be convenient to us, and euthanize the elderly (it is called "death with dignity").

He has begun to change it, by power of the bully pulpit, winning support for government programs and by appointments of people imbued with a new philosophy to the judiciary.

By deftly turning the nation's course, Reagan is achieving far more than political change. He is truly waging a counterrevolution. He is proving to be a presidential John XXIII—intended to be a footnote, but who wrote a volume.

But inertia may yet triumph, which is why I believe the 1984 election will be des-

perately hard-fought with victory either won or denied Reagan by an eyelash. No other president has freely alienated so many of the powerful when he could serve his own needs by being another noncommital Jerry Ford.

Reagan's task is, thanks to the disinterested media, the best-kept secret in town. The 1962-63 imperial court we call Supreme changed the historic formulation by which under the establishment clause neutrality was scrupulously maintained among the religions. By adding non-theism as a religion, the court not only defied rationality, it imposed upon us all the civil religion of secular anti-humanism.

This has become the prevailing illness of the West and of our own society—intellectual poverty, unreasoned social discontent, political impotence, moral decadence. Nowhere is anti-humanism a greater threat than with intellectuals who guerrilla-style counsel despair instead of the will needed to build up our defenses.

But if in his first term the forces of anti-humanism met their match, in a second—granted Reagan gains one—they will meet their master.●

GREECE'S INDEPENDENCE DAY

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 20, 1984

● Ms. FERRARO. Mr. Speaker, as the Representative of over 28,000 Greek-American constituents, it is an honor and a personal privilege for me to join my colleagues in celebrating the 163d anniversary of Greece's independence from Turkish domination. In the light of the November 15, 1983, declaration of independence of a "Turkish Republic of Northern Cyprus" by the Turkish Cypriot authorities, this year's commemoration of Greece's independence assumes a new meaning both for the Greeks themselves and the freedom-loving peoples around the world.

After a long and heroic struggle to liberate themselves from the occupying Turkish authorities, on March 25, 1821, the Greek patriots from Macedonia to Crete, and from the Ionian Sea to the Aegean Islands, rose up in unison to reclaim their ancient glory and freedom. It was a mighty political event that inspired Lord Byron to muse: "I dream'd that Greece might still be free." And, indeed, over a decade later, Greece's modern-day independence was recognized by the civilized world with the signing of the Treaty of London on May 7, 1832. Byron's dream came true and Greece had become once again an independent kingdom.

Mr. Speaker, our commemoration of Greece's independence renews our commitment to human freedom. For it was the Greeks who first dedicated themselves to the principle of free government based on their ideals of individual worth, dignity, and freedom. Our own system of government is, indeed, a living testimony to the power and truth of these ideals valued by the Greeks.

In the words of Thomas Jefferson, we owe so much to the Greeks and that debt still rests heavily on the shoulders of the living, and the future races of men.

Greece's independence is precious to us all and the yearning for self-determination and the strengthening of their democratic institutions, in Greece as well as in Cyprus, deserves our unwavering support.●

THE FUTURE OF EL SALVADOR

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. WEBER. Mr. Speaker, I would like to call the attention of my colleagues to the third and final part of a report prepared by Mr. Frank Graves, a Minnesota businessman, on the current situation in El Salvador. Mr. Graves concludes his report with suggestions on how to improve our policies in this country. I believe the optimism and hope that Mr. Graves shares with us about the future of El Salvador is something we should all remember. The recent elections give solid proof to his hope:

REACTION TO THE CARIBBEAN BASIN INITIATIVE

During the course of a meeting with Sr. Conrado Lopez Andreu, president of both the Chamber of Commerce and ANEP (National Association of Private Enterprise) and Sr. Juan Vicente Maldonado, Executive Director of ANEP, we discussed the implications of the Caribbean Basin Initiative to El Salvador.

Both men were unreservedly enthusiastic about the CBI and saw it as enlightened international statesmanship of a kind they were not used to seeing from the U.S.

They strongly believe that CBI gives the country a chance to help itself in developing its industrial base. They pointed out that as important as agriculture is to El Salvador it will not be able to provide an economic growth that keeps apace with population growth. To do this light industry is needed and CBI provides the necessary markets for such industry.

They hope also that CBI will re-attract U.S. investors to El Salvador once the guerrilla problem has been solved. They remember wistfully, the impact of Texas Instrument's manufacturing operation there and believe this initiative will encourage that type of business.

They also were enthusiastic about the possibility of a bilateral free trade association with the United States which would encourage U.S. investment even more than CBI. (It should be remembered that El Salvador has always been pro U.S. In the middle of the last century sometime, it made overtures for statehood but was not taken seriously in the U.S.)

Obviously the kind of opportunity for developing economic independence the Caribbean Basin Initiative provides El Salvador is a better course than having it become an economic dependency. It is better for the Salvadoran people and better for the U.S. taxpayer.

CONCLUSIONS AND RECOMMENDATIONS TO CONGRESSMAN WEBER

1. CONCLUSION

The guerrillas cannot win the war militarily. They don't have the support of the people and they don't have the forces to achieve victory. The Salvadoran Army can win in the field without the help of U.S. troops, provided the U.S. increases its support to the level necessary to achieve a decisive advantage. A decisive victory in El Salvador is critical to the United States for several reasons . . . first, it will put the Soviet-Cuba-Nicaragua Axis on notice that we intend to stand firm against marxist aggression in this hemisphere, . . . second, it will re-establish respect for the United States with our allies, . . . and third, it will restore our own national self-confidence lost in Vietnam.

RECOMMENDATION

Support substantial increases in military aid to El Salvador's armed forces. Increases should include a larger advisor group, medical training and support, training in the U.S. and in Panama for Salvadoran officers, and necessary equipment such as light infantry weapons, greater amounts of small arms and field artillery ammunition, additional helicopters for rapid troop deployment and medical evacuation, and radio equipment to improve command control and communications at the small unit level.

2. CONCLUSION

A great many influential people in the business and agriculture communities have lost confidence in the judgment and motives of the U.S. as a result of the injustices done to them in the land reforms. The good will and confidence of many thousands of these people is essential to the economic recovery of the country and to the future of El Salvador as a U.S. ally.

RECOMMENDATION

Support commitment of the funds necessary to compensate land owners and stockholders of agribusiness corporations for the loss of property confiscated under land reform. Such funds might be made available in the form of a government to government long-term loan which flows through to the former owners. Provision should be included which ensures the money remains in the country. Early settlement with the land owners would go a long way toward rebuilding Salvadoran confidence and trust in the U.S.

3. CONCLUSION

Salvadoran police methods need reorientation and the police forces need retraining. It is no concidence that those organizations that have close contact with U.S. advisory personnel, like the army, have a better human rights record than those that do not. We can give the Salvadorans a great deal of help in making their transition to a democracy. They need our help in training their police.

RECOMMENDATION

Support a Public Safety aid package aimed at training the various police forces and law enforcement agencies in their role of protecting the people, keeping the peace, criminal apprehension, and in investigative and interrogative techniques which respect human rights. I understand it will be necessary to repeal some Provisions of the For-

eign Assistance Act of 1974 which prohibit training police, to do this.

4. CONCLUSION

The Land and Banking reform program as it was imposed upon El Salvador was a mistake. Not only has it done great damage to El Salvador, it also has severely tarnished the U.S. image in the region. The Banking reforms might be reversible but the land reforms probably are not without causing additional chaos. In any case, both must be modified to the extent necessary to restore competition, kindle incentive to produce, and to rebuild confidence in the national economy.

RECOMMENDATION

Support a program for a joint reevaluation by the U.S. and El Salvador, of the land, banking and other reforms with the objective of modifying them as necessary to revive a viable free enterprise economic system which can sustain itself and thus obviate the need for more economic aid from the U.S.

5. CONCLUSION

The Caribbean Basin Initiative is viewed as a very positive development and it has created considerable enthusiasm in El Salvador.

RECOMMENDATION

Support the rapid development of a close economic relationship between the U.S. and El Salvador under the provisions of President Reagan's Caribbean Basin Initiative.

6. CONCLUSION

The only way to get a true "feel" of the situation in El Salvador is to be there in person, see the situation first hand and talk to people there who are personally involved. Being there gives one an immediate sense of the degree of bias and hysteria reflected in our press coverage of the situation there, and it restores proportion and perspective to our judgement of Salvadoran progress and problems.

RECOMMENDATION

Visit El Salvador personally to make your own contacts with Salvadoran political, military and business leaders as well as with key U.S. personnel on the scene. Get into the field and onto the farms. You will confirm for yourself that the country and its people are strong allies, that they are important to the U.S. strategically, economically and fraternally, and that they deserve more understanding and more enthusiastic support from us.

Thank you, Mr. Speaker.●

THE PEOPLE OF ARIZONA HAVE A RIGHT TO KNOW WHERE I STAND

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. UDALL. Mr. Speaker, it has become my practice from time to time to list my votes in the House of Representatives here in the CONGRESSIONAL RECORD. I strongly believe that the people of Arizona have a right to know where I stand on the issues decided by the House, and I have found that printing my record here is the best way to provide that information.

This is not an all-inclusive list. I have omitted noncontroversial votes such as quorum calls, motions to resolve into the Committee of the Whole House, and motions to approve the Journal of the previous day.

The descriptions are necessarily somewhat short, and I am sure that some of my constituents will have additional questions about the issues described here. So I invite them to write me for specifics, or to visit my district office at 300 North Main in Tucson or 1419 North Third Street, Suite 103, in Phoenix.

The list is arranged as follows:

1. Official rollcall number;
2. Number of the bill or resolution;
3. Title of the bill or resolution;
4. A description of issue being voted on;
5. The date of the action;
6. My vote, in the form Y=yes, N=no, and NV=not voting.
7. The vote of the entire Arizona delegation, in the form (Yes-No/Not voting);
8. An indication whether the motion or amendment was passed or rejected; and
9. The total vote.

151. H.R. 3135. Legislative Branch Appropriations, Fiscal 1984. Hiler, R-Ind., amendment to reduce funds for the Congressional Budget Office by $733,850, from $16.3 million to $15.6 million. Rejected 141-164: N(2-2-1), June 3, 1983.

152. H.R. 3135. Legislative Branch Appropriations, Fiscal 1984. Brown, R-Colo., amendment to reduce by $169,876 the bill's funding for 14 operators of automatic elevators in House office buildings, thus eliminating their positions. Rejected 101-193: N(1-3-1), June 3, 1983.

153. H.R. 3135. Legislative Branch Appropriations, Fiscal 1984. Passage of the bill to appropriate $1,208,397,750 for the legislative branch in fiscal 1984. Passed 184-104: Y(3-1-1), June 3, 1983. The president had requested $1,227,335,200 in new budget authority. Traditionally, the president simply requests the amount congressional agencies want included in the budget.

154. H.R. 3132. Energy and Water Development Appropriations, Fiscal 1984. Adoption of the rule (H Res 210) to waive certain points of order during House floor consideration of the bill to make fiscal 1984 appropriations for energy and water development. Adopted 271-92: Y(5-0-0), June 6, 1983.

155. H.R. 3132. Energy and Water Development Appropriations, Fiscal 1984. Bevill, D-Ala., motion that the House resolve itself into the Committee of the Whole for consideration of the bill to make fiscal 1984 appropriations for energy and water development. Motion agreed to 337-30: Y(5-0-0), June 6, 1983.

156. H.R. 3132. Energy and Water Development Appropriations, Fiscal 1984. Wise, D-W. Va., amendment to delete $26 million in the bill for construction of the Stonewall Jackson Dam in West Virginia. Adopted 213-161: N(0-5-0), June 6, 1983.

158. H.R. 3132. Energy and Water Development Appropriations, Fiscal 1984. Edgar, D-Pa., amendment to delete $56 million in the bill for the Dolores and Dallas Creek water projects in Colorado. Rejected 140-257: N(0-5-0), June 7, 1983.

159. H.R. 3132. Energy and Water Development Appropriations, Fiscal 1984. Sensenbrenner, R-Wis., amendment to reduce the appropriation for the Department of Energy's energy supply, research and development activities by $10 million. Rejected 105-312: N(0-5-0), June 7, 1983.

160. H.R. 3132. Energy and Water Development Appropriations, Fiscal 1984. Passage of the bill to appropriate $14,179,223,000 for energy and water development for fiscal 1984. Passed 379-39: Y(5-0-0), June 7, 1983. The president had requested $14,610,671,000 in new budget authority.

161. H.R. 1271. El Salvador Aid Certification. Barnes, D-Md., motion to suspend the rules and pass the bill to require the president, in his July 1983 certification report to Congress on El Salvador's eligibility for continued U.S. military aid, to report on whether the government had made "good faith efforts" to bring to justice those responsible for the murders of eight U.S. citizens. Motion agreed to 416-2: Y(4-1-0), June 7, 1983. A two thirds majority of those present and voting (279 in this case) is required for passage under suspension of the rules.

162. H.R. 2207. Emergency School Aid Act. Perkins, D-Ky., motion to suspend the rules and pass the bill to authorize a program of grants to local school districts in fiscal 1984-86 to help them offset the costs of school desegregation. Motion agreed to 299-120: Y(2-3-0), June 7, 1983. A two-thirds majority of those present and voting (280 in this case) is required for passage under suspension of the rules. A "nay" was a vote supporting the president's position.

163. H.R. 2355. Vietnam Veterans' Training Act. Leath, D-Texas, motion to suspend the rules and pass the bill to establish a $325 million job training program for unemployed and disabled Vietnam-era veterans. Motion agreed to 407-10: Y(5-0-0), June 7, 1983. A two-thirds majority of those present and voting (278 in this case) is required for passage under suspension of the rules.

164. H.R. 2148. Follow Through Amendments. Andrews, D-N.C., motion to suspend the rules and pass the bill to extend the Follow Through program through fiscal 1985. The program provides educational, health, nutritional and social services to disadvantaged children previously enrolled in such preschool programs as Head Start. Motion agreed to 288-132: Y(3-2-0), June 7, 1983. A two-thirds majority of those present and voting (280 in this case) is required for passage under suspension of the rules. A "nay" was a vote supporting the president's position.

165. H.R. 2943. Washington Workshops Foundation Authorization. Perkins, D-Ky., motion to suspend the rules and pass the bill to authorize $1.5 million in each of fiscal years 1983-85 for the Allen J. Ellender Fellowship program; $100,000 in fiscal 1983 for the Washington Workshops Foundation, and $2 million in each of fiscal years 1984-85 for several law related education programs. Motion rejected 230-190: Y(2-3-0), June 7, 1983. A two-thirds majority of those present and voting (280 in this case) is required for passage under suspension of the rules. A "nay" was a vote supporting the president's position.

166. H.R. 3223. Agriculture Appropriations, Fiscal 1984. Adoption of the rule (H Res 220) providing for House floor consideration of the bill to make fiscal 1984 appropriations for the Agriculture Department, the Food and Drug Administration and the Commodity Futures Trading Commission. Adopted 339-66: Y(5-0-0).

167. H.R. 3223. Agriculture Appropriations, Fiscal 1984. Passage of the bill to appropriate $34,029,527,000 in fiscal 1984 for the Agriculture Department, the Food and Drug Administration and the Commodity Futures

Trading Commission. Passed 297-115: Y(2-3-0), June 8, 1983. The president had requested $34,083,229,000 in new budget authority.

168. H.R. 3191. Treasury, Postal Service and General Government Appropriations, Fiscal 1984. Adoption of the rule (H Res 222) providing for House floor consideration of the bill to make fiscal 1984 appropriations for the Treasury Department, U.S. Postal Service, Adopted 229-183: N(4-1-0), June 8, 1983.

169. H.R. 3191. Treasury, Postal Service and General Government Appropriations, Fiscal 1984. Jacobs, D-Ind., amendment to eliminate from the bill $910,700 for the office expenses of former Presidents Richard M. Nixon, Gerald R. Ford and Jimmy Carter, leaving $260,300 for pensions for them and for the widow of former President Lyndon B. Johnson. Adopted 244-169: Y(4-1-0), June 8, 1983.

170. H.R. 3191. Treasury, Postal Service and General Government Appropriations, Fiscal 1984. Smith, R-N.J., amendment to prohibit the use of federal health benefit funds to pay for abortions unless the life of the mother is endangered. Adopted 226-182: N(3-2-0), June 8, 1983. A "yea" was a vote supporting the president's position.

171. H.R. 3191. Treasury, Postal Service and General Government Appropriations, Fiscal 1984. Passage of the bill to appropriate $11,907,652,300 for the Treasury Department, U.S. Postal Service, executive offices and certain independent agencies in fiscal 1984. Rejected 149-259: Y(2-3-0), June 8, 1983. The president had requested $11,576,298,000 in new budget authority.

173. H.R. 2915. Treasury, Postal Service zations. Adoption of the rule (H Res 198) providing for House floor consideration of the bill to make supplemental authorizations in fiscal year 1983 and regular authoriations in fiscal years 1984-85 for the State Department, the United States Information Agency, the Board for International Broadcasting and the Inter-American Foundation. Adopted 373-37: Y(4-0-1), June 9, 1983.

174. H.R. 2915. State Department Authorizations. Brown, R-Colo., amendment to delete Title VI, establishing a National Endowment for Democracy. Rejected 194-215: N(3-2-0), June 9, 1983. A "nay" was a vote supporting the president's position.

175. H.R. 2915. State Department Authorizations. Brown, R-Colo., amendment to delete references in the section establishing a National Endowment for Democracy to participate in the endowment by the "two major American political parties." Adopted 267-136: N(3-2-0), June 9, 1983. A "nay" was a vote supporting the president's position. (By voice vote, the House later adopted a related Brown amendment to delete funding in the bill for grants by the National Endowment to private institutes established by the Republican and Democratic parties.)

176. H.R. 1590. Emergency Food Assistance. Adoption of the rule (H Res 207) providing for House floor consideration of the bill to promote the distribution of surplus, federally owned commodities to emergency feeding programs. The program would be authorized from Oct. 1, 1983, to Sept. 30, 1985. Adopted 346-51: Y(3-1-1), June 9, 1983.

178. H.R. 1076. Elimination of Jones Act Exemption. Jones, D-N.C., motion to suspend the rules and pass the bill designed to strengthen U.S. domestic waterborne commerce. Motion agreed to 373-44: Y(3-2-0), June 14, 1983. A two-thirds majority of those present and voting (278 in this case) is required for passage under suspension of the rules.

179. H.R. 2062. National Marine Sanctuaries. Jones, D-N.C., motion to suspend the rules and pass the bill to authorize $2.26 million in fiscal 1984, $2.5 million in fiscal 1985 and $2.75 million in fiscal 1986 for Title III of the Marine Protection, Research and Sanctuaries Act, to provide protection for nationally significant areas of the marine environment. Motion agreed to 379-38: Y(2-3-0), June 14, 1983. A two-thirds majority of those present and voting (278 in this case) is required for passage under suspension of the rules.

180. H.R. 2969. Department of Defense Authorization. Brown, D-Calif., amendment to delete $19.4 million for procurement of an anti-satellite missile (ASAT). Rejected 177-243: Y(2-3-0), June 14, 1983. A "nay" was a vote supporting the president's position.

181. H.R. 2969. Department of Defense Authorization. McCloskey, D-Ind., amendment to bar multi-year procurement contracts for the B-1 bomber. Rejected 171-252: Y(2-3-0), June 14, 1983. A "nay" was a vote supporting the president's position.

182. H.R. 2969. Department of Defense Authorization. Levine, D-Calif., amendment to bar expenditure of funds authorized for the M-2 fighting vehicle is subjected to certain tests. Rejected 124-283: Y(1-4-0), June 14, 1983. A "nay" was a vote supporting the president's position.

184. H.R. 2969. Department of Defense Authorization. Smith, D-Fla., amendment to delete $671 million for procurement of Divad anti-aircraft guns. Rejected 134-283: Y(2-3-0), June 15, 1983. A "nay" was a vote supporting the president's position.

185. H.R. 2969. Department of Defense Authorization. Dellums, D-Calif., amendment to delete $6.2 billion for procurement of B-1 bombers. Rejected 164-255: N(1-4-0), June 15, 1983. A "nay" was a vote supporting the president's position.

186. H.R. 2969. Department of Defense Authorization. Leath, D-Texas, amendment to the Zablocki, D-Wis., amendment, to permit the use of funds in the bill to manufacture components of binary chemical weapons, but barring their final assembly until after Oct. 1, 1985. Rejected 202-216: N(4-1-0), June 15, 1983. A "yea" was a vote supporting the president's position. (The Zablocki amendment would delete from the bill $114.6 million for procurement of binary munitions.)

187. H.R. 2969. Department of Defense Authorization. Bethune, R-Ark., substitute for the Zablocki, D-Wis., amendment, to delete $114.6 million for binary chemical munitions and prohibiting the procurement of binary munitions or their components. Adopted 256-161: Y(2-3-0), June 15, 1983. (The Zablocki amendment would delete from the bill $114.6 million for procurement of binary munitions. The Zablocki amendment, as modified by Bethune, subsequently was adopted by voice vote.)

189. H.R. 1590. Emergency Food Assistance Act. Passage of the bill to require the secretary of agriculture to make available, to emergency food organizations and certain other agencies, federally owned farm commodities that are not obligated to other programs and to authorize funds for processing, transportation and administrative costs associated with distribution. Passed 389-18: Y(3-2-0), June 16, 1983.

190. H.R. 2668. Consumer Product Safety Act. Adoption of the rule (H. Res. 227) providing for House floor consideration of the bill to reauthorize the Consumer Product Commission through fiscal 1988. Adopted 390-2: Y(5-0-0), June 16, 1983.

191. H.R. 2972. Military Construction Authorization. Adoption of the rule (H. Res. 229) providing for House floor consideration of the bill to authorize appropriations for military construction in fiscal 1984. Adopted 397-0: NV (4-0-1), June 16, 1983.

192. H.R. 2969. Department of Defense Authorization. Dellums, D-Calif., amendment to delete from the authorization all funds, amounting to $432.8 million, for procurement of Pershing II missiles. Rejected 73-319: NV (0-3-2), June 16, 1983. A "nay" was a vote supporting the president's position.

193. H.R. 1492. Christopher Columbus Quincentenary. Garcia, D-N.Y., motion to suspend the rules and pass the bill to establish a Christopher Columbus Quncentenary Jubilee Commission and authorize funding of $200,000 for fiscal 1984, $250,000 a year in fiscal 1985-92 and an additional $50,000 for the period of Oct. 1-Nov. 15, 1992. Motion agreed to 288-123: Y(3-2-0), June 21, 1983. A two-thirds majority of those present and voting (274 in this case) is required for passage under suspension of the rules.

194. H.R. 3329. Transportation Appropriations, Fiscal 1984. Adoption of the resolution (H. 238) to waive certain points of order against consideration of the bill to appropriate funds for the Transportation Department and related agencies in fiscal 1984. Adopted 373-41: Y(5-0-0), June 22, 1983.

195. H.R. 3329. Transportation Appropriations, Fiscal 1984. Fiedler, R-Calif., amendment to delete $127.5 million for a Los Angeles subway. Rejected 139-280: N(1-4-0), June 22, 1983.

196. H.R. 3329. Transportation Appropriations, Fiscal 1984. Glickman, D-Kan., amendment to strike a provision prohibiting the use of funds to develop or implement a federal regulation that would lower the number of passengers or air carrier slots at National Airport in Washington, D.C. Rejected 170-249: Y(2-3-0), June 22, 1983.

197. H.R. 3329. Transportation Appropriations, Fiscal 1984. Lehman, D-Fla., motion that the Committee of the Whole rise and report the bill back to the House with sundry amendments, with the recommendations that the amendments be adopted and the bill passed. Motion agreed to 275-139: Y(3-2-0), June 22, 1983.

198. H.R. 3329. Transportation Appropriations, Fiscal 1984. Coughlin, R-Pa., motion to recommit the bill to the appropriations Committee with instructions to cut all programs by 4 percent except for mandatory appropriations, rescissions and appropriations to liquidate obligations already incurred. Motion rejected 191-223: N(3-2-0), June 22, 1983.

199. H.R. 3329. Transportation Appropriations, Fiscal 1984. Passage of the bill to appropriate $11,299,897,225 for the Transportation Department and related agencies in fiscal 1984. Passed 250-156: Y(2-3-0), June 22, 1983. The president had requested $10,913,472,025 in new budget authority.●

INTRODUCTION OF H.R. 5297, THE CIVIL AERONAUTICS BOARD SUNSET ACT OF 1984

HON. JOHN P. HAMMERSCHMIDT
OF ARKANSAS
IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. HAMMERSCHMIDT. Mr. Speaker, today I join with Aviation Subcommittee Chairman NORMAN MINETA and with other colleagues on the Public Works Committee to introduce the Civil Aeronautics Board Sunset Act of 1984. This legislation would assure the orderly phaseout of the Civil Aeronautics Board (CAB), which is now scheduled to go out of existence at the end of this year in accordance with the provisions of the Airline Deregulation Act of 1978 (ADA). I believe that, if adopted, this legislation will assure that any problems associated with CAB's sunset will be minimized and that the transfer of the Board's current functions will be accomplished without any adverse effects on the traveling public.

As my colleagues are aware, the ADA provided for the transfer of many of the CAB's functions on January 1, 1985. Among these responsibilities are the administration of international aviation functions, the essential air service program, and section 43 labor protection determinations, all of which are scheduled to transfer to the Department of Transportation.

However, the ADA did not specifically provide for the transfer of certain other CAB functions relating to domestic air transportation, such as jurisdiction over consumer protection, competitive practices, and fitness of air carriers. Because I believe that the traveling public must continue to receive the same level of protection that it has come to rely upon over the years, the legislation being introduced today assures that these important responsibilities will not be eliminated. In addition, it also consolidates within DOT virtually all of the transferring CAB functions, thus avoiding the confusion and other problems which would undoubtedly occur if these responsibilities were transferred to numerous different Federal agencies.

Among the major provisions in the bill are:

First, consumer protection and competitive practices jurisdiction—section 411 of the Federal Aviation Act: the bill would transfer the CAB's existing authority to regulate unfair and deceptive practices and unfair methods of competition to the Department of Transportation (DOT) as it applies to domestic air transportation. Since DOT will receive these functions as they relate to international aviation and essential air service, it is only logical to transfer CAB's remaining domestic authority to DOT.

The authority in section 411 has been used by the CAB to adopt regulations on denied boarding compensation, baggage liability, notice to passengers about the terms of carriage, and certain protections for charter passengers. In addition, the CAB has recently issued rulemaking proposals relating to airline computer reservations systems—which were the subject of extensive hearings before the Aviation Subcommittee last year—and final rules are expected to be adopted in the near future.

However, if the authority in section 411 is not specifically transferred by statute, there is a strong likelihood that these rules, as well as the authority to promulgate them, will terminate when the Board sunsets. If this occurs, airline passengers would lose all of the regulatory protections which have evolved over the years and which they have come to rely upon when using our air transportation system. Clearly, this is something the Congress should not allow to occur.

Although I have also considered whether this function should be transferred to the Federal Trade Commission—which has similar jurisdiction for other industries—I believe that, on balance, DOT's expertise in air transportation, its ability to use informal rulemaking procedures, and the need to avoid undue fragmentation of authority are the primary reasons for my decision to support transferring this function to the DOT.

For the same reasons, the legislation also transfers CAB's existing authority in section 404(a) of the Federal Aviation Act to the DOT. This section contains the CAB's authority to require domestic air carriers to provide safe and adequate service and is the basis upon which the Board has issued regulations dealing with smoking aboard aircraft and transportation of handicapped passengers on air carriers not receiving direct Federal subsidy.

Second, authority to approve mergers, interlocks, and agreements, and to grant antitrust immunity for these transactions—sections 408, 409, 412, and 414 of the Federal Aviation Act: Under existing law, these functions are to be transferred to the Department of Justice (DOJ) when the CAB sunsets. Nevertheless, I believe that there are compelling circumstances which require this authority to be transferred instead to DOT.

Just as the ICC has jurisdiction over similar issues affecting motor carriers, I believe DOT's expertise in air transportation makes it particularly well-equipped to exercise this authority. For example, sections 408 and 412 specifically require that, in determining whether certain transactions or agreements should be approved, the transportation benefits which would be provided must be balanced against the possible anticompetitive effects involved. Because I believe that DOT would be in the best position to evaluate these often competing considerations, the bill transfers these provisions to DOT.

The authority contained in sections 412 and 414 pertaining to industry agreements would continue at DOT indefinitely for matters involving foreign air transportation, but would expire on January 1, 1989, as it relates to domestic air transportation. Similarly, the authority contained in sections 408, 409, and 414 would expire in all respects on January 1, 1989.

However, the legislation requires DOT to report to Congress by July 1, 1987, on whether it believes the authority contained in these provisions should be continued or repealed. Therefore, if circumstances warrant the retention of this authority beyond January 1, 1989, Congress could act accordingly to preserve it.

Third, fitness of air carriers: Currently the CAB examines an air carrier's financial fitness, compliance disposition, and managerial ability before deciding whether to issue a certifcate under section 401 of the Federal Aviation Act. This certificate, combined with an air carrier operations certificate issued under section 604 by the Federal Aviation Administration, constitutes a carrier's authority to conduct operations.

Although the domestic fitness function was not specifically transferred by the Airline Deregulation Act, I believe it is important that the thorough inquiry now conducted by the CAB be continued after sunset. As in the case with consumer protection, DOT will receive this authority as it relates to the essential air service program and international aviation, and it therefore makes good sense to require it to conduct this inquiry for other air carriers involved in domestic air transportation as well.

While I realize that DOT has indicated its willingness to evaluate a carrier's financial fitness as a factor in determining whether to issue an air carrier operating certificate under section 604, I do not believe that an inquiry of this nature would be as thorough as that presently conducted by the CAB. Moveover, with the proliferation of new airlines in this deregulated environment, it is important that we assure the traveling public that carriers will be adequately prepared to undertake their responsibilities. Accordingly, the legislation transfers this function to DOT and will require DOT to continue issuing separate certificates under section 401 of the act.

Second, data collection—section 407(a), 415 of the Federal Aviation Act: Under existing law, the CAB has authority to collect necessary data from carriers and to make that data available to the public. The CAB and

DOT have been engaged recently in efforts to decide upon the kinds of data that should be collected after CAB sunsets. Although much of the information which used to be collected is no longer necessary in today's deregulated environment, DOT, CAB, and the vast majority of the aviation community believe that continued collection of certian kinds of data is necessary and in the public interest.

Therefore, the bill contains a provision which transfers the CAB's authority to collect necessary data to the DOT and also contains a specific provision requiring the continued collection of origin and destination and service segment traffic data.

This data, which shows the number of passengers traveling on various flight segments, as well as their points of origin and ultimate destinations, provides important information about the flow of traffic throughout our air transportation system. The continued availability of this information will not only facilitate efficient State and local planning for air transportation services, but will also enable Federal officials to do a better job of monitoring national air transportation trends.

The bill also contains other technical, conforming, and clarifying amendments, and although I will not mention them specifically here, I would like to direct the attention of interested parties to the section-by-section analysis of the bill which accompanies the introductory statement filed by Congressman MINETA, the chairman of the Aviation Subcommittee.

Mr. Speaker, this legislation results from numerous hearings which we have conducted on the economic issues associated with airline deregulation. As a result of this thorough inquiry, I firmly believe that adoption of this bill is essential if we are to have an orderly phaseout and transfer of the CAB's functions.

While the Board's disappearance will close another chapter in this country's movement toward a deregulated air transportation system, we cannot overlook the fact that the traveling public and the aviation community will continue to expect that the Federal Government will be able to respond to problems which may arise from time to time. Accordingly, we must assure that the authority in place to perform these important responsibilities will continue to exist and be administered by an agency with demonstrated expertise in air transportation issues. I am confident that this legislation accomplishes these objectives and, for these reasons, urge my colleagues to support it.●

DEATH OF AN ARCHBISHOP

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. HYDE. Mr. Speaker, yesterday's Washington Times contained two articles concerning the tragic and controversial assassination of Archbishop Ocar A. Romero in Nicaragua. One is by Virginia Prewett, and the other is a transcript of a statement by Pedro Lobo, a former Communist guerrilla who has direct knowledge of the circumstances.

They rebut the propaganda that this murder was the dirty work of any group other than the Communists.

I commend the following articles to my colleagues' attention:

[From the Washington Times, Mar. 28, 1984]

ROMERO SAID TO HAVE BEEN MURDERED BY COMMUNISTS

(By Virginia Prewett)

El Salvador's presidential campaign became a real-life whodunit mystery drama with a nation's fate at stake instead of an English weekend's houseguest's. It could be called "Death of an Archbishop" or even "Clouds of Witnesses."

A series of charges and counter-charges over whether the left or the right murdered the left-leaning Archbishop Oscar A. Romero of San Salvador on March 24, 1980, and over who ran "rightest death squads" accused of killing "hundreds of thousands" [sic] were at issue.

The charges were expected to have more effect on how the U.S. Congress votes on a $93 million Salvadoran arms-aid request by President Reagan than on voting results in last Sunday's Salvadoran presidential elections. Accusations that the anti-communist ARENA candidate, Roberto d'Aubuisson, and his supporters are linked to the archbishop's killing and other horrendous crimes have thrummed in the U.S. major media for months and around Capitol Hill. If the charges stand, and if Mr. d'Aubuisson is elected, they will affect how Washington treats El Salvador.

On March 17, candidate d'Aubuisson, halfway through a major TV political speech, produced Pedro Lobo, a self-described defector and former comandante in the FMLN communist guerrilla high command. Comandante Lobo gave details of how his guerrillas, not "rightists," murdered the archbishop as a necessary "sacrifice."

In full view of his Salvadoran audience (among whom "everybody knows everybody"), without mask or head covering, Mr. Lobo named the man he said fired the fatal shot and several members of the hit squad of 10, whose indoctrination is Sandinista Managua and final preparation in "Maurice Bishop's Grenada" he described.

Mr. Lobo accused Miguel Angel Blandino Niero, brother of a known communist terrorist, "Roger," of sniping Msgr. Romero from across the circular driveway in front of the chapel of San Salvado's Divina Providencia cancer hospital for the poor, where the archbishop was celebrating a memorial mass. Lobo said that he and a Spanish woman called "Dominica," who passed as a nun, and other hit-team members had penetrated the archbishop's informal security watch; that a well known Salvadoran woman terrorist called "The Dwarf" Letona, be cause of her short stature, was ready in a car "angled across" the roadway to delay the rushing of the archbishop to a major hospital 10 minutes away if he were only wounded. ("And so it turned out," said Mr. Lobo.)

"Dominica" was inside the chapel, he said, and managed to go along to the emergency hospital, the Policlinica, to be sure the guerrillas knew the archbishop was dead. TV news films of the police and doctors rushing the archbishop into the hospital elevator where he died caught "Dominica" in their footage, he said.

Mr. Lobo said the long-time communist guerrilla leader Cayetano Carpio and his right-hand woman, Melida Anaya Montes, both of the FPL terrorist faction (Popular Liberation Forces) and since dead in internal guerrilla feuds, planned Msgr. Romero's murder along with "Dominica," the false Spanish nun, "to create a martyr." The archbishop was useful as what the Marxists call a "leader of masses," that is, a liberal-leftist with a popular following but not under Communist Party discipline.

Mr. Tabo first surfaced in a Feb. 4 interview in Costa Rica's respected daily *La-Nacion.* There he said the Spanish woman posing as a nun is a Basque ETA terrorist who joined the hit team through Joaquin Villalobos, today a top commander of the unified Salvadoran FMLN guerrillas.

In the March 17 tape shown by Mr. d'Aubuisson, Mr. Lobo said he helped cover the assassin's escape route, and that "Villalobos" sent the man who guarded the sharpshooter.

Mr. Lobo said he went directly to his own safehouse, that of a woman well known to American correspondents as the guerrillas' "press relations officer." She was later arrested with an arms cache, imprisoned, released under the 1983 political amnesty and is said to be in the United States at present lecturing in Eastern seaboard churches.

Mr. d'Aubuisson followed the Lobo videotape with a clip of Pope John Paul II in San Salvador abjuring the faithful not to make political capital out of the archbishop's murder. Later came a short flim clip of former U.S. Ambassador Robert White, who Mr. d'Aubuisson said "invented the Salvadoran death squads."

His associates report that Mr. d'Aubuisson had shrugged off Mr. Lobo's first revelations, saying that, "Everybody in El Salvador knows I didn't kill the archbishop." Finally, at the urging of American friends, he got the videotape from Mr. Lobo, said to be in Honduras in a South American military intelligence group's protective custody.

On Wednesday a week ago, the last day for campaigning in El Salvador, rival Christian Democrat Party head Ray Prendes tries to monkeywrench the Lobo confession. He said Mr. Lobo is actually a con man named Adalberto Salazar Collyer, who may have been "in prison" when the archbishop was murdered (an odd contention, tending to prove that Mr. Lobo was *not* Salazar). The Lobo-alleged assassin, Miguel Angel Blandino Nerio, he said, swore "on the grave of Msgr. Romero" that he was not the sniper. Privately, Mr. Blandino surmised the assassin might be his brother Roger, implicated in other terrorist killings in El Salvador.

D'Aubuisson associates reached before the election at ARENA headquarters brushed off the Prendes allegations. "It's a typical campaign trick for the American press," one

said. "The campaign ended today, so d'Aubuisson can't go on TV to answer it. Lobo gives convincing inside details—and if we'd had any doubt about him, we'd have a bag over his face like they do with Ambassador White's $50,000 witness . . . [who] made a 'human mistake,' White now says . . . when he accused Arturo Muyshondt of plotting the archbishop's murder and all the death squad killings."

The ARENA spokesman had heard how Mr. White, confronted with a $10 million defamation suit by young Salvadoran businessman Arturo Muyshondt, said his unnamed witness was "human" and could "make a mistake" about Mr. Muyshondt's identity. "They'll find out just how 'human' Mr. White's witnesses are," commented the d'Aubuisson associate.

A third mystery man among the "witnesses" who may determine El Salvador's fate has been thrust into the drama by ex-Ambassador White. On March 21, when this shadowy unknown was surfaced by Mr. White in a Senate Foreign Relations subcommittee hearing under Sen. Jesse Helms, the State Department's Allan Romberg announced that State has "serious" misgivings about the credibility of White's first mystery witness, his $50,000 man.

Nevertheless, the charges with much broader allegations against d'Aubuisson, ARENA, and El Salvador's military, were repeated by the White group's $50,000 masked witness on a CBS news segment on the evening of March 21.

AN ACCOMPLICE CONFESSES

Announcer: We find ourselves in the company of Señor Pedro Lobo, a personage important within the framework of Central American events. He is with us voluntarily and wishes to manifest before public opinion certain aspects of the event mentioned [the assassination of Archbishop Oscar A. Remero in San Salavdor March 14, 1980, attributed to "rightists."] Don Pedro, where were you born, and in what year?

Lobo: I was born in 1945, in San Salvador, El Salvador, Nov. 11.

Q: Where did you spend your childhood and where did you go to school?

Lobo: My childhood was in San Salvador. I got my primary education at the Liceo Centroamericano there. . . . Then, after my graduation, I went to study for a *bachiller industrial* from the Salesian Brothers. . . . And I began to get acquanted with the organizations that today [background noise] such as the FPL [Forces of Popular Liberation], which at that time was unknown. I enlisted in the guerrilla movement, as they call it today, as a literacy teacher at first. . . .

I went to a place in Chalchuapa. . . . Then I got to know Shafik Handal [chairman of the Communist Party of El Salvador], and then "Marcial," that is Cayetano Carpio, and he is known by other names. We called him "Hatchet Face." All this covered a period of some five of six years—up to the time when the subversive movement began to take on strenght in El Salvador.

Q: In what important operations did you take part, ones of international note?

Lobo: I believe the, the greatest sin that I could have committed, as a Christian—which I am as of now—is having participated in the death of the monsignor [Archbishop Romero]. I am going to, to be a bit more explicit. That was prepared—that is, the council of the FPL is the directly responsible party. . . . They have been accusing people who had nothing to do with the death of the monsignor. It was the council directly. The council at that time was made up of Cayetano Carpio, Mélida [Mélida Anaya Montes], Mario [Mario Aquiñada Carranza], and a Spanish woman who is at present in Honduras. She passes as a religious. The nickname she goes by is Dominica. I can't swear to her name, but I do know her very well. She is working in Aldea Holt [Holt Village, a Swiss refugee camp in Honduras].

Before they gave us the order—and that was because we had to sacrifice a martyr to get into power—that was one of the slogans that they told us (we were in Managua). And they psyched us up, those of us who were to take part directly or indirectly. . . . He [Archbishop Romero] knew us. He knew that we had to take care of him, because he was a help to us. He was a "leader of masses" more than anything. . . . He was a person who was used, that we made use of so the subversives could infiltrate the country more.

Then they took us to Grenada, where Maurice Bishop was, to finish preparing. We returned to El Salvador, where the man who assassinated Monsignor Chavez—ah, Monsignor Romero, pardon—was Miguel Angel Blandino Nerio. . . . At that time, the day of the event, we who had the security guard were (and she is also dead) "Dwarf" Letona—there were two sisters—and Pedro, I that am talking to you.

We had to put a vehicle across the roadway so that—most of all, so they could be delayed in taking him [to the hospital] if he wasn't dead yet, and that is how it turned out. When he got there, one of us was to get the incontrovertible proof to tell the world and humanity. That one, that person, was Dominica, who shows up on the [news television] videotape at that moment, in the Policlinica Salvadoreña [the hospital where the archbishop was pronounced dead]. And she works here in the refugee camp. To find her you don't need a name or anything.

Q: Where was the shot fired from?

Lobo: The shot was fired from the other side of the [circular drive]. The Carretera Vial [expressway] is in front of the chapel. The shot was from the west side, outside. Of course, Miguel Angel Blandino Nerio is a sharpshooter. Marksman.

Q: What type of weapon did they use?

Lobo: As of now I can't say exactly what weapon he used. The one I used, yes; that weapon was a Galil [an Israeli assault rifle], cut-down. And they went around, and another comrade who I only know as a—his pseudonym is "Rafael"—had a Czech Katrinka.

Q: What escape route was used?

Lobo: From there I went around to the house of Margarita Gasteazoro, at the Colonia Layco [a San Salvador suburb]. That was my pad at the time, that is, my "safe house."

Q: Who guarded the man who fired the shot?

Lobo: That was handled by, that job was given to another person. [Joaquin] Villalobos sent him.

Q: How many people altogether were in the squad?

Lobo: The squad was made up of 10, with all the backup.

Q: What assignment did the nun have?

Lobo: She had the inside job. Dominica is here, and she is working in, ah, the camp that is in Marcala [Honduras]. She was the lover of Mario—Mario Aquinada Caranza.

Q: How many people were in the group that committed the murder?

Lobo: Only one. We were 10. But only one fired.

Q: And the other nine, what were they doing?

Lobo: They were guarding that person's withdrawal, his escape. We took care of each other.

Q: And the group of you were inside the church?

Lobo: No, we were outside. There were only two inside the church.

Q: Señor Lobo, when did you realize and know that you had succeeded in your operaton?

Lobo: We knew it within two minutes. Because he died in the elevator. The police, and Dominica, were accompanying the monsignor.●

CAB SUNSET

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. MINETA. Mr. Speaker, today, I am introducing, on behalf of myself, Chairman JAMES J. HOWARD of the Public Works Committee, and the ranking minority members of the Public Works Committee and the Aviation Subcommittee, Congressmen GENE SNYDER and JOHN PAUL HAMMERSCHMIDT, legislation to complete and perfect the deregulation of domestic aviation and the sunset of the Civil Aeronautics Board. The introduction of legislation follows extensive hearings by the Aviation Subcommittee, beginning in May 1983, and concluding earlier this month, on the effects of airline deregulation, major issues related to deregulation and preservation of the competition on which deregulation is based, and legislative proposals relating to deregulation and the scheduled sunset of the Civil Aeronautics Board at the end of this year.

The airline industry is approaching the conclusion of a monumental transition process—a transition from extensive economic regulation to virtual economic deregulation. It was a transition process which began rather cautiously in the mid-1970's with CAB Chairman John Robson, accelerated dramatically with Fred Kahn, was codified and put on a statutory schedule by the Airline Deregulation Act of 1978, and, just over 9 months from now, will reach its appointed conclusion.

Pursuant to the Airline Deregulation Act, the bulk of the Board's regulatory authorities—mainly route and fare regulation for domestic aviation—have already expired. Also pursuant to that act, most of the Board's remaining authorities—governing international aviation and the essential air service program which guarantees air service to certain small communities—will be transferred to the Department of Transportation at the end of 1984.

The extensive data produced at our hearings convincingly demonstrated that deregulation has produced extensive benefits for consumers and the industry and that there should be no alteration or reversal of that basic scheme of things. In the legislation introduced today route and fare regulation will not be restored. The Civil Aeronautics Board will not be retained. We will not renege on the basic guarantees made by the Congress in the 1978 Act—the small community service guarantee and the labor protection guarantee.

The remaining question, however, is whether the disposition made by the 1978 act of some of the secondary authorities of the Board was in every case the best possible disposition. It is a very important question for the airline industry and for its customers largely because January 1, 1985, is the conclusion of this great transition process. What we do—or fail to do—this year will most likely determine what kind of airline system we have for many years to come.

As the result of our extensive hearings, we found instances, such as consumer protection and CAB determinations of carrier fitness, where the 1978 Act neither terminated nor transferred the Board's authority, and we believe these existing consumer protection and fitness authorities should be retained. We also found instances where the 1978 Act transferred the Board's authorities, such as the authority to immunize intercarrier agreements where specified transportation test are met, to one Department when another would be more appropriate.

In short, we found that the basic transition to deregulated domestic routes and fares, and the sunset of the CAB, could not and should not be reversed, but that certain finer adjustments needed to be made in the 1978 Act before this transition process reaches its conclusion on January 1, 1985. We are, therefore, proposing legislation which would accomplish those needed adjustments.

First and foremost among those needed adjustments is the need to preserve the existing ability of the Federal Government to provide some basic protection of the consumer and of the competition among carriers which provides the consumer with marketplace choices. For the most part we do and will continue to rely on the marketplace to provide for the needs of the consumer. But we have found that in some specific areas it is necessary to retain at least the potential for regulation to protect the consumer from certain abuses and to preserve competition from the effects of anticompetitive practices.

Under existing law (sections 404 and 411 of the Federal Aviation Act) there are regulations providing "rules of the road" to protect consumers and to guide carriers in their behavior. These include regulations regarding smoking, discrimination against the handicapped, deceptive or anticompetitive practices, overbooking and denied boarding compensation, limitations on liability for lost or damaged baggage, notice to passengers of terms and conditions in the contract of carriage, and protections governing the advance sale of charters. In our hearings we found that, unless we legislatively preserved the underlying authorities in sections 404 and 411, the consumers would find themselves on January 1 abruptly without any of these regulations and without any agency they could turn to which had any regulatory or enforcement powers over those issues. Most importantly, we found that the agency which has some authority over some of these areas for other industries, the Federal Trade Commission, has concluded that it would have no authority to regulate any of these matters with respect to the airline industry.

I certainly found it overwhelmingly clear that the consumer would be in a untenable position beginning January 1. I do not believe the consumer of airline services today thinks of himself or herself as coddled or surrounded and stifled by overly protection regulation. The regulatory protections consumers have today are minimal. On January 1, they would have done, and I do not believe they would be happy about that.

It is also important to note that in the absence of Federal authority to regulate in these areas, we could have a situation where individual States would choose to regulate some of these matters within their own boundaries. We could end up with both consumers and carriers facing an incomprehensible variety of differing rules in different States, a chaotic situation which would serve no one's interests.

The legislation we are introducing today, therefore, preserves the consumer protection and prohibitions against anticompetitive practices authorities in existing law and transfers them to the Department of Transportation.

Existing regulations implementing those authorities would also be transferred. That is not to say, however, that all existing regulations would be forever preserved. The authority for such regulations would be preserved, so that if the Department of Transportation found at some future date that today's regulations needed to be modified, or needed to be eliminated altogether, they could do that. But where consumer protection regulations were necessary, the Department would have the authority to continue the existing rules or even issue new ones.

We also found that the Board's existing authority under section 401 of the Federal Aviation Act to determine the fitness of carriers is an indispensible part of the Government's ability to protect the traveling public from unscrupulous or incompetent persons who might hold themselves out to the public as air carriers. The Federal Aviation Administration has and would retain the very important responsibility to determine and assure the operational and technical ability of an airline to comply with safety regulations. But CAB fitness determinations have traditionally gone further than that, looking into general managerial competence, financial capability, and the past record of the key management with regard to compliance with laws and regulations. These CAB fitness determinations have provided the traveling public with an added protection from operators who might offer to sell a service they could not and would not actually provide, and has been used to keep elements of organized crime out of the airline industry.

We see no reason why that existing protection should be scrapped. Yet our hearings clearly established that in the absence of legislation, these fitness determinations would cease to be performed by any Federal agency. The legislation we are introducing today therefore preserves the existing authority to make fitness determinations and transfers that authority to the Department of Transportation.

And finally, the 1978 act would transfer on January 1, 1985, the CAB's existing authority to immunize intercarrier agreements to the Department of Justice. The statutory tests for the granting of such immunity are based on transportation policy issues. By existing law we strictly limit the granting of such immunity to cases where the agreement in question produces important transportation benefits for the public, and where there are no reasonable transportation alternatives which are less anticompetitive. Given the primacy of transportation policy considerations in making these decisions, and given the inter-relatedness of these decisions with the conduct of transportation policy in general and international aviation policy in particular, we feel that this authority could more appropriately be carried out by the Department of Transportation. The legislation we are introducing today would make that adjustment.

The balance of the bill we are introducing is essentially technical, conforming, clarifying, or implementing in nature. It cleans up references to the Civil Aeronautics Board in various existing laws. It cleans up the provision in existing law transferring certain postal authorities from the CAB to the Postal Service. It provides some of the standard implementing lan-

guage for the sunsetting of an agency. And it assures that the Department of Transportation has authority comparable to what the CAB had for data-collection and information gathering necessary to carry out the residual responsibilities it is inheriting from the Board.

In sum, I believe this legislation is necessary to make the airline industry's concluding step into the deregulated environment a smooth and trouble-free one. That step will be only the final step in a journey already mostly accomplished, and I see no reason why it should be allowed to become the source of unnecessary anxiety, uncertainty, and complaint.

I want to commend the leadership roles played by our colleagues JIM HOWARD, GENE SNYDER, and JOHN PAUL HAMMERSCHMIDT in drafting this legislation, and also to acknowledge the major contributions of many of the members of the Aviation Subcommittee who helped define through months of hearings the key problems and the most appropriate solutions.

While virtually every imaginable point of view has had a chance to be heard on these issues in the course of subcommittee hearings stretching over 11 months, I want to extend to any person who feels the need to make further comments on this legislation the opportunity to do so during the coming week. All that is necessary is to give us those comments by letter or direct contact to the subcommittee.

Members wishing to cosponsor the legislation are also invited to contact the subcommittee (majority, x 59161; minority, x 63220).

The following is a section-by-section analysis of the introduced bill:

SECTION-BY-SECTION SUMMARY

Section 1. Short title.

Provides that the Act may be cited as the "Civil Aeronautics Board Sunset Act of 1984".

Section 2. Provides that unless otherwise expressly stated, all references to provisions of law in this legislation shall be considered to be references to the Federal Act of 1958.

Section 3. Termination and transfer of functions under the Federal Aviation Act of 1958.

(a) Amends Federal Aviation Act of 1958 to provide that after the sunset of the Civil Aeronautics Board (CAB) on December 31, 1984, CAB's authority under Section 408 (consolidation, merger, and acquisition of control), 409 (interlocking relationships), and Section 412 (pooling and other agreements), and CAB's related authority under Section 414 (antitrust exemption) will be administered by the Department of Transportation (DOT). Under current law, the Department of Justice would take over this authority after sunset of CAB.

(b) Amends the Federal Aviation Act to provide that there will be no termination of the authority of the Civil Aeronautics Board under Sectoin 204 of the Act which includes CAB's rulemaking authority. CAB's authority under Section 204 will be transferred to the Department of Transportation on January 1, 1985.

(c) Provides that specified provisions of the Federal Aviation Act will cease to be in effect on January 1, 1985. Many of these provisions have already ceased to be effective by operation of the Deregulation Act of 1978 for interstate or overseas transportation of persons and by operation of CAB regulation for interstate and overseas transportation of property. Other provisions of the Federal Aviation Act which are terminated by this provision are incompatible with the deregulated environment.

The following provisions of the Federal Aviation Act will cease to be in effect for interstate and overseas air transportation after January 1, 1985: Sections 401 (l) and (m) which require certificated air carriers to carry mail; Section 405 (b), (c), and (d) which give the Postal Service and CAB various authority to require the carriage of mail; Section 403, which requires air carriers to file tariffs and imposes related requirements; and Section 404, which requires air carriers to provide reasonable through service and joint fares and prohibits unjust discrimination (this section continues in effect insofar as it requires air carriers to provide safe and adequate service).

The following provisions of the Federal Aviation Act will cease to be in effect for any transportation after January 1, 1985: Sections 407 (b) and (c), which impose reporting requirements relating to stock ownership of air carriers and stock ownership by air carrier officers and directors; Section 410, which gives CAB authority over applications for loans and financial aid from the U.S. government; Section 417, which authorizes CAB to allow charter air carriers to provide scheduled service in specified circumstances; and Sections 1002 (d), (e), (g), (h), and (i) (except insofar as such sections relate to foreign air transportation) which give CAB regulatory authority over air carrier rates and fares.

This Section further provides that Sections 412 of the Federal Aviation Act, insofar as it relates to interstate and overseas air transportation, and Sections 408 and 409 of the Federal Aviation Act, and related authority under Section 414 to award antitrust immunity, shall cease to be in effect on January 1, 1989. This sunset date will give Congress an opportunity to consider at that time whether there is still a need for administrative regulation of air carrier mergers and acquisitions and whether there is still a need for statutory authority to grant certain air carrier transactions immunity from the antitrust laws. Section 6 of this bill requires DOT to submit a report and recommendations to Congress on this issue.

(d) Provides that all authority of CAB which this Act does not terminate on January 1, 1985, and which is not otherwise terminated or transferred, will be transferred to the Department of Transportation on January 1, 1985. the authority transferred to DOT under this section includes the CAB's authority under Section 404 of the Act, to ensure safe and adequate service; the CAB's authority under Section 411 of the Act, to prevent unfair or deceptive practices or unfair methods of competition in air transportation; and the CAB's responsibilities under Section 401 of the Act, to ensure that carriers providing interstate or overseas air transportation are fit, willing, and able to perform the transportation proposed in their application and to conform to the requirements of the Federal Aviation Act and regulations adopted thereunder. Existing law transfers to the Department of Transportation CAB's authority with respect to foreign air transportation and CAB's authority under Section 419 of the Act to establish a program for small community air service. Existing law also transfers to the U.S. Postal Service CAB's authority to determine rates for the carriage of mail in interstate and overseas air transportation. The Postal Service is to exercise this authority through negotiations or competitive bidding. Section 3 of this bill transfers to DOT, CAB's authority under Sections 408, 409, 412 and 414 of the Federal Aviation Act.

Section 4. Transfers of functions under other laws.

Transfers to the Department of Transportation the authority of CAB under specified laws other than the Federal Aviation Act. These are essentially conforming provisions intended to make the text of these statutes as clear as possible. The inclusion of a law in this provision does not necessarily indicate that the sponsors of the bill believe that legislation is necessary to transfer the authority in that law to DOT when CAB is terminated.

Section 5. Collection of data.

Amends the authority of the Department of Transportation to collect information on civil aeronautics to require that after January 1, 1985, the Department will, at a minimum, continue to collect information on the origin and destination of passengers in interstate and overseas transportation and information on the number of passengers traveling between points in interstate and overseas air transportation.

Section 6. Report on Air Carrier Agreements.

Requires the Secretary of Transportation to submit a report to the appropriate Committees of Congress not later than July 1, 1987, on the administration of Sections 408 and 409, 412 and 414, of the Federal Aviation Act and recommendations as to whether these authorities shall be continued.

Section 7. Incorporation by reference.

Amends Section 411 of the Federal Aviation Act to clarify CAB's authority to issue regulations establishing uniform requirements governing notice to passengers of terms of the contract between an airline and its passengers which are incorporated by reference in a ticket. CAB has issued such regulations, ER-1302, 47 FR-52134, November 19, 1982, under authority of Sections 204, 404, and 411 of the Federal Aviation Act. The amendment in this section clarifies that issuance of this type of regulation is a proper exercise of CAB authority. This amendment should not be construed as an indication that the sponsors of the bill consider that the regulations already enacted exceed CAB's authority under the statutory provisions cited by CAB.

Section 8. References to certificates of public convenience and necessity.

Provides that any reference in any law to a certificate of public convenience and necessity shall be deemed to refer to a certificate issued under Section 401 of the Federal Aviation Act. This section clarifies that the Deregulation Act of 1978, which ended the requirement that the CAB make a public convenience and necessity finding before issuing a Section 401 certificate for interstate or overseas transportation, was not intended to change other statutes other than the Federal Aviation Act which refer to certificates of public convenience and necessity held by air carriers.

Section 9. Miscellaneous amendments.

These amendments conform the regulatory format in the Federal Aviation Act for

interstate and overseas cargo transportation with the regulatory format governing interstate and overseas passenger transportation. Conforming changes are also made in a number of other statutes to reflect the termination of the CAB and the transfer of CAB authority to the Department of Transportation after January 1, 1985. The Postal Service's contracting authority in Title 39 of the U.S. Code is modified to conform to the provisions in the Deregulation Act authorizing the Postal Service to use competitive bidding or negotiations in place of CAB ratemaking for interstate or overseas mail transportation.

Section 10. Transfer and allocations of appropriations and personnel.

Provisions governing the transfer and allocation of appropriations and personnel from the CAB to the agencies to which CAB functions are transferred.

Section 11. Effect on personnel.

Provides that transferred employees are entitled to have the CAB evaluations used in determinating merit pay, in addition to the evaluations of the new agency.

Section 12. Savings provision.

Provides for the continuation of all effective CAB orders and proceedings after termination of the Civil Aeronautics Board.

Section 13. Definitions.

Definition of "agency" and "function" for purposes of this Title.●

A NATIONAL CABLE POLICY

HON. W. J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. TAUZIN. Mr. Speaker, in an effort to promote the growth of cable television services much attention is being given to the establishment of a National Cable Policy. However, the question has been raised as to Congress constitutional authority to enact such legislation. I believe the following white paper by Prof. Laurence H. Tribe of Harvard University Law School clearly illustrates that a national cable policy would be a valid exercise of congressional power.

THE CONSTITUTIONAL AUTHORITY OF CONGRESS TO ENACT THE CABLE TELECOMMUNICATIONS ACT

(By Laurence H. Tribe* Tyler Professor of Constitutional Law, Harvard University Law School)

(In the ongoing public policy debate over a proper regulatory environment for cable television, a major point of contention is whether the U.S. Congress possesses the Constitutional power to enact uniform national standards, thereby preempting the current hodgepodge system of literally hundreds of separate municipal cable franchising authorities.

(In order to resolve this issue, the National Cable Television Association invited an eminent Constitutional authority, Professor Laurence H. Tribe of the Harvard University Law School, to examine the question. Professor Tribe analyzed basic provisions of the Constitution which authorize Congressional regulation of interstate commerce as well as amendments protecting free speech and the powers of states. He also carefully considered how these provisions and amendments apply to the 20th century technology of cable. Additionally, Professor Tribe examined applicable Congressional actions, regulatory agency rulings and court decisions dating to the earliest years of the Republic.

(Professor Tribe compiled his findings on the authority of Congress to impose federal standards on cable regulation—and specifically on its authority to enact S.66, the Senate version of the Cable Telecommunications Act—in a 34-page, heavily footnoted and annotated report. The full text of the report is available from NCTA on request. Here, in slightly edited form, are highlights of Professor Tribe's research and conclusions.)

There can be no doubt that the Supreme Court would uphold the Cable Telecommunications Act as a valid exercise of Congressional power under the Commerce Clause of the U.S. Constitution, which empowers Congress to "regulate Commerce . . . among the several states."

First, there plainly exists a rational basis for Congress to find that the activities the legislation would regulate substantially affect interstate commerce, while the means employed by the bill—both its assertions of direct federal regulatory power to establish a national cable policy and its restrictions of state and local regulatory power in a manner necessary and proper to prevent that national policy from being thwarted—will advance Congress' goal of promoting cable as a viable medium in a competitive marketplace.

Second, Congress is alternatively justified in imposing regulatory conditions on cable operators simply by virtue of their taking advantage of the channels of interstate commerce and may in turn regulate local cable franchising authorities to the extent reasonably necessary to effectuate these conditions.

Third, the bill offends no independent provision of the Constitution, including the Tenth and the First Amendments.

Congress' wide power to regulate all activities having any interstate impact, however indirect, was first enunciated by Chief Justice John Marshall in 1824 and has been steadily adhered to by the courts over the last half century.

On several grounds cable television systems clearly can be seen to affect interstate commerce and therefore to be Constitutionally subject to Congressional regulation:

1. Cable systems themselves serve as nothing less than instrumentalities of commerce and information, whose market structure, technology and chain of production and distribution all cross interstate lines to at least as great an extent as the other forms of communication regulated under the Communications Act.

For example, many cable systems are elements of much larger enterprises doing business in several states.

Retransmitting broadcasts via cable systems from the national networks, moreover, often crosses state lines. With the advent of syndicated cable programming delivered via satellite, it is even clearer that local cable systems operate interstate as a technological matter.

The pay television market involves a chain of distribution that runs interstate—from producers heavily concentrated in Hollywood, to pay television networks such as Home Box Office and Showtime, to local cable operators across the United States, to subscribers.

2. Even if cable television were not so clearly an interstate activity, Congress would be empowered to pass the Cable Telecommunications Act because the courts have ruled that purely intrastate economic activity still may be regulated by Congress when the cumulative effect might reasonably be expected to have an important impact on interstate commerce. The cumulative effect of local cable operations indisputably affects the national cable market.

3. If Congress has the power to regulate the broadcasting industry, which no one seriously contests, then it has the power to regulate cable. Time and again Congress and the courts have ruled that regulatory agencies are authorized to regulate the intrastate competitors of interstate enterprises. Indeed, the courts have specifically upheld FCC regulation of cable companies as "reasonably ancillary" to its responsibility to regulate television broadcasting.

We are now at a point in the history of technology at which all communications is becoming increasingly electronic and conventional lines of distinction among modes of communication are becoming increasingly obsolete. As a result, every mode of communication can be traced more and more to interstate operations. Since each mode of communication will have a competitive effect on the supply and demand for all other modes, Congress may regulate all competing modes of communication as a necessary and proper adjunct to exercising its power to regulate interstate commerce.

Competitors to cable's entertainment services—such as subscription TV, low-power television, multipoint distribution systems and direct broadcast satellites—are burgeoning. So are new two-way services from cable itself—such as electronic banking, data, services, security systems and electronic mail delivery. This interdependence of various services once thought separate will continue to increase, thus further bolstering Congress' regulatory authority over cable.

Cable's substantial effect on interstate commerce having thus been established, the only remaining question is whether the Cable Telecommunications Act is reasonably adapted to carrying out Congress' Constitutional Commerce Clause authority.

The legislation would promote the vigorous development of a national cable industry within a competitive marketplace (the established goal of Congress) in two principal ways:

By centralizing regulatory authority in the FCC (with the expectation that this authority would be wielded decreasingly);

By restraining the powers of state and local regulation to impose a patchwork of conflicting or uneconomic regulations hobbling the efficient growth of cable.

Both these approaches support the promotion of increased competition in the cable industry while eliminating state and local regulation impeding such competition by posing economic barriers to cable's entry or survival.

Specifically, the legislation is designed to reduce disincentives to investment in cable that state and local regulators have imposed or might impose. Because cable requires high initial capital outlays, reliable expectations of adequate return on investment are critical to inducing investment. The Cable Telecommunications Act, by standardizing national cable policy, is intended to help

*This memorandum has been prepared for use by, and under the auspices of, the National Cable Television Association. The memorandum reflects solely the views of its author.

ensure a reliability of expectations impossible to obtain in a widely variant locality-by-locality regulatory environment.

For example, the provision of the legislation which would bar government franchising authorities from acquiring cable systems at the end of franchise terms for less than fair market value would encourage cable investment by eliminating disincentives to entry that operators might have if they feared that government could appropriate their investment for a below-market price.

Likewise, the provision of the legislation which would place a ceiling on franchise fees and allow operators to show the fee as a seperate item on subscribers' bills encourages cable investment by preventing local governments from exacting fees so high as to discourage entry.

The franchise renewal provisions of the legislation also should increase cable investment incentives. Without the renewal expectancy created by these provisions cable operators might well be discouraged from investing in systems which take as long as a decade to turn a profit but which might be taken away after only 15 years.

Thus, the major provisions of the Cable Telecommunications Act further Congress' goals of partially substituting market incentives for bureaucratic control of cable, thereby allowing cable to compete on a more equal basis with other media.

The principle that Congress has the authority to impose whatever restrictions it wishes on the privilege of suing the channels of interstate commerce—so long as those restrictions themselves violate no independent Constitutional prohibition—supports these provisions of the legislation:

Cable operators must refrain from collecting personally identifiable information from subscribers without prior consent.

A cable operator must obtain a franchise before providing any service.

An operator with an existing franchise providing for a fixed charge for basic cable service over a specified period is not entitled to annual increases as a matter of right.

An operator who does not satisfy certain conditions of technical quality and reasonable service is not entitled to an expectation of franchise renewal.

Governmental entities which own cable systems shall not exercise control of programming content.

Congressional regulation (and deregulation) of franchising authorities is necessary and proper to protect the interstate commerce (represented by cable) from the adverse effects of a patchwork of conflicting and burdensome state and local regulation.

Congressional enactment of the Cable Telecommunications Act would not violate any constitutional provisions.

Although the bill would displace and reallocate some powers currently exercised by state and local governments, it would not violate the Tenth Amendment as construed by a 1976 court ruling involving the National League of Cities.

That decision found the Tenth Amendment does not shield the state from "preemptive federal regulation of private activities affecting interstate commerce." Indeed, the ruling permits *total* preemption by Congress of regulation of private activities affecting interstate commerce.

Because federal deregulation of cable would be frustrated if state and local governments were free to regulate cable entirely according to their own devices, it is necessary and proper that Congress preempt state and local regulation to the degree needed to effectuate federal policy for cable television.

The Cable Telecommunications Act would give states the choice of forbearing from regulation of certain activities affecting interstate commerce or regulating them in a manner consistent with federal standards. That is a valid exercise of Congress' Commerce Clause power.

Finally, while the bill would permit certain limitations on the content of cable programming, it would not violate the First Amendment as currently construed. Provisions to exclude obscene programming, subject to judicial standards of obscenity, do not delegate improper power to censor Constitutionally protected speech.

In some ways the legislation enhances the expressive values of the First Amendment, for instance by limiting regulators' interference with programming, encouraging expanded service and reassuring viewers by protecting their privacy.

For the above reasons the Cable Telecommunications Act is well within the limits of Congress' authority under the Commerce Clause of the U.S. Constitution.●

POETIC TRIBUTE TO ROGER WILLIAMS

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mrs. SCHNEIDER. Mr. Speaker, this year, the State of Rhode Island and Providence Plantations will be celebrating a tercentenary anniversary of our founder, Roger Williams. In addition to founding one of the Thirteen Original Colonies, Roger Williams was the driving force behind the idea of "freedom of choice" in the matter of religious belief.

Attainment of this ideal led Roger Williams from England where he had been an object of religious persecution, to the New World where he first settled at Massachusetts Bay Colony. Conditions in Massachusetts Bay were no different from those he left behind in England, so once again Roger Williams was forced to flee because of his religious convictions. He traveled south, meeting up with a friendly tribe of Indians, and taking solace from this sourroundings, purchased the land from them and founded the city of Providence.

Here, in his own colony, Roger Williams put into practice the idea of "freedom of choice." This ideal was enshrined by the Founding Fathers of our country in the first amendment to the U.S. Constitution

In honor of this event, a Rhode Island poet and local historian, Virginia Doris, has composed a tribute to our State's founder, which I would like to share with all of you.

The poem follows:

ROGER WILLIAMS, THE SOUL OF LIBERTY, PROVIDENCE PEACEMAKER, 1636

Aye, let the Muse of History write,
On a white stone his honored name,
Loyal to liberty and light,
First on Rhode Island's roll of fame.

Listen to his rich words, intoned
To songs of lofty cheer,
Who in the howling wilderness,
Mid forests wild and drear.

Breathed not of exile nor of wrong,
Through the long winter nights,
But uttered in exulting song,
The soul's unchartered rights.

Who sought the oracles of God
In the heart's veiled shrine,
Nor asked the Monarch nor the priest,
His sacred laws to sign.

Apart from controversial strife,
Ready to hail the morning's ray,
To break with all the bread of life,
And open wide the doors of day.

The wave-worn rock still breasts the storm
On Seekonk's lonely side,
Where the dusky natives hailed the bark
That bore their gentle guide.

Yet memory lingers with the past,
Nor vainly seeks to trace
His foot-prints on a rock, whence time
Nor tempests can efface.

Whereon he planted, fast and deep,
The roof-tree of a home
Wide as the wings of love may sweep,
Free as her thoughts may roam.

Where, through all time, the saints may dwell,
And from pure fountains draw
That peace which passeth human thought,
In liberty and law.

While hope shall on her anchor lean,
May memory fondly turn
To wreath the amaranth and the palm
Around their funeral urn.

Well may the Muse of History place;
Foremost among the just and free,
His honored name, wherein we trace
The soul of Law and Liberty.●

TEXAN HEADS NATIONAL TRUCK ASSOCIATION

HON. KENT HANCE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. HANCE. Mr. Speaker, I am pleased to call to the attention of my colleagues the fact that Mr. Jay Trammell, president of Jay Trammell Lines in Dallas, Tex., was elected president this week of the Interstate Carriers Conference.

The conference, an affiliate of the American Trucking Associations, represents nearly 800 trucking companies and 150 associate members throughout the country.

The new president, who resides in Dallas with his lovely wife, Darlinda, and their two children, founded Jay Lines in 1970 after previously having held executive positions with other truck lines in Dallas and Omaha, Neb. Additionally, he has held numerous positions in the conference, the Texas Motor Transportation Association and

the National Perishable Transportation Association.

The conference has chosen well, and I am pleased that Mr. Trammell's abilities have been recognized by his peers in the trucking industry.●

THE FIRST BAPTIST CHURCH OF HIGHLAND PARK

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. HOYER. Mr. Speaker, on Saturday, March 31, more than 1,000 people will gather in my Fifth Congressional District to mark an auspicious occasion, the 62d anniversary of the founding of the First Baptist Church of Highland Park. They will also gather to honor their pastor, and a very close friend of mine, the Reverend James J. McCord.

The First Baptist Church of Highland Park is one of the largest churches in Prince George's County, with an active membership of more than 1,500 parishioners. They are a devoted congregation contributing their time, energies and faith toward numerous needed services throughout the community. From the distribution of free food and clothing to the needy, to community day care, to home visitations for the sick, voter education and a prison ministry, the members of this outstanding parish reach out with the gift of love and caring.

In all these activities, Reverend McCord provides the leadership and inspiration, the real heart and soul of this church. With his warm and giving nature, he represents a true example of the Christian spirit. He is always ready to offer his services and lend his name to important causes.

Reverend McCord first came to First Baptist as a parishioner, in 1965. In 1967, he was ordained as assistant minister and in 1973 as minister.

He was born in Waterloo, Iowa and spent his early years in Nebraska and South Dakota. After two tours of duty in the Air Force, he went to the Sioux Falls College in South Dakota and received his B.A. in 1963. He came to the Washington area soon after where he and his lovely wife, Mary, raised two sons, James and Jacques.

Before coming to the ministry, he worked for the Smithsonian, the District of Columbia school system and was an instructor to the hearing impaired at Gallaudet. He also worked in the Model Cities program in Prince Georges County.

Whenever someone asks a parishioner about Reverend McCord, the same response is given, "he is a man who cares about us, who is responsive to our needs, who is unselfish in his time and his service to the community." His strength is transferred into the strength of the thousands of people with whom he is in contact each week, and this offering is one of the greatest that can be made in the Christian faith.

It is truly a testament to his commitment to the ministry that his is the largest black church in Prince Georges County.

It has been an honor and privilege for me to have a close association and relationship with Reverend McCord and with the members of the First Baptist Church of Highland Park.

Mr. Speaker, I know you will want to join with me in offering my sincere congratulations on this remarkable occasion.●

EDWIN B. FORSYTHE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. FLORIO. Mr. Speaker, it is with great sorrow that I note the passing of the Honorable EDWIN B. FORSYTHE of New Jersey.

The senior Republican in the New Jersey congressional delegation, ED FORSYTHE had a distinguished career in public office that spanned 27 years. He served as mayor of Moorestown before being elected to the State senate, where he rose to the position of president before winning election to the Congress in 1970.

ED FORSYTHE'S work as ranking minority member of the Merchant Marine and Fisheries Committee brought great benefits to our State, and I know that he will be missed very much.

May I join my colleagues in extending my sincere sympathies to his wife, Mary, and to his family.●

LISA RAE KELLY, VOICE OF DEMOCRACY WINNER

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. WALGREN. Mr. Speaker, while sometimes the news about America's youth is disappointing, we should be very proud of the vast majority of our young people. Lisa Rae Kelly, a junior at Moon Senior High School in Allegheny County, Pa., has been named the 1984 winner in Pennsylvania of the Voice of Democracy contest sponsored by the Veterans of Foreign Wars of the United States.

As Members of Congress, I know you will be interested in seeing Lisa's prize winning speech on "My Role in Upholding Our Constitution" and ask that this important message be shared with all Americans by its insertion in the RECORD.

The speech follows:

MY ROLE IN UPHOLDING OUR CONSTITUTION

The curtain rises and millions of people the world over watch freedom at work as they witness dedicated Americans upholding the Constitution of the United States. This is not opening night. Our drama has run continuously during the one hundred ninety-six years following the adoption of the constitution in 1787. The Production, appropriately entitled "Upholding the Constitution of the United States," is based on an original manuscript written by dedicated Americans long ago.

And, now, it is my turn to take part in the inspirational drama that has no rivals. Let me trace my role in upholding the Constitution of the United States of America.

During my early years, I was an understudy, watching from the wings, studying the script, and waiting for my chance to star in a citizen's greatest role.

As I watched from offstage, I witnessed Americans in major roles casting their ballots during elections, fighting for freedom in foreign lands, making important decisions in Congress, and handing down judicial decisions. I saw the President in his leading role hold news conferences and give State of the Union addresses. I studied the basic principles of the constitution and the twenty-six changes which have been made to further protect the American citizen's rights.

And, after all my studying and watching, I knew I was ready for a bigger role.

I became a member of the chorus. There, I joined others in pledging allegiance to the Flag which has always stood as a symbol of freedom. I took great pride in my small role as I sang praises of a country that I love. I sang of our unique "Brotherhood from sea to shinning sea." America, I thought, God truly has shed his grace on thee!

Today my new role is that of a supporting character. After watching other Americans at work, I can now appear as an individual in my best role so far.

As a dedicated young American, I appear in many scenes as I uphold the basic principles of our constitution.

Scene I—A classroom:

I exercise my guaranteed freedom by running for class office. Later, I am elected to Student Council, an example of representative government on a small scale.

Scene II—Another classroom, a lesson in social studies

I continue my education on the constitution and exercise my freedom of speech in class discussions, always confident that in our country an individual's voice can be heard.

Scene III—Activity room, after school

I work on the school newspaper, sometimes writing editorials that suggest changes in school policy. That's freedom of the press in practice!

Scene IV—Home

Home . . . the word somehow embodies the same comfort, the same security as does the word "America."

My family and I gather to speak freely of what we want, without fear of invasion of our privacy.

Scene V—Church

I kneel to pray at the church of my choice. The constitution insures freedom of religion.

Now, I am truly a member of the cast of "Upholding the Constitution of the United States." My role is not the lead, but it is a

vital one. I am a young American cast in the role that I cherish.

As new characters appear, and as changes are made in the drama, so, too, will my role change. Soon, I'll have one of the major parts. Those watching our production will see me as I assume even more fully my responsibilities as an American.

Yes, the drama goes on just as it has for the past one hundred and ninety-six years, and for the rest of my life, I'll proudly perform my role in "Upholding the Constitution of the United States of America."●

JOINT RESOLUTION ON SPACE COOPERATION

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. LEVINE of California. Mr. Speaker, along with 35 of my colleagues, I am today introducing a joint resolution expressing the sense of Congress that the President should initiate talks with the Soviet Union to explore new opportunities for cooperative East-West ventures in space. Rather than pursue a space policy which threatens to bring us closer to nuclear confrontation, we and the Soviet Union should recommit ourselves to developing space programs which allow us to develop joint and complimentary projects.

Along these lines, our resolution calls on the U.S. and U.S.S.R. to renew the 1972 treaty on space cooperation. This 5 year agreement was first signed by President Nixon, and was renewed by President Carter in 1977. Unfortunately, the Reagan administration allowed it to expire.

In the 1972 treaty, the U.S. and U.S.S.R. pledged to cooperate in the exploration and study of space. For the remainder of the decade, our two countries formed working groups and successfully conducted joint experiments and shared data on a regular basis. In preventing duplication of experimentation, space cooperation enhances the efficiency of our own space program. More significantly, the signing of a joint space exploration treaty provides our two nations with a unique opportunity to pursue a policy of cooperation rather than confrontation. I hope my colleagues will join with me in supporting this resolution.●

THE INSTITUTE OF INTERNATIONAL EDUCATION

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. ARCHER. Mr. Speaker, on the occasion of their annual meeting in Washington, April 29 through May 1, 1984, I would like to call to the attention of the House the Institute of International Education. The IIE is an example of an organization which provides an extremely valuable service to the Nation. At a time at which the United States is seeking to strengthen its ties with allied nations, and to build friendships with strategically important Third World countries such as our neighbors in Latin America and the Caribbean, the effects of private exchange agencies such as IIE should be actively encouraged. IIE's activities are coordinated by the Institute's national headquarters in New York City and carried out by U.S. regional offices in Atlanta, Chicago, Denver, Houston, San Francisco, and Washington, D.C., and by overseas offices in Latin America, Asia, and Africa.

IIE was founded in 1919 in the aftermath of World War I. Its assigned task was the promotion of international understanding through international educational exchange. Today IIE carries out this mission through the exchange of students and scholars, knowledge, and skills between the United States and 130 other countries.

IIE is best known for its administration of the U.S. Information Agency's Fulbright fellowships for United States and foreign students at the predoctoral level. Year after year IIE is successful in attracting hundreds of thousands of dollars of support for this program from universities, corporations, and other nongovernmental sources, a remarkable record of public and private sector cooperation for the public good. IIE also assists the USIA in the administration of the Humphrey fellowships—a Fulbright exchange activity—and the U.S. Government's memorial to the late Vice President.

The Institute of International Education conducts some additional 200 programs for foreign governments, international organizations, educational institutions, foundations, and corporations. The ITT Corporation's fellowship program, administered by IIE throughout the past decade, serves as a model program for corporate involvement in international education. Altogether IIE assisted some 8,500 American and foreign students, distinguished international visitors, and research professionals on technical assistance projects overseas during the 1983 academic year—a notable record for a private nonprofit agency and a major contribution to the development of international understanding. In addition to its role in the Fulbright program, IIE administers a portion of USIA's international visitor program, which brings distinguished foreign visitors to the United States from over 100 nations each year. The intent of the program is to increase the knowledge of the United States of influential citizens of other lands. Alumni of the program currently occupy hundreds of cabinet positions around the world.

IIE offices in Washington, D.C., Denver, and Houston are particularly active in support of the international visitors program, which relies on community agencies to organize the local contracts of its participants. These three offices each year assist over 2,000 distinguished visitors from other lands. They insure a positive exposure to U.S. communities as well as a productive professional experience for distinguished foreign government officials, university professors, journalists, labor leaders, and representatives of many other walks of life. Their efforts significantly affect the U.S. image in over 100 countries.

IIE assists the Green Revolution centers, the international agricultural research centers around the world that have developed the miracle grains which hold the best hope of adequate food supplies for the less-developed nations. The institute administers projects for Ford Foundation, USAID, the World Bank, the governments of Brazil, Indonesia, the Philippines, and Zimbabwe, the Rockefeller Foundation and numerous other supporters of educational cooperation and of developmental assistance.

By administering such programs, the institute has acted as a catalyst in organizing such projects as the South African education program, a major effort of USAID, U.S. corporations, foundations and universities to provide educational assistance to the black population of South Africa. The program now assists over 100 students annually. IIE is able to make a major impact on international relations through cultural diplomacy. Its programs expose both the current and the next generation of leaders of other nations to the values of American society, and offer training other countries need to build their own societies. Research conducted through IIE-related projects is having a major impact on increasing the world's food supply.

IIE also serves the public and American higher education through its educational services—public service activities support through contributions. Through educational services, IIE, brings information and counseling to some 200,000 American and foreign students each year and provides over 65,000 copies of its many publications to students, educational institutions, counseling centers, and libraries all over the world.

IIE's educational services include conference programs, scholarship programs, and many other activities that bring needed assistance to organizations and individuals concerned with international educational exchange. As the central clearinghouse for information about exchange in the United States, the Institute of International

Education plays an important role in making productive educational relationships a reality.

IIE has special relationship with American colleges and universities, some 500 of which are affiliated with the institute as IIE Educational Associates. IIE assists American higher education in many ways.

The institute's overseas offices in Latin America and Asia provide on-the-scene assistance in interviewing and screening applicants overseas for American colleges and universities, and dispense information on United States higher education to tens of thousands of foreign students each year. They offer orientation programs, testing facilities, libraries, and catalog collections, and in general act as overseas ambassadors for American higher education.

IIE's regional offices in the United States function as service agencies in international affairs for the areas in which they are located. Originally these offices were founded to link IIE more closely with the colleges and universities throughout the United States that are the Institute's partners in educational exchange, and to bring together local citizens and international students in activities that would give these students a better knowledge of this country and improve Americans' understanding of other cultures.

The growing need in today's world to increase all citizens' awareness of international affairs has broadened the focus of IIE's regional offices. Seminars and conferences, programs for schools and rural communities, exhibits, and presentations are among the citizen education programs of IIE's regional offices. This is in addition to ongoing assistance to colleges and universities. Regional offices advise and consult about international education, work closely with campus study abroad advisers, foreign student advisers, admissions officers, and the individual student, and make available the full range of IIE publications and information services.

The Institute of International Education, its staff in the United States and around the world, and thousands of volunteers who give of their time and energy on behalf of international cooperation together form a significant national asset.

It gives me special pleasure to salute the Institute of International Education and to express the hope that this fine organization will continue its tradition of effective service to the Nation and the world for many years to come.●

NED SKELDON INDUCTED INTO CENTRAL CATHOLIC HIGH SCHOOL HALL OF FAME

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Ms. KAPTUR. Mr. Speaker, on April 3, Central Catholic High School of Toledo, Ohio, will be inducting one of its most distinguished graduates into the school's Athletic Hall of Fame. Ned Skeldon was a 4-year member of the school's football, basketball, and baseball teams. During his great athletic career, Ned always displayed those special qualities found in all fine athletes: physical and mental strength; coolness under pressure; and sportsmanship.

After leaving Central Catholic, Ned enlisted in the U.S. Navy and became a pilot during World War II. Since that time, he has logged over 30 years public service, including elected, appointed, and behind-the-scenes roles in political life. But his public life has not taken him away from his athletic interests. Actually, he has put his love of athletics to work for the benefit of the community. Ned Skeldon was the inspiration behind the Lucas County Recreation Center which now serves over 175,000 citizens annually. He was also instrumental in the revitalization of the Toledo Mud Hens.

Ned Skeldon's career is clear evidence that the training one receives in athletics is applicable to every aspect of a fulfilling and rewarding life. I know my colleagues in the House of Representatives join me in congratulating Ned, his wife Susan, and his children, and wishing him the very best in the future.●

VOLUNTEER FIREFIGHTERS HONORED

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to three distinguished citizens of Glen Cove, N.Y., who will be honored at the Glen Cove Volunteer Fire Department headquarters. Fred DiMenna, William Miller, Sr., and Stanley Slowik have each served with distinction as members of the Glen Cove Volunteer Fire Department for the past 50 years. It is my privilege to bring the accomplishments of these brave men to the attention of my colleagues in the U.S. House of Representatives.

Since 1934, William Miller, Sr., Stanley Slowik, and Fred DiMenna have put their lives on the line to protect their community's homes, businesses, and inhabitants. These self-sacrificing men have been called upon throughout the years to serve the city of Glen Cove without regard to personal injury, and time spent away from their families.

The unique commitment of these volunteer firefighters certainly embodies the great heart of our Nation, and the American spirit of being a good neighbor. And it is this spirit which has been a major force in the spectacular growth of our great Nation. Clearly, we need to recognize the importance of the role that all American firefighters play in our everyday lives.

During the past years, Stanley Slowik, William Miller, Sr., and Fred DiMenna have battled industrial fires, and they have saved people's homes and lives. They have provided fire prevention instruction and other vital services to the community.

Sometimes, we take the volunteer spirit for granted. There are probably people in Glen Cove who believe they are protected by paid firefighters. They are not. They are protected by extraordinary men like Stanley Slowik, William Miller, Sr., and Fred DiMenna; men who have together devoted 150 years of public service. For their great contributions in helping make the city of Glen Cove a safer and better place to live, they deserve our heartfelt and sincere gratitude.

Mr. Speaker, I join with the members of Engine & Hose Company No. 4 in Glen Cove, the family and friends of Fred DiMenna, Stanley Slowik, and William Miller, Sr. in recognizing volunteer firefighters.●

A CONGRESSIONAL SALUTE TO BETTY CORSON

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. ANDERSON. Mr. Speaker, on April 8, 1984, the many friends of Betty Corson will gather at the Rancho Verde Racquet Club in San Pedro, Calif., to celebrate her retirement from Cooper High School in San Pedro.

For the past 17 years, Betty has been teaching English and grammer to students who failed to make it in a traditional classroom setting. Although her first day at the school was a bit traumatic when she had to prove that she was just as tough as a room full of boys, Betty said, "I was rather intrigued by a lot of things. It was a challenge and I liked the smallness of the place because I felt that was the setting in which you could really get to know kids on a one-to-one—basis."

A native of Oklahoma, Betty and her family fled the Dust Bowl in 1939

for a better life. According to Betty, they traveled as far as our money would allow. They ended up in Glendale, Ariz. She later received a scholarship for the Los Angeles Pacific College and it was here where she was to meet her future husband, Bob. She was to graduate from Seattle's Pacific College shortly thereafter and, as a matter of fact, she and Bob were married 2 days after her graduation. Because of their many contributions to this institution, they were named as Alumni of the Year in 1980.

They returned to Los Angeles the following year and she began a 10-year career at Los Angeles Pacific College, 5 years as teacher and 5 years as dean of women. In 1958, they moved to San Pedro and it was not until 1966 that Betty began substitute teaching for the Los Angeles Unified School District. The following year, she was called to substitute at Cooper High School and she has been there ever since.

Mr. Speaker, as you well know, we have many special people in this country who seem to go beyond the call of duty. Betty Corson happens to be one of these people. Over the years she has worked with hundreds, perhaps thousands, of students who were cast aside by "The System", in the hope of giving them a second chance to success and be productive in life.

My wife, Lee, joins me in congratulating Betty Corson on a job well done. We know that she will be sorely missed by all the residents of the community and we are sorry to see her leave. We wish Betty and her husband, Bob, and their son, Donald, continued success and happiness in all their future endeavors.●

TRIBUTE TO DR. BENJAMIN MAYS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. DOWNEY of New York. Mr. Speaker, last week many of us noted with sorrow and respect the death of Clarence Mitchell. Today, I want to speak briefly about another man, an educator, who did so much to shape the leadership of the civil rights community, Dr. Benjamin Mays. Dr. Mays died yesterday in Atlanta.

Dr. Mays' life spanned 89 years of American history. These were years of great change and Dr. Mays played a critical, if quiet and often unnoticed, role in this change through his leadership of black educational institutions. His own experience ranged over a large part of this country. He was born in South Carolina and educated in Maine and Chicago. As dean of the Howard University Divinity School he enriched the life of this city. From Howard he moved on to serve as president of Morehouse College in Atlanta where he also sat on the Board of Education. His life was a life of public service, and that is notable in itself.

Dr. Mays' achievements extend to a higher plane. It is worth noting that he did not consider education as something passive. It was a force for change. It served to guide people, to energize them, and to stimulate leadership.

The evidence of this activist commitment to education rests in the generation of civil rights leaders who studied with Dr. Mays and who actively sought his advice and guidance. The greatest among these was surely Dr. Martin Luther King, Jr. Dr. King once acknowledged Dr. Mays as his spiritual mentor and intellectual father. This, perhaps, should stand as the best testimonial that can be offered to the memory of a life of commitment, struggle, and education.●

MISSOURI TRUCKING COMPANY WINS NATIONAL SAFETY AWARD

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. TAYLOR. Mr. Speaker, I am pleased to call to the attention of my colleagues the fact that Contract Freighters, Inc., of Joplin, Mo., has been awarded the Grand Prize Award for Safety presented by the Interstate Carriers Conference.

The conference, an affiliate of the American Trucking Associations, represents more than 750 trucking companies throughout the country.

Mr. Don D. Lacy, president of Contract Freighters, was present to receive the award at the conference's annual meeting held recently.

Contract Freighters won the award based on its outstanding low-accident-frequency rate and overall performance in such areas as maintenance, driver training, accident investigation, supervision, public activities, and general highway safety.

It is indeed fitting that the outstanding contributions of this fine company to our Nation's highway safety endeavors have been recognized.●

TRIBUTE TO TAD TAUBE, CO-FOUNDER OF THE UNITED STATES FOOTBALL LEAGUE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. LANTOS. Mr. Speaker, many men and women exemplify the American dream, but few are better examples of it than Tad Taube—a man who has made the American dream come true, a man to whom many in my district owe much.

An American citizen by choice, like myself, Tad Taube was born in Poland 51 years ago. Later he came to the United States where he earned two degrees in engineering at Stanford University. He joined the U.S. Air Force—and fought courageously for his new country.

Tad has been a dynamic force in the business community on the San Francisco Peninsula and has added considerably to the economic vitality of the area. The Woodemont Cos., which he formed in 1964, are leaders in the fields of real estate and development. He is also a founder of Siltec Corp. in Menlo Park—now the second largest domestic manufacturer of silicon wafers. In 1981 he founded Stanford University's Center for Economic Policy Research and currently is serving on the Executive Committee of Associates for the Center.

Mr. Speaker, this is only one side of Tad Taube's life. He is also a philanthropist who has given generously to diverse worthy projects in the community. He is currently acting as president and director of the Koret Foundation, and has served as trustee and governor of several colleges, both in America and Israel. He is also deeply committed to achieving better relations between peoples of different backgrounds and faiths. He is a former director of the National Conference of Christains and Jews, and is active in the Bay Area Council and the Commonwealth Club.

Tad's sense of fair play has been evident throughout his life—a quality which he learned first hand through his great love of football. As cofounder of the new United States Football League he has enriched the sports scene both of our country, and of the Bay area. During the summer months, sports fans can now enjoy the skill and sportsmanship of the Oakland "Invaders" thanks to his entrepreneurship.

Tad and Gadd Taube, together with their four children, have never failed to give themselves to the people around them. They have proved that the American dream is still possible. I wish them every success and happiness.●

A TRIBUTE TO THE FIGHTING ILLINI

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. DURBIN. Mr. Speaker, my State of Illinois is justifiably famed for its agriculture, coal mining, industrial might and outstanding education-

al institutions. And because of a representative of the latter, we are also becoming well known for our collegiate basketball.

Many of my State's most famous sons, men like Abraham Lincoln, came to Illinois from other States seeking opportunity. So it was with Lou Henson, coach of the University of Illinois basketball team. Nine years ago, the University of Illinois sought this Okay, Okla., native to be in charge of its basketball program. The choice proved to be a wise one.

During his years with the Fighting Illini, Coach Henson has compiled a 170-100 won-loss record. He has taken his Illinois teams to post season tournaments for 5 straight years and has averaged at least 20 victories a season for the past 6 years.

This year, he took a team that was predicted to finish no higher than fourth or possibly as low as seventh in the Big 10 and won the conference title. This hustling, scrappy squad then made it all the way to the finals of the Mideast NCAA tourney, losing a tough battle to Kentucky.

Today, I rise to praise Coach Henson before my colleagues not only for his accomplishments this year but during his entire career, both on and off the court.

He is universally acknowledged in my State to be a fine gentleman, an outstanding example of sportsmanship and one who is active off the court in a variety of important community activities.

On April 5, many of us who are admirers of Coach Henson will gather in Springfield to honor this fine man. The only problem will be in finding a hall large enough to hold all of those who want to join in the celebration.

Let this stand as evidence, too, to my friends and colleagues from States whose basketball programs are a bit shaky and in need of experienced assistance, that we in Illinois have no intention of letting this adopted son migrate once more.●

MOVING TRIBUTE TO THE AMERICAN REPUBLIC

HON. THOMAS R. CARPER

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. CARPER. Mr. Speaker, it is my privilege today to acknowledge a young Delawarean who has written a lovely and moving tribute to the American Republic.

Mr. Peter V. Campbell, the son of Dr. and Mrs. Charles Campbell of Wilmington, is the 1984 Voice of Democracy Essay Contest winner from Delaware. Sponsored each year by the Veterans of Foreign Wars, the essay contest theme for 1984 was "My Role in Upholding the Constitution."

Young Mr. Campbell's essay beautifully illuminates that theme, Mr. Speaker. Peter is not only a fine writer but an accomplished thespian. He plans to pursue drama at a college or university next fall—thus putting his VFW scholarship money to good use.

It is my honor, Mr. Speaker, to submit Peter Campbell's winning essay for publication in the CONGRESSIONAL RECORD. This Salesianum High School senior clearly has a future as rich in potential as his essay.

MY ROLE IN UPHOLDING THE CONSTITUTION

"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

These cherished words should ring loud and clear for every American because they are the foundation on which our nation was born. This fledgling nation which was destined to become the shelter and light to all those searching for freedom lies on a solid Constitution. Our Constitution is one of the greatest documents ever written because it serves certain inalienable human rights to each person. These rights are blended together with the basic law of our great land to form a union of states which share strong, common bonds. As a nation, we are constantly striving for peace and justice everywhere because our wish is that others may taste the freedoms which we experience daily under our Constitution. Our founding fathers resisted threats which were made to suppress basic human rights, and they boldly presented to the world a document which speaks for all Americans. We are a free people.

We do not have the worry of being awakened in the middle of the night to be seized and taken to prison because we have voiced our opinions which may be contrary to governmental policy. The Constitution embodies a full Bill of Rights which is essential to the democratic way. We may publicly question the decisions of leaders without fear of reprisal. We may work together in community effort to change a law with which we disagree. Such actions are virtually impossible behind the iron curtain because those people are not protected from the arbitrary use of governmental power by their written constitutions.

But what is my contribution to my country? What is my role in upholding the Constitution? Although great men and women have fought for this country, I fear that my humble offering may not be remembered in history textbooks written two hundred years from now. Nevertheless, it is a small tribute that is important. Our country's support stems from each person's contribution, whatever its size may be. My contribution is to strive to become the best citizen that I can be. In doing so, I will be able to support and defend the country I so love.

What then is a good citizen? Is it someone who helps little old ladies across the street, or who aids others in time of need? Yes, it is, but my passion for this nation has a stronger foundation than that. Although the Constitution protects my rights, I have a duty to take an active part in ensuring that no American is deprived of his/her rights, even in an unpopular cause. If we fail to support others in causes which we feel are necessary to the democratic process, then we will lead ourselves to a road of chaotic disaster.

I have always been taught in school that voting is a constitutional privilege which we may exercise to voice our opinions. Although many people feel that it is a hopeless cause, they do not seem to understand the value of their singular vote. It is, however, an expression of opinion, our direct say in the government. Though it is really one of the greatest freedoms which we possess, it is, unfortunately, often sadly neglected.

In order to understand the Constitution, we must read it carefully as we would a piece of poetry. We should establish for ourselves the true meaning of these words, and raise questions and search for answers. When creating the Constitution, our forefathers debated and argued tirelessly. Our desire for the truth should be no less than theirs.

It is the duty of every citizen to perform these actions, even though they may pale in comparison with the efforts of such figures as George Washington and Benjamin Franklin. Yet they would not have become great citizens if they were not first good citizens. To be a good citizen is a difficult task because we must constantly be aware of others and our changing times. But as Thomas Jefferson so eloquently stated: "Eternal vigilance is the price of Freedom."●

IN MEMORY OF MARGARET E. HART

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Ms. MIKULSKI. Mr. Speaker, I honor today the memory of a truly dedicated citizen, the late Margaret E. Hart. She personified the hard-working, community-oriented spirit upon which this Nation was built.

She worked informally for many years in the southeast Baltimore community. The telephone work she did in her kitchen became the southeast community hotline after the southeast community organization, of which she was a founder, obtained money, volunteers, and an office for the program. Margaret Hart was also an organizer of an annual family picnic for residents of the community. Her concern for her community went beyond mere words, for it was her action that launched programs like the southeast community hotline and it was her willingness to take action and become involved on behalf of others that we will always remember her for.

Her work brought several awards and commendations for the mayor's office, including an Unsung Hero Award and a Baltimore's Best Award. A portrait of her done as a result of the latter award hangs in the Baltimore Convention Center.

Much can be learned from the life and work of Margaret Hart. She has proved that one person can make a

difference, and through her efforts, others have been inspired to continue her work. Her motivation was not money or fame but rather, an honest concern for her neighbor. Margaret Hart's efforts have touched the lives of many. She understood and appreciated the importance of doing for others, and she devoted her life to that principle. We will miss her.●

DR. BENJAMIN E. MAYS—A SYMBOL OF GREATNESS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. RANGEL. Mr. Speaker, I rise to express my deep sorrow at the death of Dr. Benjamin Mays, one of the fathers and guiding spirits of the civil rights movement.

Benjamin Mays began his career as an educator in 1934, when he was appointed dean of the Howard University Divinity School. He lectured throughout the United States and abroad, gaining a reputation as a champion of justice and equality. His message and reputation brought him to Morehouse College, where he served as President from 1940 to 1967.

His voice was a relentless message of commitment to achieving dignity for black Americans. In the days before the Civil Rights Acts, before Little Rock, and before Martin Luther King, Dr. Mays stood like a rock against the tide of prejudice.

Few of us can really appreciate how strong his word was without noting that Martin Luther King was one of his most promising students at Morehouse. Dr. King once said that Dr. Mays was "my spiritual mentor and my intellectual father." This, Mr. Speaker, is an indication of the truly profound influence of Benjamin Mays. He was, without question, a great man.

Let us remember his example, and let us bear in mind that America's best citizens have been those who have been able to devote their lives to bettering the conditions of all citizens. These are the people who never lost their faith in their ability to affect change without violence. This, Mr. Speaker, is a legacy to pass on to our children and to our children's children.●

TOLEDO-LUCAS COUNTY LIBRARY SYSTEM PRAISED

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Ms. KAPTUR. Mr. Speaker, recently, Toledo, Ohio, was deemed to be the fourth "best read city" in the Nation based on use of public libraries. Taken from figures in the "The Book of American City Rankings," the listing reflected a use per person derived from libraries' annual loan totals divided by the size of the populations served.

We in the Toledo-Lucas County area have always been very proud of our library system. The public has always shown strong support for its library system which this study clearly shows. Public libraries serve an extremely valuable community service. They are vital sources of knowledge and information for all citizens, regardless of background or social standing. The public library is an institution that has endured for decades in America. In some communities, such as mine, the public library has flourished.

I know my colleagues in the House of Representatives join me in congratulating all those associated with the Toledo-Lucas County Library System. They have done a superb job.●

EDUCATION EQUITY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. OWENS. Mr. Speaker, today I would like to speak about educational equity, by which I mean education which truly provides an equal opportunity for all students to master the basic skills which are the key to moving on toward the mastery of more complex skills and subjects.

There are those who take the view that educational success is predetermined by the accident of birth. This rigid doctrine of predetermination would have it that the children of the poor are naturally less competent than the children of the rich, therefore they will achieve less. People who hold this view expect little of the schools and teachers and basically hold the child fully accountable for his or her success or lack thereof. I disagree with this view because I believe that it is possible to educate all children if we would but put our minds to it and utilize the available information on the subject. The only constraint on pushing forward on this front is our unspoken belief that the children of the poor cannot or will not succeed. This view serves those who would perpetuate and extend class differences—those who do not believe in equal access to education for all of our children.

As early as 1971, Weber, an educational researcher, demonstrated that there were four basic characteristics which differentiated successful and nonsuccessful schools which were responsible for the education of poor children. Those four characteristics were: First, strong leadership; second, high expectations of students; third, an orderly, relatively quiet, and pleasant atmosphere and fourth, a strong emphasis on the acquisition of reading skills with careful and frequent evaluation of the acquisition of those skills. All four of these characteristics are totally within the control of the school. All four of these characteristics are not dependent upon the school budget.

Subsequent studies over the years have tended to verify Weber's original findings and add more detail. For example, teachers in effective schools believe that what they do has an impact on student performance but teachers in ineffective schools believe that student performance is based on variables outside the school such as family background.

Why, in the face of research to the contrary, has the belief in the ineducatability of poor children persisted? I submit that this belief persists because it provides an excuse for failure for those schools and their personnel who do not wish to make an effort to succeed and I believe that this belief persists in the larger society because it provides an excuse to accept poor performance for poor children. The ever-widening class differences in this country serve interests which can hardly be expected to relinquish their position of economic superiority. A permanent underclass which can meet the needs of those in an economically superior class is an asset to some. However, the fact remains that this cynical approach toward the noneducation of poor children is unfair, unjust, inequitable, and I would hope, un-American.●

THE RETIREMENT OF MICHAEL G. FLAHERTY

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. SHANNON. Mr. Speaker, when Michael G. Flaherty steps down as chairman of the board, the South Middlesex Chamber of Commerce will lose a man who has helped the area weather a time of great change.

Over the past few years, the South Middlesex area has witnessed an enormous growth in high-technology industries. Mike Flaherty helped to ease this transition. As chairman of the chamber's private industry council, he helped the area's economy grow and flourish. While working at Digital Equipment, he has seen first hand how the influx of high technology has affected not only the area's economy, but its people as well.

Mike Flaherty served on the South Middlesex Chamber of Commerce out of a deep commitment to his community, and that commitment shows in his involvement in a long list of community organizations. He has served on the board of the Framingham Union Hospital. He has worked with the Juvenile Diabetes Foundation, the Heart Association, the YWCA, the Boy Scouts—the list goes on.

Mike's commitment to the South Middlesex community will undoubtedly continue after he steps down as chairman of the board. His dedication to the chamber of commerce—and his accomplishments there—have helped to shape the economy of one of the fastest growing areas in the country. Mike Flaherty's guiding hand will be sorely missed.●

DEMOCRACY IS ALIVE AND WELL

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. BEREUTER. Mr. Speaker, for Latin America, the decade of the 1980's will increasingly be highlighted by the struggle between democracy and authoritarianism. The civil war in El Salvador and the tense international situation in Central America often cause our view of Latin America to be quite myopic. The Congress should understand this condition, Mr. Speaker, because an important number of nations in South America are winning the struggle against the military authoritarianism which plagued the region a decade ago.

Over the past 5 to 7 years, huge steps toward democracy have been taken in South America. An editorial in the Omaha World-Herald of March 18, 1984, pointed out that 9 of the 12 South American countries are democratic and, to very differing degrees, the remaining countries are on their way. The United States should always work toward the rapid reestablishment of democracy in all countries in the Western Hemisphere. Yet while we are concentrating our energies in Central America, we should not forget that South America's current progress toward democracy is nothing less than remarkable. I recommend this editorial to my colleagues.

[From the Sunday Omaha World-Herald, Mar. 18, 1984]

DEMOCRACY MOVES AHEAD

While parts of Central America simmer with political unrest, South America has been making impressive progress toward democracy over the last decade.

Indeed, people in the United States who are preoccupied with problems in El Salvador, Honduras and other parts of Central America might be well advised to pay more attention to what's happening in South America.

Currently, nine of the 21 countries on that continent have democratic governments or are scheduling elections.

These countries have 94 percent of South America's 246 million people. Ten years ago, only 30 percent were under some form of democratic rule.

The changed pattern has prompted Secretary of State George Shultz to observe that the decade has seen "an extraordinary trend toward democracy"

This doesn't mean that the nine countries have or are considering democracy or freedom identical to that in the United States. Some of the democratic governments are leftist and some are rightist. The level of freedom varies.

It is the direction of the trend that is encouraging.

Ecuador ousted its military rulers in 1979. Peru followed suit in 1980, Bolivia in 1981 and Argentina just last year. Brazil and Uruguay have scheduled presidential elections later in the year.

Not yet under democratic rule are Chile, Paraguay and Suriname, although there are encouraging changes in those countries.

The Reagan administration has been working quietly with the emerging democracies, extending moral support and economic aid.

Professor Jorge Dominguez, a Harvard University specialist on Latin America, said in a recent study that although this assistance is helpful, "It just isn't helpful enough."

The United States, then, has a major part to play in the future political direction of South America along with Central America.

It would be a mistake to concentrate on Central American problems without also raising the policy horizon to include South America, where democratic hopes are fragile but growing.●

TRIBUTE TO BENJAMIN MAYS

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. DERRICK. Mr. Speaker, I rise to pay tribute to a gentleman who has left South Carolina and the Nation as a whole much richer by his life, Benjamin Elijah Mays.

Dr. Mays, throughout his distinguished career of more than half a century as an educator, civil rights leader, and theologian, has inspired people of all races throughout the world by his persistent commitment to excellence.

Dr. Mays was born in 1895 in Greenwood County, S.C. One of his first memories was one of racial violence, but he looked beyond the frustrations of segregation and persevered toward its elimination. He was instrumental in the ending of segregation of public facilities in Atlanta, Ga., and he promoted nonviolence during a time which was often marred by racial violence.

Dr. Mays had an illustrious career as an educator. He was head of the School of Religion for Howard University before being named president of Morehouse College in Atlanta.

In January 1983, I nominated Dr. Mays for the Presidential Medal of Freedom. His efforts for people of all races were outstanding and I ask you to join with me in the memory of a great servant of mankind, one who made the world a much better place.●

DR. YOSHIRO YASE—DEDICATED SCIENTIST HONORED BY THE PEOPLE OF GUAM

HON. ANTONIO BORGA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. WON PAT. Mr. Speaker, several months ago I brought to your attention the work of Dr. Kwang-Ming Chen, a scientist on Guam, who had studied the causes of amyotrophic lateral sclerosis (ALS) and Parkinsonism Dementia (PD) for many years. Because of a lack of sufficient information the commendation neglected to mention his colleague and co-researcher, Dr. Yoshiro Yase. That is why I am bringing Dr. Yase's brilliant contributions to this vital research to my colleagues' attention today.

The territory of Guam has one of the highest incidence rates of ALS and PD in the world. Considerable research has been performed in an effort to isolate etiological factors, and much of this research was done on Guam by Dr. Yoshiro Yase at the National Institute of Neurological and Communicative Disorders and Stroke Research Center. Dr. Yase's research established a correlation between the presence of aluminum and other trace metals in the environment and the two diseases. It now appears that the etiology of these degenerative diseases of the central nervous system may have been found, and their prevention, or treatment of, is on the horizon. The people of Guam and myself are very appreciative of the doctor's dedicated commitment to this research.

PD and ALS are characterized as chronic neurological conditions marked by muscular rigidity, tremor and impaired motor control. They have been diagnosed among Chamorros on Guam since the early 20th century. Dr. Yase began his research on Guam in 1964 with his colleague, Dr. Kwang-Ming Chen. They began to suspect that the high concentration of aluminum in the water and soil was a primary factor in the disease rate. After considerable study, Dr. Yase ruled out hereditary factors and turned his attention to an interaction between high aluminum and low calcium and magnesium levels in the water supplies.

Almost every family on Guam has suffered from the loss of a relative to

PD or ALS. That is why Dr. Yase's contribution has been so important to the people of my island. These are horrible, insidious diseases and it is very painful to watch loved ones' physical capacities degenerate so rapidly. An estimated 15 to 20 percent of adult Chamorro deaths are attributed to the two diseases.

A short profile of this esteemed Japanese researcher follows. It is certainly a shining example of a life that has been devoted unselfishly to the attainment of knowledge and the health of mankind.

CURRICULUM VITAE

Name: Yoshiro Yase.

Address: 12-1, Nishi Takamatsu, Wakayama City, Japan.

Birth date: July 30, 1927, birthplace: Kyoto, Japan.

Marital status: Married, wife Mariko and three children.

Nationality: Japanese.

Education: 1952 Graduated from Kyoto Prefectural Medical College.

Training and employment: 1954—Teaching assistant, Dept. Neuropsychiatry, Wakayama Medical College; 1960—Lecturer, Dept. of Neuropsychiatry, Wakayama Medical College; 1964—Research Associate, NINDB Research Center, Guam, for one year; 1965—Associate Professor, Wakayama Medical College; 1969—Chairman, Division of Neurological Diseases, Institute of Medical Research Wakayama Medical College; 1971—Professor of Neurology, Wakayama Medical College; 1977—Director, Institute of Medical Research, Wakayama Medical College.

Associations and appointment:

1. Officer, Japanese Neurological Society.
2. Vice Director, ALS Research Group, Ministry of Health and Welfare since 1969.
3. Vice Director, ALS Research Group, Ministry of Education since 1972.
4. Scientific Consultant, ALS Association of America since 1980.
5. Research Grantee 1966-1974, NINCDS, NIH, HEW for comparative studies of ALS in Guam and Kii peninsula, Japan, and established aluminum and other trace metals as etiological factor.●

U.S. HIGH TECH DRAINED AWAY BY THE SOVIETS

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 29, 1984

● Mr. HUNTER. Mr. Speaker, recently, the nationally syndicated columnist, Jack Anderson, published a column entitled "U.S. High Tech Drained Away by the Soviets." This article details the horror story of the looting of our militarily critical technology by the Soviet Union. In his article, Mr. Anderson described the work done by my distinguished colleague, Mr. ROTH of Wisconsin. When the Export Administration Act was considered by the House, Mr. ROTH took the lead in trying to protect America's technological supremacy from being eroded by the thievery of Communist block nations. As the ranking member of the House Subcommittee on International Economic Policy and Trade, Mr. ROTH has earned the respect of his colleagues for his hard work on the Export Administration Act and his knowledge of the critical issue of the hemorrhage of U.S. technology to the Soviet bloc.

Now that the House and Senate conferees are beginning their important work on this vital issue, it is more timely than ever to review the points made in the Jack Anderson column. For this reason, I am inserting the text of his article into the RECORD.

[From the Washington Post, Mar. 19, 1984]

U.S. HIGH TECH DRAINED AWAY BY THE SOVIETS

(By Jack Anderson)

Like sticky-fingered kids turned loose in a candy store, the Soviets are looting the West of its high technology. They are using the information to develop sophisticated weapons and modernize their industrial plants. Yet members of Congress and the business community seem determined to encourage this high-tech drain.

U.S. officials believe that more than 150 Soviet weapons systems contain technology derived from western sources. One secret Pentagon report lists two dozen methods the Soviets have used to obtain this material. They range from legal purchase to theft.

The report, seen by my associates Michael Binstein and Dale Van Atta, mentions 14 specific areas where U.S. technology has helped the Soviets "to develop new generations of smart weapons, to dramatically improve their airlift capability, to make their nuclear weapons more accurate and to enhance their command and control with better computers and communications."

Glomming onto western high-tech material is a booming industry in the Soviet Union. U.S. officials estimate that the Kremlin has 20,000 people engaged in acquiring and analyzing western-produced systems. Most of the 135 Soviet citizens kicked out of 21 nations last year were trying to obtain high-tech secrets.

The most effective way to stanch the hemorrhage of vital technology to the Soviets would be to strengthen the Export Administration Act, which expired last year. Instead, the House has passed a poorly crafted bill, sponsored by Rep. Don Bonker (D-Wash.), that would seriously weaken U.S. export controls.

A basic flaw in the Bonker legislation is its blithe presumption that COCOM, the Paris-based Coordinating Committee of NATO members, has been doing a good job of controling high-tech exports to the Soviet bloc. It hasn't.

One of Bonker's colleagues, Rep. Toby Roth (R-Wis.), has pointed out this weakness in the legislation, which is now in Senate-House conference. Roth notes that there's not a single report or survey claiming that our European and Japanese allies are effectively policing either their own technology exports or reexports of U.S. goods.

Quite the contrary, in fact, one of the few studies on the subject—by the Atlantic Institute in Paris—cites the existence of "a thriving and lucrative business based on surreptitious sale of strategic and military technology to the Soviet Union and eastern Europe." The report's author was told by a U.S. customs agent in Europe: "Everything I touch turns to gold. Every lead uncovers illegal sales."

The report concludes ominously: "In view of the exceedingly lax enforcement efforts by certain COCOM countries, the cases that are detected and investigated may represent only the 'tip of the iceberg'. . . ."

Roth believes that items classified as "Militarily Critical Technologies" are simply too numerous to be controlled. Instead of presenting a reasonable list of these critical items, the Pentagon labored and brought forth a mountainous, 700-page volume. The result is that the Customs Service and Commerce Department waste valuable time and effort going after low-grade, obsolescent computers when they could be watching for highly sensitive items.

The CIA has a list of the items the Soviets want most—the gourmet products in the high-tech supermarket instead of the bottles of ketchup. Recognizing the need for selectivity Roth and his allies are trying to put through an amendment narrowing the list of controlled exports in return for stricter enforcement. But business interests are trying to kill the amendment, hoping to get rid of many existing controls on grounds that they're ineffective.●