SENATE—*Tuesday, June 11, 1985*

(Legislative day of Monday, June 3, 1985)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Let us pray.

God of truth and justice, let the light of Your wisdom illuminate the issues now confronting this body. The problem is not doing what is right, but knowing what is right to do. Senators do not disagree because they are disagreeable. They disagree because they have strong convictions which differ—often conflict. As the Senators sift through the milieu of information, data, and opinion, help them to distinguish fact from fiction—reality from illusion. Guide them through deception, disinformation, and bias to truth. Help them through ambivalence and equivocation to clarity and decisiveness, that Thy will may be done on Earth as it is in Heaven. In Thy holy name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, each leader has 10 minutes, and I will yield 5 minutes of my time to the distinguished Presiding Officer, the President pro tempore of the Senate.

Following that, there will be a special order in favor of the Senator from Wisconsin [Mr. PROXMIRE] for not to exceed 15 minutes.

Then there will be routine morning business not to extend beyond 12 noon, with statements therein limited to 5 minutes each.

The Senate will be in recess between 12 noon and 2 p.m. for the usual Tuesday policy luncheons for Members on both sides of the aisle.

At 2 p.m., we will resume consideration of S. 1003, the State Department authorization bill. Pending is amendment No. 328 to the Helms amendment.

It is my hope that we can complete action on the State Department authorization bill today. I indicate to my colleagues that we can expect rollcall votes occurring today, probably starting late afternoon.

I hope we might complete business no later than 7 or 8 this evening, and I still hope that there will not be any late sessions this week.

Since the House and Senate budget conference is to start today, it is necessary that we appoint budget conferees before noon today.

In addition, we would like to work out a time agreement on consideration of the Legal Services nominations and the nomination for the Federal Reserve. We could take those up tomorrow if we complete action on the State Department authorization bill today.

We are working with Members on both sides of the aisle who have problems with the clean water bill, who have amendments; and we hope we can take up that measure on Wednesday and complete action on Thursday.

Perhaps on Friday we will come in fairly early and take up the Nuclear Regulatory Commission measure, with one or two amendments, and may be able to dispose of that by early afternoon—2 o'clock or 2:30.

That is the hope for the week. It may not be the reality, but that is the hope and the schedule.

With respect to the remainder of today, there probably will be about four rollcall votes on S. 1003, including final passage—maybe more, depending on what happens with amendment No. 328 and the initial Helms amendment with reference to human rights abuses.

Mr. President, I yield 5 minutes of my time to the Senator from South Carolina, after the distinguished minority leader has been recognized.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. RUDMAN). Under the previous order, the Democratic leader is recognized.

Mr. BYRD. I thank the majority leader.

I ask unanimous consent that the remainder of my time be reserved.

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

Mr. BYRD. I say to the distinguished majority leader that if he wants some additional time for Mr. THURMOND or others, he may have mine.

UNANIMOUS-CONSENT REQUEST —COMMITTEE MEETING

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to meet during the session of the Senate on Tuesday, June 11, 1985, and Wednesday, June 12, 1985, and on Thursday, June 13, 1985, in order to mark up S. 616, the farm bill and related issues.

Mr. BYRD. Mr. President, as I indicated the other day to the distinguished majority leader, if the request could state a certain timeframe in which the committee would meet, I do not feel there would be any problem.

The complaint is that we get consent for the committee to meet during a day, and hours go by, Members do not know when they are going to be called for the meeting, and it is even more difficult then to get a quorum. I do not know anything about the complaint personally, what the facts are, but that, I believe, is our problem in getting consent.

If the distinguished majority leader can get some information from the committee as to precisely what time it wants to meet and for how long, I do not believe there will be any problem.

Mr. DOLE. May I suggest, on behalf of the chairman of the committee—and I have not consulted with him, and maybe I can renew the request after the policy luncheon—that they be permitted to meet until 5 p.m. today.

Mr. BYRD. Beginning when?

Mr. DOLE. Beginning at 2 or 2:30, after the policy luncheon.

Mr. BYRD. All right, let us see if we can clear that.

RECOGNITION OF SENATOR THURMOND

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

LOSS OF JOBS IN THE TEXTILE/ APPAREL INDUSTRY

Mr. THURMOND. Mr. President, I should like to take this opportunity to call my colleagues' attention to the continued loss of jobs in the textile/apparel industry.

Almost everyday, the newspapers in my home State contain stories of textile and apparel plant closings. A viable textile and apparel industry

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

cannot exist if cheap foreign imports continue to flood our markets.

Mr. President, I ask unanimous consent that articles appearing in the State and USA Today newspapers detailing the loss of 450 jobs at Bath, SC, be printed in the RECORD.

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

[From the USA Today, June 7, 1985]

ACROSS THE USA

BATH, SC.—Nearly 450 United Merchants and Manufacturers workers will lose jobs as mills are phased out by September. Blamed, rising textile imports.

[From the States, June 7, 1985]

450 TO LOSE JOBS AT BATH

BATH, SC.—More than 450 workers will lose their jobs when operations at United Merchants and Manufacturers' Bath Mills are phased out between now and September, officials said.

"We will begin an orderly phase out of our operations because of our inability to compete with the flood of foreign imports entering the American market," General Manager Bruce Henson said Wednesday.

Bath Mills produces yarn dies and apparel fabric.

Henson said the order to close, received Tuesday from United Merchants' headquarters in New York, will not affect the company's finishing plant at Clearwater.

But Hattie Mae Hammond, a Bath Mills employee, said, "It's going to affect me a lot."

Mrs. Hammond said one woman who has worked at the plant for 20 years fainted when she heard about the shutdown.

"It will be hard mentally and financially, but mostly financially," said worker Julia Mae Thomas.

Mill employees in the Aiken County town will be offered assistance in filing for unemployment compensation and in finding other job opportunities, said Wayne Thompson, personnel director.

Henson said signs of the shutdown first appeared at the end of March, when about 100 employees on weekend shifts were released.

Arthur Charwat, vice president of United Merchants, said the closing comes after months of decline in business. He said the decision was made after evaluation of market conditions.

"The market is simply not strong enough to support our production capabilities," Charwat said.

Mr. THURMOND. Mr. President, I just wish to quote from these articles. This is an article which appeared in the State newspaper, the biggest paper in South Carolina, written in big headlines: "450 to Lose Jobs at Bath." It seems almost every day a mill is closing curtailing operations and as a result people are losing their jobs. It does not make sense to allow these imports to come in here to the extent that they are closing down our own industries and putting our own people out of jobs.

Mr. President, this article says:

More than 450 workers will lose their jobs when operations at United Merchants and Manufacturers' Bath Mills are phased out between now and September.

"We will begin an orderly phaseout of our operations."

Why, Mr. President?

"Because of our inability to compete with the flood of foreign imports entering the American market."

Says Bath Mills general manager, Bruce Henson.

The mill produces yarn, dyes, and apparel fabric.

Both mills received orders from New York they would have to close.

One worker, Hattie Mae Hammond, said:

It's going to affect me a lot.

Mrs. Hammond also said one woman who has worked at the plant for 20 years fainted when she heard about the shutdown.

Fellow worker Julia Mae Thomas said:

It will be hard mentally and financially, but mostly financially.

Mr. President, Mr. Charwat, the vice president of United Merchants said,

The market is simply not strong enough to support our production capability.

The U.S.A. Today newspaper, a newspaper that is read across the whole Nation, printed an article on the plant closing in Bath, SC, and said:

Nearly 450 United Merchants and Manufacturers workers will lose jobs as mills are phased out by September. Blamed, rising textile imports.

Mr. President, I hope that this administration will think over this matter. I realize they want to trade with other nations, but this is not the kind of trade in which we ought to engage. I believe in fair trade, not free trade. How can you have free trade when workers in the mainland of China are making from 8 cents to 15 cents an hour and we are paying our workers in this country from $6 to $10 an hour? You just cannot compete. The administration cannot continue to allow these imports to come into our country on such an excessive scale.

I remember in 1958 I was on the Textile Subcommittee of the Commerce Committee. Senator Pastore of Rhode Island was the chairman of that subcommittee, and the Democrats were in the majority.

We held hearings on the subject of textile imports. Our first hearing was in Maine and from there we went to New Hampshire. I remember when we got to New Hampshire, I went to the home of Daniel Webster. I was very interested to see where he was born in that beautiful State.

We held hearings in Rhode Island, in Connecticut, in New York, and in Washington, DC. We continued south to the Carolinas and Georgia.

Mr. President, as you can see, we have had this problem for a long time. I just do not understand why so many administrations have not acknowledged that this is an important problem. I do not know what would happen if the American textile industry went out of business completely. The Defense Department says that textiles are ranked second to steel in the matter of national defense. They not only make uniforms, they make parachutes and many other things that our Armed Forces must have. If we had a war, how would we get those items from other countries? We may not be able to do it. It would be a tragedy.

I say that from the standpoint of our very survival in this country we need the textile industry. We need this apparel industry. We also need to give jobs to our people.

Again, I hope the administration will wake up and realize what they are doing and stop these excessive imports. I hope the administration will have the vision and have the courage to act. I am deeply disturbed.

While I realize the State Department wants to get along with other countries in every way possible, they must realize that we cannot placate all nations. Most of all they must not placate other nations at the expense of the lives and jobs of our own people here in this country. Our first duty is to our American workers.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized for a period not to exceed 15 minutes.

Mr. PROXMIRE. Thank you, Mr. President.

PRESIDENT'S SALT II DECISION RIGHT, BUT ARMS CONTROL IS STILL IN SERIOUS JEOPARDY

Mr. PROXMIRE. Mr. President, yesterday, President Reagan announced that we will continue to abide by the Strategic Arms Limitation Treaty II. The treaty expires at the end of this year. Senator BUMPERS is reported to have called the President's decision the most statesmanlike of his administration. The Washington Post said it was not an easy decision.

On the other hand, Mr. President, this Senator would call the President's decision right on every count and supremely easy. If all Presidential decisions were as easy as this one, the Presidency would be a snap.

Consider: First, from the standpoint of strict military power, does the United States gain or lose by continuing to abide by the treaty? Three of the four members of the Joint Chiefs of Staff were reported to have urged the President to abide by the treaty. Why did they take this unusual step? They had good, solid military reasons.

Here is why: SALT II provides minor restrictions on this country's nuclear arms arsenal. To abide by the treaty the United States did have to make sacrifices. In order for this country to bring a new Trident submarine into service, it was necessary for us to reduce warheads somewhere else in our arsenal.

We could have dismantled Minuteman missiles or we could, as we did, take an old Poseidon submarine out of service. The President said we would dismantle the Poseidon. The net effect is to strengthen our submarine deterrent. The new Trident has many features superior to the Poseidon. Of course, the country would have had a slightly—very slightly—larger submarine deterrent if we had defied the treaty and kept both submarines on duty. But the difference is marginal, considering the fact that our nuclear carrying submarine fleet has the power to utterly devastate every Russian city many times over.

So, the U.S. sacrifice in abiding by the SALT Treaty was very minor. On the other hand, by keeping the treaty in effect, the majority of the Joint Chiefs of Staff advised the President that we provide far more effective restraint on the Soviet Union. Their ICBM arsenal consists of missiles that have great throw weight. The missiles now carry 3 to 10 warheads. Without the restraint of SALT II, the missiles could carry 20 or even 30 warheads. The process of adding extra warheads is cheap and simple.

Whatever prospect this country has of preventing a significant portion of Russian warheads from reaching American targets with a star wars defense could be easily overcome by this additional Russian MIRV'ing of their present missiles. So from a strictly military power standpoint, the President was right. His decision was easy. And, do not forget, Mr. President, President Reagan has requested a study by November 15 on proportionate responses which could set the stage for breaking the treaty.

Now, from an arms control standpoint, the decision was obvious. If the President had renounced this treaty, which has less than 7 months to run before it expires, it would have made the President's arms control posture conspicuously and obviously negative.

Here is a President who has opposed every arms control treaty ratified by this country. He is pushing hard for a star wars program that will, when it reaches fruition, obviously nullify the Antiballistic Missile Treaty. The President has refused to negotiate an end to nuclear weapons testing, although the country has pledged to do exactly that by two treaties we have signed.

If, on top of all of this, the President should turn his back on SALT II, he would have put himself in direct opposition to an arms control movement that has won overwhelming support from the American public in a number of statewide referendums.

If the President had renounced SALT II, his prospects of making progress with the Congress on such critical issues as military procurement, overall military spending, and support for his controversial policies in Central America—all would have suffered serious erosion. And how about the President's influence with our NATO allies? Rightly or wrongly our European military partners have put greater stock in arms control. They are deeply concerned that this country may proceed with the star wars program that will swiftly abrogate the ABM Treaty. They generally have a far more critical attitude toward the superpower arms race than Americans have. If the President had repudiated the SALT II Treaty, even the Teflon President, Ronald Reagan, would have lost considerable influence with our European allies.

Mr. President, this Senator is happy and grateful that President Reagan has decided to continue to abide by the SALT II Treaty that expires at the end of this year. It is the right decision by our President. But we should not mistake this action by the President as the salvation of arms control. Arms control will require far more support from this President in the future if it is to survive.

I think we should recognize that the President of the United States is the name of the game in arms control. He is the captain. He is the crew. He is the works. He is a true one-man band. In arms control neither the Congress nor any other institution counts at all. To his credit President Ronald Reagan has made a sound and right decision in announcing that he will let SALT II live at least for the rest of 1985. In the next few days I will discuss on the floor why arms control continues to be in real serious trouble.

RATIFICATION OF THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, an article in the Washington Post on Friday, June 7, reports the progress that has been made in the case against former Nazi SS officer Klaus Barbie, the infamous "Butcher of Lyons."

The Barbie trial will begin before the end of the year, perhaps.

Mr. President, since we passed a resolution at the end of the last session to take up the Genocide Treaty early in the 99th Congress, the Senate should pay particular attention to this trial.

Under French law, Barbie cannot be prosecuted for war crimes committed more than 20 years ago, but he can be charged with crimes against humanity. In the context of this case, crimes against humanity means actions against noncombatants.

He is accused of ordering the arrest of 44 Jewish children at their school in the village of Izieu in southwestern France on April 6, 1944, and then having them shipped to the Auschwitz concentration camp on his own initiative without orders from above.

It is believed that all those children died at Auschwitz.

According to the famed Nazi hunter Serge Klarsfeld, "The decision to send the children to Auschwitz was taken by Barbie. He claimed credit for it."

The three sons of Fortunee Benguigui were among the 44 children. In the Post article, she says, "Other people forgive. But I cannot forgive. I suffered to have these children, and I do not want to die before the man who was responsible for their deaths is brought to trial."

Fortunee Benguigui is herself an Auschwitz survivor, though she never saw her children while she was there. She descibes the pain she has carried with her since:

> For someone who wasn't there, it is impossible to believe what we suffered. Only those of us who have seen it know what it was like—and we have a duty to talk about it so that it never happens again.

We in the Senate have a duty as well. I believe, Mr. President, that it is our duty to ratify the Genocide Treaty. The Foreign Affairs Committee has now reported the treaty to the Senate floor for the sixth time since World War II by an overwhelming bipartisan vote. The case of Klaus Barbie points out that for the survivors of the Holocaust, like Fortunee Benguigui, the pain is still there.

If we fully understand her message, we ought to join with the 96 other nations that have already ratified the Genocide Treaty—a document that would demonstrate our resolve to bring the perpetrators of genocide to judgment.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 12 noon, with statements therein limited to 5 minutes each.

MEMORIAL SERVICE FOR THE HONORABLE SAM J. ERVIN, JR.

Mr. STENNIS. Mr. President, this Thursday morning, June 13, at 11 a.m., there will be a memorial service to pay tribute to the Honorable Sam J. Ervin, Jr., who was a member of this body from 1954 to 1974 and who died on April 23, 1985.

He spent those years in the Senate working to protect the rights and lib-

erties of all Americans of all races, creeds, and colors.

Friends and former colleagues have been invited and are invited to join in this service to his memory at the National Presbyterian Church at 4101 Arizona Avenue, NW., Washington, DC.

UNITED STATES-NICARAGUAN RELATIONS: A HISTORICAL PERSPECTIVE

Mr. MATSUNAGA. Mr. President, last week here in the Senate we voted approval of nonmilitary aid to those attempting to overthrow the Sandinista government of Nicaragua, a regime with which we are at odds although we continue to maintain diplomatic relations. By other actions as well we expressed qualified support for administration suasion on the Nicaraguan Government to "cease and desist" in its aggressive behavior toward its neighbors and its repression at home. For my part, I have not been in total sympathy with the administration's policy toward Nicaragua since it has failed to reflect adequately the origins of the deprivation which has given rise to the political and social unrest in that country and has tended to rely almost exclusively on military initiatives to spur a resolution of our differences there. Hence, I was most disappointed by the tie vote that defeated the proposal of the senior Senator from Massachusetts, Mr. KENNEDY, urging the administration to resume talks with the Sandinista government.

This vote fails to signal a congressional willingness, in the context of our other actions, to resolve our differences in Nicaragua at the diplomatic bargaining table, rather than through sole reliance on continued civil strife there. In this connection, I am somewhat reassured by the Defense Department statement that Secretary Weinberger "sees no need for intervention in that area of the world" and views "the root cause of the problems there"—to be—"primarily economic."

It is well for us to recall that when we last sent American troops in 1912 to that troubled country—albeit at the request then of a provisional government—we remained there, except for a brief withdrawal in 1925, until 1933, a period of two decades. Three years after our final withdrawal the Somoza family began its long reign of despotism there in 1936, a dynasty we continued to support until shortly before its downfall despite its lack of any real democratic ideals or inclinations. Historically, our involvement in Nicaraguan affairs has done little to foster either political stability or economic and social progress for the people of Central America's largest country.

But, Mr. President, I did not realize how fractious an issue our diplomatic relations with Nicaragua have been on this hill until earlier this year when I was researching the history of our Government's agricultural policy in regard to Hawaiian sugar, in preparation for deliberations on the continuation of price supports for this commodity.

I discovered that the first sugar reciprocity treaty Hawaii achieved here in Washington in 1876 was the culmination of diplomatic negotiations between the Hawaiian monarchy and the U.S. Government which began 20 years earlier. It was in 1856 during the expansionist Presidency of Franklin Pierce that a sugar treaty was first worked out between Secretary of State William March and representatives of the then Kingdom of Hawaii. Unfortunately, however, our predecessors in this body failed to give their assent to the document. Diplomatic historian Samuel Flagg Bemis writes that this failure to gain Senate ratification was not so much due to opposition from southern sugar interests as it was a general reaction against President Pierce's foreign policy and, specifically, his tacit support for a proslavery filibustering expedition against Nicaragua that installed an American citizen, William Walker, as the country's president until he was forced out by an alliance of neighboring countries. The cause of Hawaiian sugar received a setback that took another 20 years to overcome thanks to the President's secret war in Nicaragua! I devotely hope that these two issues do not become entwined once again in 1985, but it is not hard to understand why the United States has not been strongly identified with aspirations toward democracy in Nicaragua, given the history of our relations over the past 130 years. Mr. President, to paraphrase Santayana, unless we remember our history and take lessons from it, we are doomed to repeat the mistakes of our past.

EAST-WEST CENTER CELEBRATES SILVER ANNIVERSARY

Mr. MATSUNAGA. Mr. President, as a principal cosponsor of the legislation passed in the 98th Congress to establish a U.S. Institute of Peace, I rise this morning to call to the attention of my colleagues the silver annivesary of another congressionally inspired institution dedicated to the promotion of international understanding and, thereby, to the cause of world peace. I refer to the Center for Cultural and Technical Interchange Between East and West, whose charter was laid out in legislation signed into law by President Dwight D. Eisenhower on May 14, 1960.

The East-West Center, as it has come to be known, has brought together leading scholars and scientists across the spectrum of human achievement in knowledge in the interest of seeking answers to questions of the human condition both practical and profound, immediate and farsighted, with a special focus on life in and around the Pacific. It has trained both promising young students and midcareer achievers from all the Pacific basin nations in a transcultural setting and, in so doing, has made an enormous contribution to amity and understanding in the Pacific hemisphere as these graduates have gone on to become leaders in their lands. Once viewed as an instrument of U.S. foreign policy, the center has indeed evolved in the last decade to become a truly international partnership for achieving interchange in culture, science, and technology.

Its origins sprang from the vision of Hawaii's last territorial delegate to Washington in the late 1950's, John A. Burns, and that of his powerful ally in the Senate, Majority Leader Lyndon B. Johnson, both of whom authored the enabling legislation. Later, of course, Johnson went on to become Vice President and President while Burns returned to the new Aloha State and subsequently became its Governor.

Many and varied have been the accomplishments of their brainchild in the years since. A year after their legislation was signed the two men particiated in groundbreaking ceremonies for the first facilities of the center on the Manoa campus of the University of Hawaii. Soon thereafter programs were underway that more than matched the distinction of the architecture embodied in the structures that rose there: the Thomas Jefferson Hall and the John F. Kennedy Theater. These included the Resource Systems Institute, the Population Institute, and the Institute of Culture and Communications, as well as the Environmental and Policy Institute and the Pacific Islands Development Program.

On June 28 a gala silver jubilee dinner will be held in Honolulu with distinguished keynote speakers. The dinner will be sponsored by the center's board of governors, whose members will mark their own 10th anniversary as an international board on July 1. The International Association of East-West Center alumni will be holding its international conference in Honolulu June 25-30. Later this year a program will be held here in Washington to present the center's accomplishments and commemorate this anniversary here on Capitol Hill, where the center was first conceived. It is a presentation I eagerly await so that all of us in this body may share in the pride of the center's achievements.

Mr. President, the East-West Center is, without a doubt, one of the greatest investments in peace we have ever made.

THE WESTWAY HIGHWAY

Mr. LAUTENBERG. Mr. President, on April 2, I joined with Senators PROXMIRE, HUMPHREY, and BRADLEY in introducing S. 826, legislation which would prohibit the construction of the Westway Highway project in New York City. Specifically, S. 826 states that no Federal funds should be expended to fill in 200-plus acres of the Hudson River. This landfill is necessary to accommodate the construction of this project, as currently designed, although it is not necessary for building a replacement highway on the west side of Manhattan, the original rationale of Westway. Westway would tunnel through the landfill. At ground level, 200 acres of parkland, residential, commercial, and office development would be created.

My colleagues might ask: Why are Senators from Wisconsin, New Hampshire, and New Jersey seeking to forestall the development of a highway in New York? The Congress rarely does this. There are three answers to that question. First, the transportation benefits of the Westway project are far outweighed by its costs to the highway trust fund and the environment. Second, the construction of this project may do significant damage to a vital striped bass habitat. Finally, there are less expensive alternatives to this project which could better serve regional transportation needs by freeing up billions of dollars for highway and mass transit improvements in New York.

Anyone who knows New York City knows that the city needs better transportation both at ground level and in its extensive subway system. S. 826 does not deny New York the right to build a new and improved road. Nor, does it deny New York the opportunity to invest billions more in its mass transit facilities. All the bill does is deny New York the right to use highway trust funds to create additional real estate on Manhatten Island. The bill asserts the principle that the U.S. taxpayers should pay for transportation, and only transportation, out of the highway trust fund.

On a cost per mile basis, Westway will be the most costly road in the Nation. The next most costly is only half the cost of Westway. Officially, its cost today is $2.25 billion. A reasonable estimate of its projected cost is $4.2 billion. Westway is a 4.2-mile stretch of road. Therefore, Westway, over the 10 years it would take to build it, could cost a billion dollars per mile.

Mr. President, if the Westway project had been judged only on its value to improved transportation, a permit for its construction could not have been issued by the U.S. Army Corps of Engineers. As a transportation project, Westway is not cost effective. It is only when its amenities are counted as part of its benefits that a cost/benefit analysis can be viewed favorably.

In May, Mr. President, the Senate approved a budget resolution which assumed a $1.7 billion cut in Federal highway expenditures. We made that cut because we are concerned about the solvency of the highway trust fund and the growth of the Federal deficit. I ask my colleagues: When all States are being asked to delay highway projects, is this a time when we should be funding a project which cannot be justified based solely on its benefits to transportation?

Mr. President, with the decline of the striped bass stocks in the Chesapeake Bay, the Hudson River has taken on added importance as a breeding ground for striped bass. Three Federal agencies, at the regional level, objected to the granting of the Westway construction permit. The Environmental Protection Agency, the Fish and Wildlife Service, and the National Marine Fisheries Service all cited the threat to the striped bass habitat as reason for their negative recommendations. It is clear that Westway would have a significant and adverse impact on this vital habitat.

If Westway is not built, Mr. President, New York is not left without an opportunity to improve its roads and subways. Under the Interstate Transfer Program, New York can trade in Westway for $1.7 billion in highway and mass transit funding. Under a special provision of the Surface Transportation Assistance Act of 1982, New York still has the opportunity to seek a trade-in. Trade-in authority for all other segments not under court order expired on September 30, 1983. New York has until September 30, 1985, to trade in Westway. Given the restraint in Federal mass transit funding and New York's extraordinary mass transit needs, I urge them to make this choice.

Mr. President, the sponsors of S. 826 did not originate the opposition to Westway. Westway is opposed by a broad array of environmental groups and organizations supporting mass transit. Westway is opposed by the National Taxpayers Union. And, the most prominent opponents of Westway, including a number of members of New York City's congressional delegation, come from New York City. In fact, both city council president, Carol Bellamy, and city comptroller, Harrison Goldin, both city-wide elected officials, are Westway opponents.

In 1977, the Congressman from Manhattan's West Side, Congressman Ed Koch, said, "The Westway will not be built. I will not build an environmental disaster." As mayor, Mayor Ed Koch has now changed his mind. But the nature of the Westway project has not changed.

Recently, Mr. President, the New York Times printed an excellent op-ed piece on Westway by Senators PROXMIRE and HUMPHREY. For the information of my colleagues, I ask unanimous consent that this article appear in the RECORD.

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

WESTWAY—GIANT BOONDOGGLE

(By Gordon J. Humphrey and William Proxmire)

WASHINGTON.—Thanks to the fancy footwork of the developers of Westway and the proponents of the proposed 4.2 mile highway on the West Side of Manhattan, what normally would be a local transportation issue has mushroomed into a national controversy. The highway is just the surface of what promises to be, if allowed to proceed, a multibillion dollar boondoggle.

Westway should be seen for what it is—a major real estate development project for New York City, courtesy of the nation's taxpayers. The actual highway is just a small part of the project.

The Westway project would create 224 acres of new land for real estate development by filling in the Hudson River, with the highway running through a tunnel in the landfill for much of its length.

The project is expected to take 10 to 15 years to complete and cost anywhere from $4 billion to $10 billion, or up to $7,500 an inch. Westway would become far and away the most expensive highway in the world.

Much of the costs of Westway would be paid for out of the Highway Trust Fund. The law creating the fund states that "funds shall be limited to the construction necessary to provide a minimum level of acceptable service on the interstate system."

Does the Westway plan represent a minimum level of service? Hardly. Nowhere in the law does it state that highway funds are to be used for land development schemes for the benefit of private developers.

In essence, New York City is not only asking the Federal Government to foot 90 percent of the bill to build a highway, the Westway project would have the nation's taxpayers pay to rebuild the city's West Side. The project would include residential, commercial and industrial development and a new waterfront park. It's a financial gold mine for real estate developers at taxpayers' expense.

It also poses environmental hazards. The section of the Hudson River that would be dredged to build Westway is one of the last remaining breeding grounds for the striped bass, an important fish species. Three different Federal agencies have stated that at least half of the striped bass juvenile population and other species of fish would be destroyed by the construction of Westway. And there is a danger that dredging the river could stir up latent toxic wastes, creating a major health hazard for the region.

No one objects to a highway on the West Side of New York City. No one objects to the revitalization to the area that the highway would serve. What is objectionable is the attempt to use Highway Trust Fund monies to fund real estate development.

Alternative highway projects for the same route could cost as little as $54 million—less than one-hundredth the cost of Westway. The city and the state have the option to "trade in" $1.71 billion in Federal funds, which could be used to construct a nonland-

fill highway and to rehabilitate New York's crippled mass-transit system. The city could have both a highway and improved mass transit for a fraction of the cost of Westway.

Westway is not just a New York issue. If the Westway landfill is funded, Federal highway money that under other circumstances would go to many other states would flow instead to this single, enormous project. Since the Highway Trust Fund expires in 1990, while Westway would still be under construction for years to come, the highway may also need additional funds to complete the project. Where is the money going to come from?

The most likely answer is that the American taxpayer will once again be called upon to pick up the tab. What Westway advocates are really asking for a long-term, open-ended commitment that the Government may not be able to keep.

The current plan for Westway is an assault on both the environment and the Treasury. New York has legitimate transportation needs, but the Government is not in the business of creating land for private use. And Westway is no place to start.

RETIREMENT OF PAUL S. WISE

Mr. DOLE. Mr. President, a distinguished native of Kansas, Paul S. Wise, has recently retired from his position as chairman of the Alliance of American Insurers. The alliance is an association of 175 major property/casualty insurance companies, including many from Kansas.

From his early beginning in Pratt and Kansas City, Paul Wise has exhibited the kind of hard work and dedication to his job which have earned him the respect of his peers and a long list of impressive career achievements.

After completing his early education in the public schools of our State, he attended the University of Kansas and later graduated from Washburn University in Topeka, graduating magna cum laude in 1942.

After a distinguished career in the service of his country as a Navy pilot during World War II, he returned to Kansas and completed his education, receiving his J.D. degree in 1947. He entered State government as an attorney in the Kansas insurance department and became assistant commissioner of insurance.

Later, he also served as Kansas commissioner of workers compensation and lecturer on insurance law at Washburn University School of Law.

In 1952, he joined the alliance as an attorney. In 1964, he became general manager and in 1968 was elected president and CEO of the alliance.

Paul Wise was elected chairman of the Alliance of American Insurers in 1984. He is active in the American Bar Association, Federation of Insurance Counsel, and the International Association of Insurance Counsel in addition to numerous boards and civic activities.

He served as a member of the college of insurance as well as the President's Committee on Employment of the Handicapped. He currently serves as a member of the Board of Overseers of the Institute for Civil Justice at Rand Corp. and is a director of the Insurance Institute for Highway Safety. Paul Wise also currently serves as an adjunct professor at Georgia State University in Atlanta.

On the occasion of his retirement, it is appropriate to salute this native son of Kansas who has made significant contributions to the legal profession, the insurance industry and the State of Kansas.

JEANETTE RANKIN'S BIRTHDAY

Mr. DOLE. Mr. President, today is the anniversary of the birth of Jeanette Rankin, Republican of Montana, the first woman to serve in the U.S. Congress. Elected to the House of Representatives 4 years before women were granted the right to vote, Jeanette Rankin will always be remembered for her tireless effort on behalf of women's suffrage and her steadfast pacifism which twice caused her electoral defeat. A statue of her now adorns the Capitol, a fitting tribute to this pioneer in women's political activism.

During her first congressional campaign in 1916, she ran on a platform that included the Federal suffrage amendment, improved health care for mothers and infants, tax law reform, and a stronger national defense. Though she sought to emphasize the issues, the recurring question she had to answer was why a woman wanted to sit in the Congress. To the skeptics she would reply, "There are hundreds of men to care for the Nation's tariff and foreign policy and irrigation projects. But there isn't a single woman to look after the Nation's children."

Similarly, once she was elected, many in the press were more interested in her appearance and personal life than her legislative priorities. She was known for her curt replies to trivial inquiries. When asked how she should be addressed, she replied:

It makes no difference * * * I was elected from my State as one of its two congressmen.

When asked why she had been assigned an office next to one of the most eligible bachelors in Congress, she replied "I expect to put in my time here learning the ropes."

Mr. President, women in politics still, at times, confront a dissettling preoccupation with their hair styles and dress sizes when they would prefer to talk about pressing national issues. And they still have to overcome concerns, albeit less vocal, that women are not suited for public office. Nonetheless, the Nation has come a long way in accepting women as full and equal partners in the governmental process, and we can thank Jeanette Rankin for setting the stage. She was a woman of principle and courage who holds a very special place in the history of her party and her country.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

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

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will stand in recess until the hour of 2 p.m.

Thereupon, the Senate, at 11:59 a.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. MATTINGLY].

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

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

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1986 AND 1987

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 1003) to authorize appropriations for the Department of State, the U.S. Information Agency, the Board of International Broadcasting, and the National Endowment for Democracy, and for other purposes, for fiscal years 1986 and 1987.

The Senate resumed consideration of the bill.

Pending:

(1) Helms Amendment No. 290, to maintain Presidential authority to curb human rights violations in connection with population assistance.

(2) Symms Amendment No. 324, to repeal Section 113 of the International Security and Development Act of 1980 (Public Law 96-533).

(3) Helms Amendment No. 328 (to Amendment No. 290), of a perfecting nature.

Mrs. HAWKINS. Mr. President, I ask unanimous consent to set aside the pending Helms amendment.

Mr. BYRD. Mr. President, I object, only momentarily, to the distinguished Senator's request. I have a Senator who wants to be on the floor when this amendment is offered, if we

could put in a quorum call until we get him to the floor. I apologize to the Senator.

Mr. DOLE. 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. BYRD. 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. BYRD. Mr. President, I have a question that I wish to ask of the distinguished manager or managers.

As I recall, the request for $4 billion in humanitarian assistance for the Contras was initially made in the spring or summer a year ago. I believe that is correct.

My question is, if $14 million was initially requested for the entire fiscal year 1985, which will have run its course as of September 30, this year, why is the same amount of money needed for the remainder of this fiscal year, keeping in mind that by the time this bill is finally enacted, only July, August, and September will remain in this fiscal year? Since $14 million was orginally requested for the whole year, why could not that amount of money be pro rata reduced for the remaining 3 months?

Mr. LUGAR. I would like to respond to the distinguished minority leader that indeed he is correct. The $14 million originally contemplated for the fiscal year was passed over at the beginning of the year, and we would be through it by the time of the potential passage of this bill. Of course, the bill that the Senate passed last year had $24 million for the fiscal year.

I think the only answer that can be given is the $14 million originally is a relatively small sum, given the numbers of persons involved. The Contras may or may not be as many as 10,000 or 20,000. These are estimates that are often given by observers in the field. Divided by that number of persons or even a fraction of them, $14 million for humanitarian assistance—food, clothing, shelter, and other aid of that variety—will be rapidly dissipated. The $14 million, I presume, was not changed by the authors of the legislation largely because it has become a figure which is familiar to the Senate and the House, one which we have voted on in the past, and there was resistance, as the minority leader will recall, in the House to $14 million.

I expect in a tactical sense the thought of going beyond that sum at this time now seems advisable as we get another revisiting of the problem, thinking about it for another year, with the sum increasing to $24 million.

I think the direct answer is there is no technical reason for the $14 million specifically for either the year or the 3 months. It simply is that that was the residue of the earlier debate taken up again and revisited on this occasion.

Mr. BYRD. Mr. President, I thank the distinguished manager of the bill. Can we get the information in the RECORD before we vote? We should have something from the administration that would indicate why the original request for $14 million for an entire year remains at $14 million even after three-fourths of the fiscal year has gone by.

Mr. LUGAR. I will respond that I will make that request immediately to administration spokesmen. During the course of the afternoon, I am hopeful they might forward to us information that will give us a satisfactory answer.

Mr. BYRD. I thank the manager of the bill. I yield the floor.

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

The PRESIDING OFFICER (Mr. HATFIELD). Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I ask unanimous consent that the pending amendment, a second-degree amendment by Senator HELMS, be temporarily laid aside and that an amendment to be offered by the distinguished Senator from Florida, Senator HAWKINS, now be considered.

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

AMENDMENT NO. 329

(Purpose: To establish the International Narcotics Control Commission)

Mrs. HAWKINS. Mr. President, I send an amendment to the desk and ask for its immediate consideration

Mr. LUGAR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Indiana is recognized for a parliamentary inquiry.

Mr. LUGAR. Mr. President, would the Chair advise us to which amendments must be set aside so that the way is clear for Senator HAWKINS to offer her amendment?

The PRESIDING OFFICER. The amendments of the Senator from North Carolina, as well as the amendment being offered by the Senator from Idaho, have to be set aside in order to provide an opportunity for the Senator from Florida to present an amendment.

Mr. LUGAR. I thank the Chair.

Mr. President, I will ask unanimous consent that both of the amendments by the Senator from North Carolina [Mr. HELMS] and the amendment by the Senator from Idaho [Mr. SYMMS] be laid aside temporarily so that Senator HAWKINS might proceed with her amendment.

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

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida [Mrs. HAWKINS] proposed an amendment numbered 329.

Mrs. HAWKINS. 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 31, after line 23, insert the following:

TITLE VI—MISCELLANEOUS PROVISIONS

INTERNATIONAL NARCOTICS CONTROL COMMISSION

SEC. 601. (a) There is established the International Narcotics Control Commission (hereafter in this section referred to as the "Commission").

(b) The Commission is authorized and directed—

(1) to monitor and promote international compliance with narcotics control treaties, including eradication, money laundering, and narco-terrorism; and

(2) to monitor and encourage United States Government and private programs seeking to expand international cooperation against drug abuse and narcotics trafficking.

(c)(1) The Commission shall be composed of twenty-two members as follows:

(A) Seven Members of the House of Representatives appointed by the Speaker of the House of Representatives. Four members shall be selected from the majority party and three shall be selected, after consultation with the minority leader of the House, from the minority party.

(B) Seven Members of the Senate appointed by the President of the Senate. Four members shall be selected from the majority party of the Senate, after consultation with the majority leader, and three shall be selected, after consultation with the minority leader of the Senate, from the minority party.

(C) One member of the Department of State appointed by the President.

(D) One member of the Department of Justice appointed by the President who shall be the Attorney General.

(E) One member of the Department of the Treasury appointed by the President.

(F) Five members of the public to be appointed by the President after consultation with the members of the appropriate congressional committees.

(2) There shall be a Chairman and a Co-chairman of the Commission.

(3) On the date of enactment of this section and at the beginning of each odd-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members as Chairman of the Commission. At the beginning of each even-numbered Congress, the Speaker of the House of Representatives shall designate one of the House Members as Chairman of the Commission.

(4) At the beginning of each odd-numbered Congress, the Speaker of the House of

Representatives shall designate one of the House Members as Cochairman of the Commission. At the beginning of each even-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members as Cochairman of the Commission.

(d) In carrying out this section, the Commission may require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpenas may be issued over the signature of the Chairman of the Commission or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Commission, or any member designated by him, may administer oaths to any witness.

(e) In order to assist the Commission in carrying out its duties, the President shall submit to the Commission a semiannual report regarding the status of compliance with narcotics control treaties, the first one to be submitted six months after the date of enactment of this section.

(f) The Commission is authorized and directed to report to the House of Representatives and the Senate with respect to the matters covered by this section on a periodic basis and to provide information to Members of the House of Representatives and the Senate as requested. For each fiscal year for which an appropriation is made the Commission shall submit to the Congress a report on its expenditures under such appropriation.

(g)(1) There are authorized to be appropriated to the Commission for each fiscal year and to remain available until expended $550,000 to assist in meeting the expenses of the Commission for the purpose of carrying out the provisions of this section, such appropriation to be disbursed on a voucher to be approved by the Chairman of the Commission.

(2) For purposes of section 502(b) of the Mutal Security Act of 1954, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to the use of funds in accordance with such sections.

(3) Not to exceed $6,000 of the funds appropriated to the Commission for each fiscal year may be used for official reception and representational expenses.

(h) The Commission may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

Mrs. HAWKINS. Mr. President, this amendment authorizes the Department of State to establish the International Narcotics Control Commission.

No threat strikes America more frequently nor more gravely than the threat of illegal narcotics. It makes its use felt in our homes, failed education, lower productivity, impaired national defense, increased violent crime, addiction, and, yes, death.

To combat this threat effectively, we must use a three-pronged approach: we must eradicate, we must educate, and we must cut off drugs at the source. In order to achieve the eradication of drug abuse in our Nation, we must fight the battle against illicit narcotics simultaneously on all three fronts, and in so doing we must use every weapon at our disposal.

A most useful weapon, using as an example the highly successful Helsinki Commission, would be an International Narcotics Control Commission, designed to monitor and promote international compliance with narcotics control treaties, including those involving eradication, money laundering and terrorism. This Commission would also monitor and encourage U.S. Government and private programs seeking to expand international cooperation against drug abuse and narcotics trafficking.

The composition of the Commission would be as follows: seven Members of the House of Representatives appointed by the Speaker, four of whom would be from the majority party, and three of whom would be from the minority party; seven Members of the Senate appointed by the President of the Senate, again, with four being from the majority party, and three from the minority party; one member of the Department of State appointed by the President; one member of the Department of Justice appointed by the President; one member of the Department of the Treasury appointed by the President. There would also be private sector representation on the International Narcotics Control Commission, with five members of the public to be appointed by the President after consultation with the members of the appropriate congressional committees. There would be, of course, a Chairman and a Cochairman of the Commission.

A rotating system would be established for the designation of the Chairman of the International Narcotics Control Commission, with the President of the Senate designating one of the Senate Members as Chairman in even-numbered Congresses, and the Speaker of the House designating one of the House Members as Chairman during odd-numbered Congresses. The Commission would also be provided with subpoena power.

The President of the United States will participate in the activities of the Commission by submitting a semiannual report with regard to the status of international compliance with narcotics control treaties, the initial report to be submitted 6 months after the date of enactment of this proposal. In turn, the Commission is authorized and directed to report to the Congress on a periodic basis, and at the end of each fiscal year the Commission will submit to the Congress a report on its expenditures.

Mr. President, a well-structured and well-supported entity such as the International Narcotics Control Commission would be of invaluable assistance in the battle against drug abuse. Enactment of this legislation would provide an international forum for consideration of narcotics control efforts worldwide, and would enable my colleagues in the U.S. Congress to express their concern in this most vital of issues. Mr. President, as we all work together to achieve the eradication of drug abuse, I wish to take this opportunity to urge speedy adoption of this amendment.

WE NEED AN INTERNATIONAL NARCOTICS CONTROL COMMISSION

Mr. DECONCINI. Mr. President, I rise in support of an amendment offered by the distinguished Senator from Florida, Senator HAWKINS, and urge its adoption today.

Mr. President, this amendment is probably long, long overdue. The narcotics smuggling problem and drug abuse problem in this country is an international disgrace and needs an international solution. The amendment of the Senator from Florida would take the first step in the direction of monitoring what international remedies might be available to stemming the tide of drugs from foreign countries into the United States. By establishing an international "watch dog" commission to monitor and promote international compliance with narcotics control treaties, we will be assured that more than casual review of international drug control programs will be brought to bear. Furthermore, the Hawkins amendment will help to assure that the United States and all foreign countries who suffer from the drug plague, will work together to craft multilateral agreements to combat drug abuse and narcotics trafficking.

Mr. President, our efforts to force foreign drug source countries to crack down on the drug trafficker have been mixed. On the one hand, we see a country like Colombia finally getting tough on the drug trafficker in that major producer of cocaine and marijuana. On the other hand, we see countries like Peru and Bolivia virtually paralyzed by the narcotics trade and unable to make anything more than a dent in the flow of drugs out of those South American countries. Add to these the continuing role of the Bahamas, Jamaica, and Belize as major transshipment countries for drug trafficking, and it is clear that we need a more cohesive, international policy in our war on drugs. Hopefully, the International Narcotics Control Commission that would be established by this amendment will bring the drug source, drug transshipment, and drug consumer nations together in a common goal to rid the world of the drug poison that is killing our citizens and threatening the lives of our chil-

dren in schools, on the playground, and in the home.

Mr. President, I am pleased to be a cosponsor of this amendment. It is an idea whose time has come. On the one side of our war on drugs we are making great progress in drug interdiction by beefing up our civilian and military interdiction capabilities. On May 21, the Senate passed my amendment to the defense authorization bill, establishing for the first time in history, a peacetime drug interdiction capability within the Department of Defense. The Customs Service has done a good job of beefing up its interdiction capabilities, as has the Coast Guard. However, on the other hand, our ability to move foreign governments to match the resolve of the United States in attacking the drug smuggler, has been less successful. The Commission established in this amendment may be the catalyst that allows us to turn the corner in the crucial international arena to halt drug abuse and drug trafficking.

Mr. President, I urge the adoption of the amendment and applaud Senator HAWKINS for her initiative and persistence in this matter.

Mr. BIDEN. Mr. President, I support the concept of an International Narcotics Control Commission to encourage cooperation on the important issue of international narcotics control. Five years ago in my report entitled, "The Sicilian Connection: Southwest Asian Heroin En Route to the United States" I stressed the need for greater bilateral and multinational cooperation in dealing with the international problem of drug abuse. My report clearly stated the need to bring this tragic issue to a higher level of international concern. Therefore, in this context I believe the Commission could provide a very useful service.

There are several issues that I would like to be considered as part of the legislative record on this amendment that will not be directly reflected in the statutory language. With regard to the membership of the Commission, I believe it is essential that the congressional Members be chosen based on their committee assignments and expertise on foreign relations and international narcotics matters. This should certainly be the case with regard to the Chairman and Cochairman. Additionally, if the Commission is to truly serve a useful purpose in the international community, the five public members should be known experts/leaders in this subject area and not political appointments made simply to pay off some favor. These individuals should be recognized throughout the international community for their work in promoting bilateral and multilateral cooperation in stemming drug abuse and narcotics trafficking throughout the world.

It is equally important that the proposed member from the Department of Justice be the Attorney General, which, under legislation included in the crime package last year, makes him the Chairman of the National Drug Enforcement Policy Board. His role as Chairman of this Board is to serve as the individual Congress and the American people will look to as the primary adviser to the President and Congress on national and international antidrug programs. I am glad that the Senator from Florida agrees that he be a member of this Commission.

It is important that the activities of this Commission reflect a consistent position of the Congress and particularly those congressional committees most responsible for oversight of narcotics enforcement and international drug trafficking. It would be extremely damaging to our international drug abuse strategy if the Commission was viewed as duplicative or sending mixed signals abroad as to the U.S. drug policy.

I do believe that the Commission can provide a stronger voice in the international community on the issue of drug abuse. However, I would hope that in the final agreement reached in the House and Senate conference, that these concerns shared by myself and others be considered.

Mr. LUGAR. Mr. President, I commend the distinguished Senator from Florida for this amendment and equally for the strong and vigorous leadership she has given in the fight against drug abuse in this country and internationally. She has been outspoken, she has been courageous and, in my judgment, she has been highly effective.

This amendment, once again, extends that record of service. On our side, we are prepared to accept the amendment.

Mr. PELL. Mr. President, I join in commending the Senator from Florida on this amendment. This commission could be exceptionally useful. I am very glad, indeed, to join in supporting it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 329) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. HAWKINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TECHNICAL CORRECTION TO AMENDMENT NO. 311

Mr. LUGAR. Mr. President, I ask unanimous consent that a technical correction be made to amendment No. 311, sponsored by the distinguished Senator from New York [Mr. D'AMATO]. This amendment was to increase the total authorization for USIA and then earmark the increase for the specific purposes.

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

The amendment (No. 311), as modified, reads as follows:

On page 1, line 1, of the Weicker Amendment No. 294, as amended, change the dollar amount to $837,623,000.

At the end of the bill, insert:

SUPPLEMENTAL AUTHORIZATION FOR INTERNATIONAL GAMES

SEC. —. Of the funds authorized to be appropriated for fiscal year 1986 by section 202(a), $3,000,000 shall be available only to reimburse expenses associated with the XV World Games for the Deaf, the Fifth National Amputee Championship, and the 1985 National Cerebral Palsy/Les Autres Games.

TECHNICAL CORRECTION TO AMENDMENT NO. 300

Mr. LUGAR. Mr. President, I ask unanimous consent that a technical change be made to amendment No. 300, sponsored by the distinguished Senator from Florida [Mrs. HAWKINS] to conform it to the unanimous-consent agreement.

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

The technical change reads as follows:

In Amendment 300, on page 17, line 21, delete the "(1)" inserted after "a", and strike "(2)(a)" through "Marti program."

Mr. LUGAR. In removing the congressional findings section from amendment No. 300, we are merely limiting the amendment to a funding earmark, with no prejudice to the substance of those findings or criticism of the program. Indeed, in making this earmark, Congress is increasing the funds available to the program.

Mr. PELL. That is correct.

Mrs. HAWKINS. That is correct.

I wish to commend and endorse the decision of the President to begin broadcasting the Radio Marti Program on May 20, 1985. It gives the people of Cuba a reliable alternative to the Government-sponsored propaganda of the Castro regime. As we know, the purpose of the legislation that created the Radio Marti Program was to promote the cause of freedom in Cuba by broadcasting accurate and objective programing into Cuba.

Mr. LUGAR. I too wish to commend the President's decision to begin broadcasting the important Radio Marti Program, and to commend as well the distinguished Senator from Florida for her diligent efforts on its behalf.

AMENDMENT NO. 325

Mr. LUGAR. Yesterday, the Senate agreed to amendment No. 325, sponsored by the distinguished Senator from New Mexico [Mr. DOMENICI]. I wish to propound a question concerning the sponsor's intention in offering the amendment. Mr. President, as I

understand the amendment concerning exchanges and grants in Latin America, Central America and the Caribbean, the intention is to earmark funds for grants and exchanges in that part of the world. The earmark is based on the congressional budget presentation, and includes funding for the Fulbright Graduate Program and the International Visitors Program, as well as for the Central American Undergraduate Scholarship Program. Is that the intention of the sponsor?

Mr. DOMENICI. Mr. President, that is my intention.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LUGAR. 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. LUGAR. Mr. President, I ask unanimous consent that the two amendments by the distinguished Senator from North Carolina, Senator HELMS, be temporarily set aside, that consideration might recur on the amendment of the Senator from Idaho [Mr. SYMMS].

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

SYMMS AMENDMENT NO. 324, TO REPEAL SECTION 113 OF THE INTERNATIONAL SECURITY AND DEVELOPMENT ACT OF 1980 (PUBLIC LAW 96-533)

Mr. KENNEDY. Mr. President, I rise in strong opposition to the amendment proposed by Senator SYMMS which repeals the so-called Clark amendment—the current prohibition on aid to the rebels in Angola.

The Senate addressed this issue in 1981. I voted then for a compromise amendment offered by Senator TSONGAS because it was a responsible alternative to the Kassebaum amendment which immediately and unconditionally repealed the Clark amendment. I did not then, nor do I now, support such an unconditional repeal. I voted for the Tsongas amendment because it contained stringent conditions on any repeal of the Clark amendment which prohibited support to the rebels in Angola attempting a violent overthrow of the Marxist regime in Angola. Let me quote from the amendment I supported:

> Section 118 of the International Security and Development Cooperation Act of 1980—the so-called Clark amendment—shall cease to be in effect the earlier of:
>
> (1) A date by which the President has determined that an effective cease-fire is in place in Namibia and that preparations for internationally supervised elections in Namibia are in progress; or
>
> (2) March 31, 1983.

Back in 1981, we all had high hopes that a settlement of the Namibia question would be reached in the near future. We had made it clear to the South African Government that the United States strongly opposed their illegal occupation of Namibia. And there appeared to be real movement on this issue.

But now the negotiations are deadlocked over the issue of the timing of the withdrawal from Angola of some 30,000 advisors, and U.N. Resolution 435—the only real hope for peace in the region sits in cold storage.

We are farther away from a peaceful resolution of the conflict that we were in 1981. The Tsongas amendment was offered during a more optimistic period in southern Africa. It stated that if the essence of U.N. Resolution 435 was in place—a cease-fire and internationally supervised elections in Namibia were in progress—then the Clark amendment was a kind of anachronism. But now, 4 years later, we are even farther away from a resolution of the conflict—the constructive engagement policy of the Reagan administration has failed—and the administration knows it—so they want to abandon the peaceful route of negotiations and resort to a military one.

The amendment I supported in 1981 also contained a specific prohibition of just that military route. Let me again quote from Senator Tsongas' amendment:

> Nothing in this section shall be construed to be an endorsement by Congress of the provision of assistance for the purpose, or which would have the effect, of promoting or augmenting, directly or indirectly, the capacity of any nation, group, organization, movement, or individual to conduct military or paramilitary operations in Angola.

The administration supports the amendment offered by Senator SYMMS on the grounds that it will send a good signal to the Marxist regime in Angola. That it will provide a "stick" to the U.S. negotiators in the conflict. We are told that this amendment does not involve any material support to the rebels in Angola—just moral, psychological support.

First of all, I seriously doubt that if the Clark amendment is repealed that no U.S. aid will reach the UNITA forces inside Angola. But, let us take the administration at its word for a moment and look at the signal they are attempting to send.

The Reagan administration has for over 4 years now promoted its policy of constructive engagement as the best way to resolve the question of Namibian independence and a withdrawal of Cuban troops from Angola. But for 4 years we have seen no progress; 30,000 Cuban troops are inside Angola and Namibia is still illegally occupied by South Africa and hope for any solution in the near future is dwindling.

My opposition to constructive engagement is well known and I do not intend to get into a debate about that at this time. But what I can't understand is how those who support the principle of constructive engagement can possibly support a repeal of the Clark amendment. If we are to play the much touted role of independent brokers in the conflict, what more effective way to destroy and completely gut that role exists than supporting, or even threatening to support, one side of the conflict?

This administration is already too cozy with the South African regime. The 1984 Lusaka accords—calling for a ceasefire and disengagement of South Africa forces from Namibia—were signed by South Africa and yet we now hear of intelligence gathering units being sent into northern Angola to blow up American Oil Co. installations.

Our close ties to the South African Government have already compromised our ability to play the honest broker role, but if the Senate goes on record today as repealing the Clark amendment we will be sending exactly the wrong signal to those involved in the delicate negotiations in the region. We will be saying that the negotiations are going nowhere and that the only route left is the military route. We will be saying to the South African Government, we support your assistance to UNITA, and we will forget that South Africa is acting in direct violation of the Lusaka accords—and is acting not only against the Government of Angola but also against U.S. installations inside the country.

My opposition to repeal of the Clark amendment in 1981 was strong and it is distressing to be debating this issue again in 1985. But let me restate some of the arguments I made 4 years ago. I quote:

> A repeal of the Clark amendment not only would be tantamount to turning the clock back to 1975, but would seriously damage our current diplomatic efforts and interests in Africa in a number of ways.
>
> First, a repeal would be a clear signal to Africa and to the world that the United States was reverting to an African policy viewed primarily in terms of East-West competition, with little concern for African needs and priorities.
>
> Second, repeal would be a severe impediment to any future attempts by the United States to improve relations with the current Angolan government. * * *
>
> Third, repeal would further identify the United States with the racist South African regime, which continues to support the Angolan reels and which has recently conducted a large-scale invasion of Angola.
>
> Fourth, repeal would add to the widespread impression that American foreign policy is concerned more with military intervention than with diplomatic efforts to protect our national interests.
>
> More specifically, repealing the Clark amendment would undermine three basic U.S. policy objectives in southern Africa and Africa as a whole. First, the peaceful achievement of independence and majority rule in Namibia; second opposing Soviet, Cuban, and East German intervention; and third, improving our ties with nations throughout the African continent.

The Clark amendment may no longer be appropriate when the President has determined that an effective cease-fire is in place in Namibia and that preparations for internationally supervised elections in Namibia are in progress. But we are no closer to the achievement of these goals in 1985 than we were in 1981, or for that matter in 1976 when the Clark amendment originally was signed into law.

A repeal of the Clark amendment would clearly not lead to a withdrawal or a reduction in the number of Cuban troops in Angola. Instead, repealing the amendment would precipitate further Soviet and Cuban adventurism in Angola by increasing, not diminishing, the reliance the Angolans now have on the Cubans for their security needs.

As Senator SYMMS stated yesterday, "the Cuban forces will never leave until all outside support to UNITA ends, until no internal or external threat to the MPLA government exists, and Namibia is made independent through elections." I believe the Senator from Idaho—and therefore think we ought to be concentrating on a negotiated solution to the conflict—not sending U.S. aid, advisors, and trainers into a long and bloody conflict.

The Clark amendment is a responsible prohibition on aid to rebels in Angola. It must be maintained if the United States is to continue to be a broker in the region, if a peaceful settlement of the Namibian question is to be reached and if the United States wants to avoid getting itself into another unwinnable war.

I strongly urge my colleagues to join me in opposition to the amendment offered by Senator SYMMS.

Mrs. KASSEBAUM. Mr. President, I support the amendment by the Senator from Idaho to repeal the Clark amendment on Angola. However, I would like to clarify, for audiences at home and abroad, what this step does and does not signify.

The reason we should repeal the Clark amendment is the same as in past efforts at its repeal—that it is a unique legal limitation on American foreign policy that treats Angola differently from other countries; that this special restriction, whatever its merits at the time of passage, should not be allowed to continue ad infinitum, and that repealing the amendment is merely reversing an out-of-the-ordinary restriction, not committing the United States to some positive course of action.

The administration has made it clear that it does not intend to lend tangible assistance to the UNITA rebel movement in Angola, and does not view repeal of the Clark amendment as implying any such policy. It does, however, want to see this special restriction on executive branch freedom of action removed.

On the merits, the case for repeal seems overwhelming. Unfortunately, the timing of this measure's appearance on the Senate's agenda is not fortuitous, for two reasons.

First, we are in the middle of broad-based and bipartisan efforts in Congress to send South Africa a strong message of American discontent with the black loss of life and repression that have occurred over the last 8 months. There is no desire to compromise this message with an action on the Clark amendment that could be perceived as supporting South Africa.

Second, and more directly relevant, the measure comes before us just after South Africa has committed an outrageous act, in Angola, utterly opposed to American interests—the attack on the gulf oil facility in Cabinda. This South African action is all the more reprehensible because of the major efforts this administration has made in the Namibia negotiations to take into account South Africa's security concerns in Angola. This attack deserves vigorous condemnation, which it has received from the State Department. Again, there is no desire to compromise this message by sending a "mixed signal" on the Clark amendment.

I am mindful of the problem of sending "wrong signals," but I feel that we must, nevertheless, take the legislative action that is justified by the merits of the case. Members will recall that similar arguments about the "time not being right" were raised when I proposed, and the Senate passed, this same action 4 years ago. If we wait until the time is "right," I am afraid we will never repeal this amendment.

In the process, no one should misconstrue our purpose. That purpose is to correct a longstanding anomaly, not to indicate any approval of South Africa's conduct, either internally or in the region. Indeed, if South Africa wants to understand true American feelings, it should draw exactly the opposite conclusion about this country's attitudes in both areas.

Mr. PELL. Mr. President, it should be borne in mind that the amendment offered by Senators Javits and Tsongas and passed by the Senate in June 1980 was a substitute to an amendment offered by Senator HELMS that would have repealed the Clark amendment entirely. The Javits-Tsongas amendment modified the Clark amendment by giving the President authority to provide aid subject to congressional accountability and a national security determination. It was a compromise reached between those who argued against repeal of the Clark amendment and those who favored repeal in order to provide the President with flexibility in the Angolan situation.

Although Senator Tsongas joined in offering this amendment in the spirit of compromise, he made it clear in debate on the floor that he did not favor repeal of the Clark amendment. He said:

> Even though there may be a time when, perhaps, we can look to some change in the law, I do not think this is the time and I hope that my colleagues will take a strong stand against the motion that what we are going to engage in at this point is covert activity in that part of Africa.

VOTE ON AMENDMENT NO. 324

The PRESIDING OFFICER. The question is on agreeing to amendment No. 324. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 34, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—63

Abdnor	Ford	McClure
Andrews	Garn	McConnell
Armstrong	Goldwater	Mitchell
Bentsen	Gorton	Murkowski
Boren	Gramm	Nickles
Boschwitz	Grassley	Nunn
Byrd	Hatch	Pressler
Chafee	Hawkins	Quayle
Chiles	Hecht	Roth
Cochran	Heflin	Rudman
Cohen	Heinz	Sasser
D'Amato	Helms	Simpson
DeConcini	Hollings	Stennis
Denton	Humphrey	Stevens
Dixon	Johnston	Symms
Dole	Kassebaum	Thurmond
Domenici	Kasten	Trible
Durenberger	Laxalt	Wallop
East	Long	Warner
Evans	Lugar	Wilson
Exon	Mattingly	Zorinsky

NAYS—34

Baucus	Hart	Moynihan
Biden	Hatfield	Pell
Bingaman	Inouye	Proxmire
Bradley	Kennedy	Pryor
Bumpers	Kerry	Riegle
Burdick	Lautenberg	Rockefeller
Cranston	Leahy	Sarbanes
Dodd	Levin	Simon
Eagleton	Mathias	Specter
Glenn	Matsunaga	Weicker
Gore	Melcher	
Harkin	Metzenbaum	

NOT VOTING—3

Danforth	Packwood	Stafford

So the amendment was agreed to.

Mr. LUGAR. I move to reconsider the vote.

Mr. SYMMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I sought recognition at this point to ask the distinguished majority leader if he could tell the Senate what the outlook is for the rest of the day as far as rollcall votes are concerned.

Mr. DOLE. Mr. President, as I understand it from visiting with the distinguished chairman of the committee, the remaining amendments would be the amendment of the Senator from North Carolina plus a perfecting amendment; I understand the Senator from West Virginia has an amendment; and then passage. I think that is it. I am not certain there will be a demand for the yeas and nays on passage. Maybe there will be. But I am not certain of the status of the amendment of the distinguished minority leader. I thought there would be one or maybe two votes, unless there is a demand for vote on final passage, and we would hope that we might have those votes at about 6:15, 6:30.

Mr. BYRD. Mr. President, I thank the distinguished majority leader. So, if we understand it, there could be two or three more rollcall votes?

Mr. DOLE. Right.

Mr. LUGAR. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business before the Senate is the amendment in the second degree offered by the Senator from North Carolina to his amendment in the first degree.

Mr. LUGAR. Mr. President, the mover of the amendment is present, and I would be prepared to yield the floor and hope the Chair would recognize the Senator from North Carolina.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BYRD addressed the Chair.

Mr. HELMS. Mr. President, I have the floor, but I will be delighted to defer to the able Senator.

Mr. BYRD. Mr. President, I am not sure the Senator has the floor. The Chair has not recognized anyone, I do not believe.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I will not take but a moment. I was wondering——

Mr. HELMS. I will say to the Senator that I heard what the Chair said. I was recognized but I am glad to defer to the Senator

Mr. BYRD. Well, my hearing may be a little bad. But I certainly mean no offense to the distinguished Senator from North Carolina. I have an amendment. I will be glad to call it up now—I anticipate there may be a rollcall vote on it—or I can wait until the Senate has acted on the amendment of the distinguished Senator from North Carolina. What is the preference, may I ask?

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BYRD. Yes.

Mr. HELMS. It will certainly be satisfactory with me for the distinguished Senator to proceed with his amendment, particularly if he feels he will desire a rollcall vote.

Mr. BYRD. I think there probably will be.

Mr. HELMS. Yes.

Mr. BYRD. Does the chairman have any wishes in this regard?

Mr. HELMS. Mr. President, I ask unanimous consent that the pending amendment be laid aside so that the Senator from West Virginia may call up his amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator from North Carolina.

Mr. HELMS. I thank the Senator.

AMENDMENT NO. 330

Mr. BYRD. Mr. President, I send an amendment to the desk. It is cosponsored by Mr. LEVIN, Mr. BENTSEN, Mr. KERRY, Mr. BOREN, and Mr. THURMOND. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. LEVIN, Mr. BENTSEN, Mr. KERRY, Mr. BOREN, and Mr. THURMOND, proposes an amendment numbered 330.

Mr. BYRD. 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:

(a) The Congress hereby finds—

(1) The Japan-U.S. security relationship is the foundation of the peace and security of Japan and the Far East, as well as a major contributor to the protection of the United States and of the democratic freedoms and economic prosperity enjoyed by both the U.S. and Japan;

(2) The threats to our two democracies have increased significantly since 1976, principally through the Soviet invasion of Afghanistan, the expansion of Soviet armed forces in the Far East, the invasion of Cambodia by Vietnam and the instability in the Persian Gulf region as signified by the continuing Iran-Iraq conflict;

(3) In recognition of these threats, the United States has greatly increased its annual defense spending through sustained real growth averaging 8.8 percent yearly between Fiscal 1981 and 1985, and cumulative real growth of 50 percent in that period.

(4) In May, 1981, the Prime Minister of Japan stated that, pursuant to the Mutual Security Treaty between his country and the United States, and pursuant to Japan's own "Peace" Constitution, it was national policy for his country to acquire and maintain the armed forces adequate for the defense of its land area and surrounding airspace and sea lanes, out to a distance of 1,000 miles;

(5) The U.S. Government applauds the policy of Japan to obtain the capabilities to defend its sea and air lanes out to 1,000 miles and expects that these capabilities should be acquired by the end of the decade, and recognizes that achieving those capabilities would significantly improve the national security of both Japan and the United States;

(6) Japan, however, has failed to provide sufficient funding and resources to meet her basic self-defense needs and these alliance responsibilities under the Mutual Cooperation and Security Treaty between her and the United States, signed January 19, 1960;

(7) Every year since 1981, the Defense Department has reported to Congress that Japan "ranks last or close to last" on most measures surveyed and thus quite clearly "appears to be contributing far less than its fair share" of the common defense burden;

(8) In 1985, the Commander of all U.S. armed forces in the Pacific region, Adm. William J. Crowe, Jr., testified to Congress that Japan's decision to increase its defense budget in 1985 "is still inadequate to meet the defense capabilities the Japanese government has pledged itself to meet;"

(b) It is the sense of the Congress that Japan, to fulfill her self-defense responsibility as agreed upon pursuant to the Mutual Security Treaty with the United States and in accordance with the national policy declaration made by her Prime Minister in May 1981, to develop a 1,000 mile, airspace and sea-lanes defense capability should:

(1) formally reexamine her 1976 National Defense Program Outline with the objective of revising it to reflect these agreed-upon responsibilities and today's increased mutual security requirements; and

(2) develop and implement a 1986-1990 Mid-Term Defense Plan containing sufficient funding, program acquisition, and force development resources to obtain the agreed-upon 1,000 mile self-defense capabilities by the end of the decade, including the allocation of sufficient budgetary resources annually to reduce the ammunition, logistics, and sustainability shortfalls of her forces by 20 percent each year.

(c) It is the further sense of the Congress that Japan, to assume a more equitable share of the mutual security burden in view of her status as the second richest nation in the Free World, should be encouraged to:

(1) increase substantially her annual financial contribution to construct new facilities for U.S. military forces stationed in Japan; and,

(2) under the terms of the existing Status of Forces Agreement with the United States, increase substantially her annual financial contribution to support U.S. forces stationed in Japan, or operations in defense of Japan, including the assumption of a larger proportion of the labor costs of Japanese nationals employed by the United States in Japan.

(d) to permit the Congress to assess Japan's progress toward actually fulfilling her common defense commitments, the President should, not later than February 1, 1986, and on an annual basis thereafter, submit to the appropriate committees of Congress, a report in both classified and unclassified form, containing the following:

(1) a detailed estimate by the U.S. government of the level of funding resources, specific procurement programs and other defense improvement actions required annually between 1986 and 1990 for Japan to achieve the capabilities to defend her homeland and airspace and sea lanes out the 1,000 miles, by the end of this decade;

(2) a detailed estimate by the U.S. Government of the length of delay beyond 1990 for Japan to achieve the self-defense capabilities referred to in (c)(1) and caused by any disparities between the U.S. estimate of resources required and those resources provided by Japan for that particular annual period and for the years remaining in the 1986-90 Mid-Term Defense Plan; and

(3) an account of what actions the U.S. Government has taken in the preceding year to encourage Japan to attain by 1990 the 1,000 mile self-defense capabilities.

Mr. BYRD. Mr. President, let me see if I can briefly explain the import of the amendment.

Mr. President, the purpose of my amendment is to send a strong message to the Government of Japan that its continued conspicuous failure to bear a fair share of the common defense burden threatens the good relations between our two nations and perhaps even the security upon which Japan's economic prosperity and democracy are based.

It is particularly appropriate to send this message this week, since the Director-General of the Japan Defense Agency, Koichi Kato, is in Washington, DC to meet with executive branch officials.

Upon leaving Tokyo for this visit, Mr. Kato said he would be discussing the United States-Japan defense relationship "on an equal footing."

His words echo repeated declarations by Japanese Prime Minister Nakasone that, as a full partner among the world's great democracies, Japan recognize its responsibilities to help promote international peace and economic prosperity.

Director General Kato, and Prime Minister Nakasone, should hear today that the elected representatives of the American people, on behalf of their constituents, are demanding much more than soothing words and positive sounding promises from Japan in the defense area.

Japan has been promising for years what she will accomplish for the common defense.

More yen, not more words, are what the American people want the Japanese to provide for our mutual security.

The American people are weary of Japan's half-empty defense promises. Their patience is wearing thin, just as it is with the current trade difficulties with Japan.

Performance is what counts in defense, just as in trade, Mr. President, and that is the message Mr. Kato should take back to Prime Minister Nakasone and deliver personally.

Briefly, Mr. President, my amendment calls on Japan to act in four defense areas so she might meet her mutual security commitments.

First, it calls on Japan to reexamine formally her 1976 national defense program outline, the basis for her present defense budgets and program planning, with the objective of revising it to reflect the defense tasks she has agreed to and today's increased mutual security requirements. The U.S. Government considers that this 1976 outline has "grown seriously out of date," according to the Pentagon.

This nine-year-old program was developed before several significant increases in the threats facing our two democracies, including the revolution in Iran, the Soviet invasion of Afghanistan, a major expansion of Soviet Far East forces, North Vietnam's invasion of Kampuchea, and the continuing instability near the Persian Gulf as evidenced by the Iran-Iraq war.

It also became the foundation of Japan's defense policy before that policy was broadened greatly in 1981, when the Government stated it would acquire and maintain armed forces adequate to defend its land area and surrounding airspace and sea lanes out to a distance of 1,000 miles.

It should be emphasized that this expanded self-defense policy was deemed permissible by Japan under her "peace constitution," and that this policy was not forced upon her by the United States.

The 1976 defense program outline should be revised to reflect these expanded, freely accepted self-defense responsibilities, Mr. President, as well as today's increased mutual security requirements.

Second, my amendment urges Japan to develop and implement a 1986-90 mid-term defense plan which would contain sufficient funding, program acquisition, and force development resources to obtain the promised 1,000 mile self-defense capabilities by the end of the decade. It states that this 5-year plan should include the allocation of sufficient budgetary resources annually to reduce the ammunition, logistics, and sustainability shortfalls of Japan's forces by 20 percent each year.

Japan is in the final stages of drafting a 5-year defense spending plan to replace its present 1983-87 plan. The current plan not only is considered woefully inadequate, but our own Government estimates that the improvement programs it envisions are at least 1 year behind schedule.

Our first indications whether Japan truly is serious about matching its defense commitments with sufficient military resources will come in the creation of this new multiyear spending plan. Her leaders are promising major improvements in the dangerously low stockpiles of munitions, spare parts, and other logistics capabilities.

We should put Japan on notice that we are watching closely the formulation of this plan and that we expect her to meet her mutual security commitments in it. My amendment accomplishes this.

Third, my amendment states that Japan should be encouraged to increase substantially its annual contributions to construct new facilities for U.S. forces stationed in that country. Although Japan's annual spending in this category is noteworthy, much more could be done, and my amendment urges Japan to do so.

Fourth, my amendment urges that Japan should be encouraged to increase substantially its annual financial contributions to support U.S. forces stationed in Japan or operating in defense of Japan, especially in the area of paying more of the costs of Japanese labor hired by the U.S. forces there. The Japanese claim they cannot increase these contributions without renegotiating the Status of Forces Agreement governing the deployment of our forces there. Our Government rejects this position, and my amendment is a strong statement in support of our Government's policy.

Regarding our own Government's actions, my amendment states that the President should report annually on the status of the Japanese defense effort and what our own Government is doing to obtain increased mutual security contributions from Japan.

Mr. President, my amendment imposes no new defense responsibilities on Japan. It does not propose that the Japanese should breach their peace constitution. Its most important sections, those dealing with the revisions to the 1976 defense program outline and the creation of a sufficiently funded 1986-90 spending plan, only urge them to achieve the objectives they themselves have said are permissible.

Mr. President, the evidence is inescapable that Japan has not allowed sufficient resources to her self-defense and to our mutual security in the past 5 years, despite any claims she might make to the contrary.

Total U.S. defense spending has grown from $537 per capita and 4.9 percent of gross national product in 1979 to $979 per capita and approximately 6.5 percent of gross national product in 1984.

Despite being the free world's second richest nation, Japan spent only $102 per capita and 0.99 percent of its gross national product on defense in 1984, an insignificant increase relative to its expenditure of only $83 per capita and 0.90 percent of GNP in 1979.

Every year since 1981, the Defense Department has reported to Congress that Japan "ranks last or close to last" on most measures surveyed and thus

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quite clearly "appears to be contributing far less than its fair share" of the common defense burden.

In 1983, the Defense Department reported to the Congress that "Japan * * * has never been willing to address defense expenditures from the point of view of actual requirements." The Pentagon reported that this inadequate funding has resulted in a Ground Self-Defense Force with obsolete equipment; ground, maritime, and air forces with only token levels of ammunition, thus making them unable to sustain themselves in combat and unable to defend Japanese territory against any serious incursion; air and maritime forces which are too small to provide for defense against the large air threat posed by Soviet Far East Forces and to protect the sea lanes to 1,000 miles. In 1984, the Defense Department reported to the Congress:

> There is no doubt that the Japanese remain content to limit their investment in defense to a level so low as to cause a disproportionate share of defense commitments to be borne by the rest of the Free World.

This year, the Commander of all U.S. Armed Forces in the Pacific region, Adm. William J. Crowe, Jr., testified to Congress that Japan's decision to increase its defense budget in 1985 is still inadequate to meet, and "the Japanese are at least a year behind * * * maybe further" in meeting, their current 5-year defense spending plan.

Admiral Crowe testified further that:

> Most respected Japanese and U.S. defense authorities agree that Japan's self declared defense goals, could most likely be achieved at a Japanese defense spending level of around two percent of the gross national product, and that Japan could significantly increase its defense capabilities as promised by focusing on capabilities for self-defense and not for threatening the other countries of Asia.

He further urged that the United States:

> Must use every opportunity to encourage the Japanese toward meeting their declared defense goals.

Mr. President, past American entreaties for the Japanese to increase their defense efforts to match their commitments have been met with excuses about the nation's debt-financing problems, the emphasis it places on "consensus" in national policymaking, and the particular political problems facing the incumbent of the moment.

These excuses no longer should be accepted. Our own Nation finances its defense program despite staggering annual budget deficits and a national debt which is nearing $2 trillion. That defense program directly benefits Japan as well as our own Nation.

The requirements for a consensus in Japan's political culture are well-known, but the shaping of a consensus can be accelerated by courageous political leadership. Prime Minister Nakasone has tried to provide that leadership and has demonstrated this personal political courage. Unfortunately, his efforts have not been supported with equal courage among enough members of his own ruling Liberal Democratic Party, its allies in the Diet, and the entrenched bureaucrats in the powerful Finance Ministry. These individuals should help their Prime Minister to build this prodefense consensus more quickly.

Defense requirements cannot wait for periods of domestic political tranquility to be satisfied, and Japan must realize this.

Mr. President, my amendment affords the Congress just such an opportunity to encourage the Japanese toward meeting their declared defense goals, as Admiral Crowe testified.

It is an excellent opportunity for the Senate to speak on this important matter, and I urge its adoption.

Mr. President, I yield the floor.

Mr. LUGAR. Mr. President, I will support the amendment offered by the distinguished minority leader, the Senator from West Virginia. But I would comment, as I support it, that in the meeting that I enjoyed this morning with the minister of state, Mr. Kato, who is the Director General of the Japanese Defense Agency, he said that the Japanese Government is well aware of the need for building up the country's self-defense capabilities. Mr. Kato noted that Japan has attempted to achieve a zero growth budget overall, and yet it has managed to increase real growth in defense expenditures of 4.8 percent and 5.4 percent in the past 2 years respectively, while simultaneously holding spending for social service programs very close to zero.

Admittedly, Japan could do more. The sense of the Byrd amendment is that Japan should do more. Obviously, the distinguished Senator from West Virginia would not, nor do I, accuse Japan of doing nothing in the contribution. The contribution has been a substantial one. I suspect we ought to recognize this even while encouraging our Japanese friends to do more to fulfill an obligation to us and to their own people.

I would note that there has been work in the majority party, the Liberal Democratic Party of Japan, to try to make more effective the growth in the country's defense capability. We acknowledge that and applaud that.

We, likewise, I think, would do well to point out, as the distinguished Senator from West Virginia has done so generously, that Prime Minister Nakasone has been vigorous in his advocacy of a stronger defense and, indeed, has made many pledges to our President, President Reagan, that the Japanese efforts would be continuous and would grow. We believe that progress has been made by the distinguished Prime Minister of Japan in chipping away at the widespread belief in Japan that self-defense is somehow bad.

As a matter of fact, in the debate in that country, it would appear there has been a much more widespread recognition of the need for Japan to have self-defense without in any way becoming a militaristic power or assuming characteristics that the world found most regrettable in the past.

Therefore, in the spirit of the amendment, it seems to me that the Congress is indeed interested in a very great ally, interested in the friendship that we have with Japan. It is in the spirit of that friendship that we are working toward a more effective defense relationship and we are asking our Japanese friends to fulfill the goals of their midterm defense plan, asking them to fill pledges made to us.

In that spirit, I support the amendment of the distinguished Senator from West Virginia.

Mr. BOREN. Mr. President, I am pleased to lend my support to my good friend from West Virginia in his efforts to again demonstrate to the Japanese Government our continuing concern that their commitment to defend their country and surrounding airspace and sealanes, out to a distance of 1,000 miles, be met by 1990.

This sense of the Congress resolution simply but firmly requests that the Japanese leaders fulfill their declared defense goals by funding the specific procurement programs and other defense improvement programs.

As the second richest nation in the Free World, Japan can certainly do more to share the burden for our mutual freedom which allows the retention of the present economic prosperity enjoyed by both the United States and Japan.

Adm. William J. Crowe, Jr., the Commander in Chief of the Pacific Fleet, testified before the Senate Committee on Armed Services last year that, even with a 6.9-percent increase in 1985, Japan was at least a year behind in her Mid-Term Defense Plan which would obtain the 1,000 mile self-defense capability by the end of this decade. Our amendment asks that a new 1986–1990 MTDP by the Japanese Government be developed and implemented to ensure these goals.

The report by the President, required in this amendment, would allow the appropriate committees in the Congress to assess what, if any, actions could be taken to encourage the reallocation by the Japanese of the necessary resources to attain by 1990 the defense improvements to meet the self-defense capabilities of her country and surrounding 1,000 area.

Mr. President, I again want to express my appreciation to the minority leader for his initiative and urge the

support of my fellow colleagues for this amendment.

Mr. THURMOND. Mr. President, as a cosponsor of this amendment, I would like to first say that Prime Minister Nakasone has done an admirable job in moving Japan in the direction of greater levels of defense spending. His is a very difficult task that requires great skills as a leader. There is a growing perception in this country, however, that our Japanese allies are not bearing their fair share in the area of defense spending, and it is true that Japan has not met its agreed upon levels of expenditures for defense.

I feel that this public perception has contributed significantly to the decline in support for continued real growth in U.S. defense spending, which is bad not only for the United States, but for the entire free world. The United States cannot go it alone any more than our allies can, but is certainly not unreasonable for our allies to live up to their commitments when we spend as much as we do for defense.

Mr. President, this amendment is not intended as a condemnation of past policy; it sends a signal that we expect Japan, who benefits so richly from freedom, to join us in ensuring an adequate protection of that freedom in the region, and I urge all of my colleagues to support this amendment.

Mr. PELL. Mr. President, we are in somewhat of an anomalous position here because many of us in this body fought for 4 or 5 years to make sure Japan never had another army and never had another soldier. We felt strongly about it 40 years ago. We felt strongly about it after Germany, as well. History changes. We now have two rearmed Germanies, and Japan is coasting along not carrying its part of the defense burden.

I recognize the situation as different from what it was, although I fully supported the Japanese Peace Treaty, which pledged never to have a military establishment, at that time.

But the same events seem different through the eyes of time, and time has changed, and Japan should carry more of its own load.

Even though I find myself in this anomalous position of having supported the peace treaty with Japan and the sacrifice that many men and women made in that war, I think this amendment is good and she should carry her just load.

Mr. MATHIAS. Mr. President, I do not want to inject myself into this chorus of leadership, but I would like to add very briefly one additional thought to this debate because it is of such great importance. I do not think there is any doubt that all of us look to the Japanese to carry a larger share of the burden of maintaining civilization in the world today, of maintaining a stable peace and a workable economy. But I would not want this debate to close with any misunderstanding that that burden is solely carried by means of military expenditures.

There are other very important contributions that I personally look to the Japanese to make. For example, one of the complaints about the International Monetary Fund, the IMF, is that it is too stringent in its regulations and its demands, that it imposes austerity upon the governments that it seeks to help. I have discussed this with Jack Larosiere, the Director of the IMF. He points out it is not the charter of the IMF nor the stinginess of his own heart or that of his directors. It is the lack of resources at the IMF that really imposes the austerity, and the Japanese could help very much in this respect.

The World Bank, which undertakes long-term development projects throughout the world, is in constant need of replenishment. The Japanese have increased their contributions in foreign aid generally over the past few years, but I think they could afford, even with the size of their economy, a very much larger increase.

There are other multinational development institutions and other multinational development financial institutions to which the Japanese could make major contributions. I would hope, although those are not contemplated within the strict terms of the amendment of the Senator from West Virginia, that the Japanese, in considering what has been said here, would also consider their responsibilities in these other areas.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Maryland. He has made a very pertinent contribution to this debate. I want him to know that I share his views.

I also wish to thank the distinguished manager and ranking manager, Mr. LUGAR and Mr. PELL, respectively, for their comments. I recognize they are in no position to accept the amendment, but they have made statements that would indicate a strong feeling that the amendment has considerable merit, and I respect the positions they have expressed.

Mr. President, I am finished with my statement on the amendment. I would like a rollcall vote on this amendment. 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. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from West Virginia [Mr. BYRD]. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH] and the Senator from Oregon [Mr. PACKWOOD] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Missouri [Mr. EAGLETON], the Senator from Iowa [Mr. HARKIN], and the Senator from Hawaii [Mr. INOUYE] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 7, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—88

Abdnor	Gramm	Murkowski
Andrews	Grassley	Nickles
Armstrong	Hart	Nunn
Baucus	Hatch	Pell
Bentsen	Hatfield	Pressler
Boren	Hawkins	Proxmire
Boschwitz	Hecht	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Riegle
Byrd	Helms	Rockefeller
Chafee	Hollings	Roth
Chiles	Humphrey	Rudman
Cochran	Johnston	Sarbanes
Cohen	Kassebaum	Sasser
Cranston	Kasten	Simon
D'Amato	Kennedy	Simpson
DeConcini	Kerry	Specter
Denton	Lautenberg	Stafford
Dixon	Leahy	Stennis
Dodd	Levin	Stevens
Dole	Long	Symms
Domenici	Lugar	Thurmond
Durenberger	Mathias	Trible
East	Mattingly	Wallop
Evans	McClure	Warner
Exon	McConnell	Weicker
Ford	Melcher	Wilson
Garn	Metzenbaum	Zorinsky
Gore	Mitchell	
Gorton	Moynihan	

NAYS—7

Biden	Glenn	Matsunaga
Bingaman	Goldwater	
Bradley	Laxalt	

NOT VOTING—5

Danforth	Harkin	Packwood
Eagleton	Inouye	

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The business before the Senate is the second-degree amendment of the Senator from North Carolina [Mr. HELMS].

Mr. LUGAR. I thank the Chair.

Mr. President, I ask unanimous consent that the amendment of the distinguished Senator from North Carolina be temporarily laid aside.

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

AMENDMENT NO. 331

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR] proposes an amendment numbered 331.

The text of section 903 of Public Law 98-164 is hereby designated as subsection (a) and the text which follows as subsection (b):

Pending completion of the negotiation of an agreement with the Government of India, the annual earnings generated by the monies appropriated by Public Law 98-411 may be used for the purposes set out in section 902(A) above.

Mr. LUGAR. Mr. President, as the clerk has stated, this is a technical amendment.

For the past 2 years, we have had an agreement with India under which we use interest from a particular local currency account which we maintain to fund cultural, educational, and scientific research and exchange programs. Since there is a possibility that a new agreement covering these worthwhile programs will not be completed by September 30, the end of the fiscal year, this amendment will allow continuation of funding through the current mechanism until the new agreement is actually signed.

I understand this amendment has been cleared on both sides of the aisle.

We are prepared to accept it on this side.

Mr. PELL. Mr. President, we are prepared to accept it on this side likewise.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 331) was agreed to.

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

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

AMENDMENT NO. 328 TO AMENDMENT NO. 290

(Purpose: to maintain Presidential authority to curb human rights violations in connection with population assistance)

Mr. HELMS. Mr. President, perhaps the best way to proceed to make the case for this amendment—Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. I thank the Chair.

Mr. President, as I was saying, I believe the best way to proceed is for me to discuss what this amendment does and what it does not do. Senators will of course make up their own minds as to how they will vote, but I do hope that they will make up their own minds on the basis of what the amendment says and what the amendment proposes, not on what its opponents erroneously claims about it. I do not want to be too technical, but this amendment adds a new subsection to section 104 of the Foreign Assistance Act to maintain in an explicit way the President's current authority to curb human rights violations in population control policy, including but not limited to the following violations: Infanticide, abortion, involuntary sterilization, and racial or ethnic discrimination. I would emphasize the word "involuntary."

Mr. President, the reasons for this amendment may seem a bit complicated, but the amendment is nonetheless necessary. Let us examine the chronology of what has transpired thus far.

When the foreign aid bill, S. 960, was passed by the Senate on May 15, it contained a provision that would tie the President's hands in developing policies to curb human rights abuses in connection with U.S. population assistance. Specifically, section 303(b) of S. 960 added the following sentence to subsection (b) of section 104 of the Foreign Assistance Act:

In determining eligibility for assistance under this subsection, the Administrator of the agency primarily responsible for administering this part shall not subject any nongovernmental or multilateral organization to any requirement more restrictive than any requirement applicable to a foreign government for such assistance.

Mr. President, that obviously is an unjustified tying of the President's hands. This language in S. 960, which is now pending in the House of Representatives, would severely tie the President's hands if it should become law. It would force the executive branch to treat nongovernmental organizations exactly the same as foreign governments. They have a saying down in North Carolina, "That doesn't even make good nonsense," if one has any appreciation for the tripartite system and the prerogatives clearly designated to the President of the United States.

I acknowledge that such a principle of uniform treatment may at first glance have superficial appeal, but, Mr. President, it is not well-suited for the delicate and constant adjustments that a President must make in relations between our Government and foreign governments because the fact is that foreign governments are by their nature different from nongovernmental organizations. Therefore, the President should continue to have the flexibility to treat them differently in the best interests of the people of the United States and in furtherance of human rights.

So the pending amendment modifies the language of section 303(b) of S. 960 in order to maintain Presidential authority and flexibility in curbing human rights abuses in connection with population control policies—authority and flexibility he now has under existing law. Specifically, my amendment adds a new subsection to section 104 of the Foreign Assistance Act, stating in relevant part as follows:

The President, in connection with making available assistance for population planning, shall retain authority under Article II of the United States Constitution and shall have authority hereunder to implement whatever policies he deems necessary to curb human rights violations, including but not limited to infanticide, abortion, involuntary sterilization, and racial or ethnic discrimination.

So, Mr. President, we have a couple of issues here. The first is institutional, as I say, that being whether the President of the United States as Chief of State will be permitted sufficient latitude and flexibility to conduct our foreign policy. That is what it boils down to.

This issue transcends any particular Presidency and goes to the heart of how the constitutional separation of powers should work in practice. Will we allow the President of the United States, no matter who he is, no matter what party he represents, to do his job in foreign affairs? Or are we going to tie him down and hem him in at every turn?

The second issue—and I recognize it is a little bit delicate but it is, nonetheless, a part of it—is political: Will President Ronald Reagan, after having been reelected by a landslide of 49 of 50 States, be supported by Congress in the way he has chosen to develop U.S. population policy abroad.

Now, if it is news to any Senator that Ronald Reagan opposes infanticide, abortion, coercive sterilization, and racial or ethnic discrimination in population policy, I will have to say that the Senator has not been listening. Of course, Ronald Reagan has taken a firm stand on these questions. And there may be some—there may be many—who do not agree with him, but the fact remains that he has been forthright in taking his positions. Everybody who went to the polls in 1984 and voted for Ronald Reagan is bound to have known where he stood on this issue. The American people knew it and they overwhelmingly returned him to office.

So I guess, Mr. President, part and parcel of what we will decide this afternoon, Republicans and Democrats alike, is whether we are going to allow President Reagan to carry out the mandate which his policies obviously received from the American people, or are we going to impede, disrupt, and undercut him whenever the opportunity arises.

I tend to think, Mr. President, that the American people, even those who disagree with the President on various issues, recognize that Ronald Reagan was, after all, elected President.

Mr. President, I have a copy of a letter from Ken Dam, Acting Secretary of State, dated May 14, 1985, in which he makes clear the support of the State Department for an amendment of this sort.

Mr. Dam knows that the concept of this amendment, that of Presidential flexibility in developing population policies, should be maintained in order that the President not be impeded in his efforts to stem human rights abuses. This concept was endorsed by the administration during consideration of S. 960, to which I alluded just a couple of minutes ago.

During the debate on that bill, the distinguished chairman of the Foreign Relations Committee [Mr. LUGAR] referred to a letter that he received from Secretary Dam. Mr. Dam was acting in the absence of Secretary Shultz, who was out of the country at the time. The letter listed a number of amendments which, the letter said—signed by Kenneth W. Dam, Acting Secretary—"must be made on the Senate floor in order to win administration approval." One of them was described as follows:

> A provision allowing the President to deny funds to foreign nongovernmental or multilateral organizations which perform abortions.

Mr. President, that bill passed without such an amendment.

That is why I felt obliged to make as certain as possible, within the limit of my capability, that a clear-cut vote on that proposition, not watered down, occur on this bill. That is why, Mr. President, I offered a perfecting amendment to my underlying amendment. The perfecting amendment is identical to the underlying amendment except it adds an effective date.

Now, I may win or I may lose on this vote, Mr. President. We all like to win. But my father used to tell me, whether you win or whether you lose, you are obliged to try. And try I am doing, at this moment, because a fundamental principle of the tripartite system in which we all presumably believe is at stake in this issue and in the vote that will occur shortly.

(Mr. PRESSLER assumed the chair.)

Mrs. KASSEBAUM. Mr. President, I rise in opposition to the amendment offered by Senator HELMS.

We argued this issue in the Foreign Relations Committee, and I respect his sensitivity on this issue, just as I believe he shares with me the belief that it is an important issue.

I say to the Senator from North Carolina that I do not believe it ties the President's hands curbing human rights violations, because, if adopted, this amendment will have the effect of undoing language approved less than a month ago by this body.

This is language which I offered during the Foreign Relations Committee markup of the foreign aid authorization bill, S. 960. It was approved both by the committee and by the full Senate as part of the final version of S. 960. It provides that foreign governments and nongovernmental organizations will be treated in the same way with respect to establishing eligibility for U.S. population assistance funds.

Mr. President, this is the way it has always been handled until the past summer's conference in Mexico City when a change in the policy was announced.

My purpose in offering the amendment in committee and in opposing the amendment now before us is to maintain the viability of our population planning assistance efforts abroad. These efforts, which have taken years of painstaking work to develop, are now threatened by a policy change announced last summer at the International Conference on Population held in Mexico City. That new policy states that nongovernmental and multilateral organizations may not use any funds—even their own—for abortion-related activities if they wish to receive U.S. assistance. Foreign government recipients of U.S. population aid are not subject to this new restriction.

There is much more to this policy revision than first meets the eye, and I think it is important that the Senate fully appreciate the complexities of the issue before we cast what some might erroneously regard as "just another abortion funding vote."

Before we lose sight of what is really the central issue before us—the future of international family planning programs—I want to state clearly several points:

First, since 1973, we have prohibited the use of U.S. dollars by any recipient of U.S. population assistance to pay for abortions abroad:

Second, numerous audits have demonstrated that there has been strict compliance with this prohibition and that no U.S. funds have been used for this purpose, language clearly states that no funding will be provided for China, where there is concern about infanticide;

Third, I am not trying—nor do I wish—to change this policy. I don't think U.S. funds should be used for abortion abroad; and

Fourth, it would not tie the President's hands in dealing with human rights violations.

What I am trying to do is put us back to where we were prior to the Mexico City policy revision. The reason I believe this is so important is that I have chaired many hearings of the Africa Subcommittee regarding famine problems. One cannot go through such an experience without recognizing the role which overpopulation plays in both creating and compounding famine in Africa.

The most visible impact of this policy revision was the decision announced in December to discontinue support for the International Planned Parenthood Federation, an organization composed of 119 individual family planning associations. The Agency for International Development [AID] had expected that about $11 to $12 million—not including commodities—which would have gone to IPPF would be reprogrammed. That was December. Today, nearly 6 months later—and well into fiscal year 1985—not 1 cent of these funds has been redirected.

The problem does not end with IPPF, however. The only reason that other groups have not already been affected is that AID has chosen not to implement the new requirements until an organization's contract is up for renewal.

Based on the concerns which have been raised about the implementing clauses prepared by AID, it is clear that even those organizations which disassociate themselves completely from abortion are doubtful of their ability to comply. That is because not only must they disassociate themselves from abortion, but they must also assure that all their subgrantees do the same. Moreover, these clauses go far beyond any reasonable definition of "performing or actively promoting abortion." To me, actively promoting abortion means providing information or services which recommends or gives preference to abortion as an alternative to contraception for the purpose of family planning.

To AID, however, "actively promoting abortion" includes even providing advice and information regarding the availability of legal, medically indicated abortion. This is taken to the point where a group must assure AID that no physician in any facility which receives population assistance will mention to a woman—even upon request—that abortion is available in a country where it is legal. These organizations point out that they are not in a position either to ask or to expect a physician to violate principles of professional responsibility by withholding care and counsel he or she believes to be in the best interests of a patient.

What is damaged is the work of population assistance efforts which have nothing at all to do with abortion.

Through alternatives and abortion, we can and we should work for constructive, positive alternatives which will enhance economic and political stability and improve the quality of life.

Mr. HELMS. Mr. President, let me be as explicit as I can. I certainly want to be entirely deferential to a lady whom I admire and respect, as she well knows. I enjoy serving in the Senate with her, and it gives me a problem every time I find myself on the opposite side of an issue from her.

Let me say, as explicitly as I know how, that there is nothing in this amendment that undercuts U.S. population assistance for family planning.

In the first place, I draw a sharp distinction between family planning and the subjects involved in the amendment. The subjects of this amendment over which the President will be given explicit authority to make policy are infanticide, abortion, involuntary sterilization, racial or ethnic discrimination, and other human rights abuses. None of these, I submit, has any legitimate role in family planning.

Second, even though I suppose there are some who will question whether the taxpayers are getting their money's worth in spending hundreds of millions of dollars every year to limit population growth when we have serious needs here at home, this amendment does not—I repeat, does not—affect current or future funding of family planning in foreign aid. Just as a point of emphasis, so that Senators who may be listening on their squawkboxes in their offices will understand, this amendment does not affect current or future funding of family planning in foreign aid. Thus, it would not be accurate to assume that this amendment undercuts in any way the U.S. commitment to family planning abroad.

Furthermore, this amendment does not set requirements or restrictions as to any specific recipient of U.S. population assistance. All of them are free to compete for the available grants. No one is disqualified by this amendment.

Let me say again, as clearly as possible, what this amendment does. All it does is to leave it to the President, whoever he may be—I felt the same way when Mr. Carter, Mr. Ford, Mr. Nixon, and Mr. Johnson were President—and whoever may sit in the Oval Office in future years. We must leave to the President the authority for setting requirements and restrictions that he believes are in the best interests of the United States and the furtherance of human rights in our foreign policy.

This is as it should be because it is the President, not Congress, who is representative of the United States in foreign policy.

Mr METZENBAUM. Mr. President, will the Senator from North Carolina yield for a question?

Mr. HELMS. I am glad to yield; yes.

Mr. METZENBAUM. I notice the language having to do with population planning and wonder whether that would include the question of where people live in a particular area or what sector of the country they live in. Would that be a part of the population planning?

Mr. HELMS. The amendment would not address that kind of thing standing alone. The amendment addresses the authority of the President of the United States to continue to have the judgment and the authority that he has under existing law.

Mr. METZENBAUM. I do not see where it says "under existing law," and as I read it, it would seem to me to indicate that the President, in connection with making available assistance for population planning, would have authority to implement whatever policy he deems necessary to curb human rights violations, including racial or ethnic discrimination. As I read that, it would seem to me that it could very well lend itself to have the interpretation that the President is given whatever authority he deems necessary in connection with the problems of South Africa and the racial discrimination there. That would come within the whole question of racial discrimination, and I want to be certain that I understand what the Senator from North Carolina is intending, because the language certainly says so, to give the President all of the authority that—let us see—he shall have authority hereunder to implement whatever policies he deems necessary to curb human rights violations, including racial or ethnic discrimination.

As I understand that, and I am not certain at all that I am opposed to that—in fact, I do not think I am—but I did not know that the Senator from North Carolina and I were in agreement on the question of giving the President authority to take such steps as he deems necessary in connection with curbing South African discrimination against their blacks. But whether that be the intent or not of the Senator from North Carolina, is it not the fact that that is what it says?

Mr. HELMS. No, it is not a fact as broadly as the able Senator has stated it.

The Senator perhaps needs to go back and look at the reference point. Let me read him from the Foreign—

Mr. METZENBAUM. What record is the Senator talking about?

Mr. HELMS. Let me finish.

Mr. METZENBAUM. We only have before us here this amendment. The record does not speak any louder than the language of the amendment, and the language of the amendment says exactly what the Senator from Ohio interprets it to mean because it says that in categorical terms the President is given that full authority, and I hope—I am not a supporter of the amendment; I do not intend to vote for it—but I do want to be certain that the Senator from North Carolina understands the power that he is putting in the President with respect to the implementation of policies vis-a-vis South Africa, and since I know that he may not be in agreement with me on that issue as well, I just want to be certain that the record, the congressional debate, indicate that some of us in the Senate interpret the language to mean just that.

Mr. HELMS. I have been advised by the staff member that perhaps I misunderstood the question the Senator raised. Would he state the question again? Maybe I can take another run at answering it. What is the precise question of the Senator?

Mr. METZENBAUM. The precise question is, Is it not the fact that under the language of the Senator's amendment if it should be passed, which I hope it will not be, but if it should be passed, it would give the President the power to implement whatever policies he deems necessary to curb human rights violations, including racial and ethnic discrimination in South Africa?

Mr. HELMS. If it is involved in family planning and using U.S. funds to do it, yes.

Mr. METZENBAUM. As a matter of fact, there is nothing in here about family planning because it says the President in connection with making available assistance for population planning, which is a little something different than family planning, so I want to point out to my friend that it is not family planning about which we are speaking; we are speaking when they make available assistance for population planning which, as I understand it, is something totally different than family planning, that we are giving the President, if this amendment should be adopted, great latitude to deal with the problems of South African racial discrimination.

Mr. HELMS. I still say we are talking about population planning, family planning, whatever terminology the Senator wants to use. That is what this amendment addresses. We are not addressing the South African question, unless under section 104(b) of the Foreign Assistance Act United States funds are used for population/family planning.

Mrs. KASSEBAUM. Mr. President, is the Senator from Ohio through with his questioning?

Mr. METZENBAUM. I am.

Mrs. KASSEBAUM. I wish to ask a question of the Senator from North Carolina, because I think it is an interesting question regarding when and in what way Congress should tie the hands of the President. I think that, as a matter of fact, both of us would agree that the President should have as much latitude as possible, particularly in the area of foreign policy. We just finished a vote on the overturning of the Clark amendment, which did tie the President's hands. But when the Senator says that we should not tie the President's hands. I wish to ask the Senator from North Carolina if he did not offer an amendment that indeed attempted to tie the President's hands in 1983? Did he not offer an amendment at the time which would have prevented the President implementing any defense program which assumed ratification of the SALT II

Treaty? So in doing that, the Senator was offering an amendment on the floor which indeed would have restricted the President in the area with which he was concerned? Is that not the case?

Mr. HELMS. Will the Senator yield to me?

Mrs. KASSEBAUM. I am happy to yield.

Mr. HELMS. Mr. President, how does one answer a lovely lady who is a distinguished and able Senator? Let me try.

As the Senator knows, we were dealing with ratification of SALT II which as she knows is absolutely the prerogative of the Senate under the Constitution. Any treaty is. Thus I do not know how to assess her analogy, let alone answer it. In any case, the Senate was clearly within its duty in addressing any implication resulting from SALT II. So I really cannot accept the Senator's analogy.

Mrs. KASSEBAUM. Let me perhaps ask it in another way, because it really is a question about how and when we tie the President's hands. The Senator is saying SALT II clearly gave us the ability to restrict the President in that case. I would only say to the Senator, and would he not agree, that we have a great deal of language in any authorization legislation, certainly in foreign aid authorizations, which does lay out certain guidelines and certain requirements that we feel are important. We have debated them in committee. We have debated them on the floor. I do not think my language in the foreign aid authorization bill ties the President's hands. It is language that has already been approved as part of the foreign aid authorization and that takes us back to the way our population planning assistance program operated before last summer. Funding was never provided for the very things that the Senator is addressing, but funding did go to those organizations which are now unable to comply with the new policy—and that is the difference.

And I think it is a very important difference if we do care about family planning assistance programs.

That is why I really do not feel the real issue is one of tying the President's hands.

Mr. HELMS. The President thinks the S. 960 language does, and the State Department, according to Mr. Dam, thinks it does.

All I am saying, I say to the able Senator, is that we leave the authority with the President of the United States. I am not addressing, with this amendment, any funding level. The Senator acknowledges that, does she not?

Mrs. KASSEBAUM. Yes.

Mr. HELMS. And I am not proposing that any organization shall be excluded or precluded from receiving a grant, am I?

Mrs. KASSEBAUM. Yes you are, because you say that the President would make that determination. As a matter of fact, we determine the funding. That is something that the President does not determine.

Mr. HELMS. But would it not be the prerogative of the President, as it always has been, for him to determine those who are seeking the taxpayers' funds allocated and appropriated for this purpose? Would the Senator not agree?

Mrs. KASSEBAUM. There are certain entities which have always been involved in family planning assistance. The International Planned Parenthood Federation is one, and there are others. These are groups which, as the Senator knows, have been involved in abortion-related funding. We have always held our money separate so that it could not be used for abortion.

Now, the Senator, and maybe all of us, might question the overall level of funding for population planning programs and we might wonder if these organizations were doing the job we would hope they do. But I do not think we should take away the opportunity to express support in the U.S. Congress for family planning programs. Placing restrictions on nongovernmental groups which we do not require of Government recipients of population planning funds draws a distinction that I think should not be made. From government to government—and, as the Senator has said, it is an issue of sovereignty—we cannot apply these restrictions. Certainly, we should continue to require that our funds be held separate to assure they are not used for abortion. I also think we should be able to provide funding to nongovernmental groups on the same terms as to Government groups because many of them have been long involved working with programs that are beneficial in countries with major population problems. That is the key point in my view, not a question of tying the President's hands.

Mr. HELMS. Even though the President of the United States, duly elected by the people, may make a judgment contrary to that of the Senator from Kansas and others? I am trying to understand exactly her point.

The Senator is saying that the President should not have any option in this judgment? Is that what the Senator is saying?

Mrs. KASSEBAUM. I think the President's option in this area, as it is for any of the areas that we handle in the foreign aid authorization, is to give us guidance and recommendations. We considered these recommendations and debated them in committee and on the floors. The President clearly has responsibility which he exercises as our leader to establish what he believes is important to accomplish. That he can do without our necessarily directing his actions and decisions.

The question before us deals with an area in which Congress has traditionally been involved, and we should continue to be. And that, I think, is the central point.

Mr. HELMS. But, if the Senator will forgive me, we have not traditionally been involved in telling the President of the United States "You must do this and you must not do this" with reference to foreign governments. That is uniquely the responsibility of the President of the United States, uniquely the responsibility of the President to implement foreign policy. I do not think that this Congress can or should dictate that sort of decision.

I am sorry but I do not agree with the Senator.

Mrs. KASSEBAUM. I say to the Senator from North Carolina that we do that many times. We just got into many important issues on the defense authorizatioin bill. Among other things, we debated the level of funding for the strategic defense initiative and raised questions about the President's recommendations for the MX missile. Our policy toward South Africa is an area where I think the Senator from North Carolina and I both agree that economic sanctions are not a wise policy initiative, and yet, Congress is clearly moving in that direction, and I would guess such steps may be inevitable. The President has clearly stated his concerns about economic sanctions. The President certainly has the ability and the responsibility of his leadership to express his concerns, and the Congress has the opportunity to work its will.

Mr. HELMS. The Senator has persuaded me as to her sincerity, but I believe her to be sincerely wrong. I say again that this amendment is intended to preserve the President's responsibility and authority clearly enunciated in the Constitution of the United States.

Now as for what we did on the defense authorization bill, sure, we set levels of funding. And Congress can indeed eliminate weapons by not funding them. But the Senator's point is not analogous. This Congress uniquely has the sole authority to declare war. But, the President, on the other hand, is the Commander in Chief.

I say again that this amendment does not propose to touch the funding level for population-family planning.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I rise in opposition to the Helms amendment. Only 3 weeks ago, during consideration of the Foreign Assistance Authorization Act, the Senate adopted

the Kassebaum amendment as approved by the Foreign Relations Committee which assure equal treatment of both foreign governments and nongovernmental organizations engaged in providing family planning services in developing nations. We should reaffirm that policy today and reject attempts to weaken the U.S. commitment to population assistance in the name of human rights.

Existing law, enacted in 1973, prohibits the use of U.S. population aid funds to pay for abortion as a method of family planning and, to date, there have been no reported violations of this statute. The Kassebaum amendment as adopted by the Foreign Relations Committee and this body would not change this longstanding policy. Indeed, it reaffirms our commitment to voluntary family planning and our repugnance for any form of coercive family planning practices.

Under current law, both foreign governments and nongovernmental organizations which provide family planning services are permitted to keep funds from the U.S. Agency for International Development [AID] in segregated accounts. None of these moneys are used to perform abortions or promote abortion in the 40 or more developing nations where voluntary abortion is legal.

Last summer, in an abrupt departure from this policy, the administration announced that it would no longer fund any private organization involved in performing or actively promoting abortion—even if no AID funds are used to support these activities.

As a result of this misguided new policy, which never received the endorsement of the Congress, the International Planned Parenthood Federation, the world's largest private provider of voluntary family planning services, lost approximately one-third of its annual budget—about $12 million, in funds provided by AID, and several million dollars' worth of free contraceptives and educational materials provided by AID. A number of other AID grantees, including universities and private, nonprofit corporations also were threatened with the loss of their U.S. funds. That is why the Senate acted during consideration of the foreign aid bill only 3 weeks ago, and that is why we should reject the Helms amendment which is an attempt to reassert the administration's views.

The real victims of the administration's policy will be the millions of mothers and children in developing countries who today enjoy better health and a more secure future as a result of family planning services provided with American help. They will be the millions of unwanted children who face almost certain starvation and women whose lives are shortened by too frequent childbearing and poor pre- and post-natal care. They will include the peoples of developing nations whose dreams of a better life may be shattered if they are unable to obtain needed population planning assistance.

Ironically, by preventing private organizations from providing much needed voluntary family planning services, the administration may even promote an increase in the number of abortions—both legal and illegal, voluntary and coercive—in the Third World. Obviously, this is not a good way to promote human rights.

Mr. President, the administration recognized that it should not dictate abortion policy to other governments. However, it wants to place private, nongovernmental organizations in the position of dictator to other governments in their middleman role, even though abortion is legal in this country and has been for years. It is a case of saying "do as I say, not as I do." This is an unacceptable double standard—the kind of thing that we in the United States would not tolerate for 1 minute. Fortunately, the full Senate recognized the problem and resolved it. Let us not undermine our decision of 3 weeks ago. Let us reject the Helms amendment and retain the language of the Senator from Kansas, and continue our longstanding policy of support for a wide range of population services provided both by governments and the private sector.

Mr. President, I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, this amendment if adopted would negate the Kassebaum amendment which was supported in the committee, was adopted by the full Senate just last month, and the Kassebaum amendment simply requires a uniform policy for the U.S. population assistance with respect to the recipient governments and nongovernmental or multilateral organizations. Our committee adopted the Kassebaum amendment in order to restore equal treatment in our bilateral assistance program to governments and these nongovernmental organizations. Henceforth, we will provide funding to each on the same basis or we will deny funding on the same basis.

Currently, we find the anomaly of an organization like the International Planned Parenthood Federation can be denied a grant because it uses private funds for support of abortions while we continue to provide aid to a nation like India or Bangladesh which uses public funds for just such purposes. The Kassebaum language ends that anomaly. I oppose the present amendment because it guts the Kassebaum amendment, its clever wording notwithstanding.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

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

Earlier there was a discussion between the able Senator from Ohio, Mr. METZENBAUM, and this Senator from North Carolina. I believe I made my position clear but in case I did not, let me try again to clear up the question of racial or ethnic discrimination in South Africa population policy that was raised by Senator METZENBAUM.

My response to the Senator from Ohio was in effect this: To the extent that South Africa receives or should receive U.S. population assistance funds under section 104(b) of the Foreign Assistance Act, the President of the United States under my amendment, which is now pending, will have authority to curb racial or ethnic discrimination. So on this point, and in this context, my able friend from Ohio, Mr. METZENBAUM, and I probably are in complete agreement, which may or may not be a rarity.

I say again, Mr. President—and this will be my final comment—the issue on this amendment is not International Planned Parenthood Federation or any other individual or specific group. The issue is solely whether the President of the United States will continue to have the authority and flexibility to conduct the foreign policy of the U.S. Government, including the authority to develop population control policies.

However, Mr. President, since an issue has been made of International Planned Parenthood, I would like to include certain materials in the RECORD which bear on the question of Planned Parenthood support for abortion worldwide.

Mr. President, I ask unanimous consent that the following materials be printed in the RECORD:

First, a letter dated May 7, 1985, to me from the National Right to Life Committee.

Second, an enclosure with that letter entitled "Do Population Control Groups regard Abortion as an Acceptable Method of Birth Control," dated April 29, 1985.

Third, another enclosure with that letter which is an article by Donald P. Warwick from the Hastings Center report of April 1980 entitled "Foreign Aid for Abortion"—including footnotes—and two resulting letters to the editor.

Fourth, an editorial from the Wall Street Journal of December 19, 1984, entitled "Planned Parenthood's Plans."

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

NATIONAL RIGHT TO LIFE COMMITTEE, INC.,
Washington DC, May 7, 1985.

Senator JESSE HELMS,
Dirksen Senate Office Building, Washington, DC.

Re S. 960 and funding of the International Planned Parenthood Federation.

DEAR SENATOR HELMS: Last summer, President Reagan decided that the U.S. would no longer fund private foreign-based organizations which seek to repeal the anti-abortion laws of sovereign states or which actively promote abortion as a method of family planning through other means. This policy was enunciated at the United Nations Conference on Population held in Mexico City in August.

The London-based International Planned Parenthood Federation (IPPF) refused to accept the President's policy and thus, as of January 1, lost eligibility for funding from the Agency for International Development (AID). AID has informed the Congress that the money which would have gone to IPPF (about $17 million this year) will all be spent on population assistance, much of it in Africa.

It is not surprising that IPPF rejected the President's anti-abortion policy. For over a decade, IPPF (a federation of about 130 national affiliates) has engaged in an international campaign to repeal all anti-abortion laws.

IPPF's policy of undermining anti-abortion laws was well documented by Donald P. Warwick of the Harvard Institute for International Development in the April 1980 Hastings Center Report (enclosed). Prof. Warwick (himself a supporter of legal abortion) concluded:

"The International Planned Parenthood Federation of London (IPPF) has been the most outspoken advocate of legal abortion services in the developing countries. . . . The IPPF's stated position is that abortion should be legally available to those who desire it and that local associations [i.e., IPPF affiliates], when possible, should assist in providing the necessary services."

IPPF has not limited itself to compaigning against the anti-abortion laws of sovereign states. IPPF has also encouraged its affiliates to violate such laws "as part of the process of stimulating change."

This longstanding policy was recently reiterated in the Report of the Working Group on the Promotion of Family Planning As A Basic Human Right, disseminated to IPPF affiliates in November, 1983. In the introduction to this report, IPPF affiliates were urged "to accept these recommendations and promote them as widely as possible" (page 7).

The report (which was signed by Faye Watleton, president of the Planned Parenthood Federation of America, among others), stated [Section 106]:

"Family planning associations [IPPF affiliates] and other nongovernmental organizations should not use the absence of law or the existence of an unfavorable law as an excuse for inaction; action outside the law, and even in violation of it, is part of the process of stimulating change."

Section 108 of the same document urged IPPF affiliates to work to achieve recognition of a "legal right" to abortion as part of "the legal right to family planning" in nations which now have anti-abortion laws.

In an address to a U.N.-sponsored conference in New York on March 6, IPPF Secretary-General Bradman Weerakoon specifically cited AID's prohibition against "even lobbying for the amendment of ineffective abortion laws . . ." as a major reason why IPPF would not accept the new U.S. policy.

By "ineffective abortion laws," Weerakoon meant, of course, laws which place any effective restrictions on abortion. IPPF affiliates have been successful in undermining anti-abortion laws in some countries. Still, according to a 1984 U.N. report, most less-developed nations—118 out of 126—do not permit abortion for "socio-economic" reasons, and only five of the 126 less-developed countries permit abortion on demand. (A copy of the pertinent portion of the U.N. report is enclosed.)

The President has rightly concluded that it is inappropriate for the U.S. to fund an organization which regards the repeal or violation of anti-abortion laws as a major part of its mission.

When the Foreign Relations Committee marked up the FY 1986 foreign aid authorization bill (S. 960) on March 27, Sen. KASSEBAUM offered an amendment which would in effect overturn the President's policy and restore full funding to IPPF. This amendment was narrowly adopted (9 to 7), despite the opposition of Chairman LUGAR.

On August 8, 1984, Senator PACKWOOD challenged President Reagan's policy in an amendment to a supplemental appropriations bill. On that occasion, you voted against tabling a second-degree amendment which reaffirmed the President's policy, offered by Senator HELMS. Senator PACKWOOD then withdrew his pro-abortion amendment from further consideration.

When S. 960 comes to the Senate floor, it is likely that Sen. HELMS will again offer an amendment to defend the President's policy.

The National Right to Life Committee strongly urges you to again vote in support of this pro-life policy, in order to insure that U.S. population control funds are channeled through organizations which confine themselves to providing contraceptive services—rather than organizations which engage in pro-abortion political campaigns and in promoting abortion as a method of family planning.

Thank you for your attention to this matter.

Respectfully submitted,

DOUGLAS JOHNSON,
Legislative Director.

APRIL 29, 1985.

DO POPULATION CONTROL GROUPS REGARD ABORTION AS AN ACCEPTABLE METHOD OF BIRTH CONTROL?

During the current controversy over President Reagan's decision to de-fund private international organizations which "perform or actively promote abortion as a method of family planning," spokespersons for various population control groups have repeatedly claimed that no population group supports abortion as a means of population control.

However, there is abundant documentation that these organizations really regard abortion as an acceptable means of birth control, and have actively promoted abortion in many foreign countries.

Indeed, prior to 1973, the U.S. Agency for International Development (AID) itself aggressively promoted abortion overseas. In response, Congress enacted the Helms Amendment to the Foreign Assistance Act. This law, which remains in effect, prohibits the use of AID funds "to pay for the performance of abortions as a method of family planning."

The Helms Amendment was interpreted to forbid only the direct use of U.S. funds to pay for performance of abortions. AID continued to provide major portions of the budgets of private organizations which provided and lobbied for abortion, ostensibly with funds obtained from other sources. Finally, in August, 1984, the Administration announced that it would no longer fund private international groups which "perform or actively promote abortion as a method of family planning."

Although other AID recipients agreed to accept the Administration's new anti-abortion criteria, the International Planned Parenthood Federation (IPPF) refused to do so. The U.S. had been providing about one-quarter of IPPF's annual budget.

Why would IPPF give up one-quarter of its budget—if, as it claims, only a tiny fraction of its activities involve abortion?

The answer is that IPPF and allied groups, such as the Population Crisis Committee, are in fact deeply committed to abortion. They have long regarded abortion as a method of birth control which should be as freely available as contraception.

Consider, for example, this statement by Werner Fornos, president of the Population Institute, to a Planned Parenthood legislative conference held in Madison, Wisconsin, on March 12, 1985:

"We need to separate the abortion issue from the family planning issue, when we're dealing with our legislators. Two years from now, I may stand here and advocate something different, and the reality of our times may dictate that. Certainly, if we ever have enough votes, we ought to desperately seek a repeal of the Helms Amendment [forbidding direct AID funding of abortion "as a method of family planning"].

Planned Parenthood's commitment to abortion as a method of birth control was also stressed at the same March 12 conference by Daniel Weintraub, vice-president for international programs for the Planned Parenthood Federation of America. Weintraub said:

"I know that there are some people in our own country . . . who sincerely believe that we should compromise, we should accept the Administration's policy. And the argument goes that 'after all, abortion in our international programs is only a small percentage of our entire program. Strategically we would be better off to try to save family planning by giving up abortion.' Well, I tell you that these people are wrong . . . One of the principles of the Planned Parenthood Federation of America is that reproductive freedom is indivisible. You either have it or you don't."

[Hastings Center Report, April 1980]

FOREIGN AID FOR ABORTION

(By Donald P. Warwick)

Aid for abortion is the most sensitive subject in the entire field of nonmilitary foreign assistance. No topic will make a foreign aid official blanch more quickly, and none will be greeted with greater wariness in disclosing information. The question is so emotionally charged that virtually nothing has been written about it. Data on international abortion activities are typically not reported at all, are reserved for classified documents of restricted circulation, or are buried under such generic names and euphemisms as "surgical methods of family planning" or

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Footnotes at end of article.

"menstrual regulation." As a consequence it has not been easy to gather data for this article, which is the first attempt to survey the field. Officials involved with foreign aid for abortion were generally willing to discuss their work, but were vague about details and wary of public attention. However, by combining information from interviews with scattered fragments of existing data one can begin to construct a composite picture of the international abortion scene.[1]

THE CURRENT SCENE: AN OVERVIEW

Before considering the activities of specific agencies, it is worth noting the broad features of the terrain in which they operate. It is an environment marked by complexity, ambiguity, human misery, political tension, and bureaucratic trepidations.

First, apart from any outside intervention, induced abortion is a common practice in the developing countries. Not only is abortion frequent, but it is a prominent cause of death and illness among women of childbearing age. In Latin American countries illegal abortions often account for a third of maternal deaths; women whose abortions have been mishandled fill half or more of the country's hospital beds. And unlike the situation in the United States, where contraception is generally available to those who want it, many of the poor women who resort to this method are unaware of or do not have ready access to modern means of birth control. While the statistics cited are often used to argue for legalized abortion, they have also been a source of concern to those categorically opposed to abortion. They have led some Catholic bishops to soften their opposition to contraception, which they saw as the lesser of two evils for women faced with unwanted children. Whatever one's moral views on abortion, the figures point to a human tragedy that cannot be ignored.

Second, foreign aid for abortion is but a small proportion of the total aid for population activities. Despite occasional rumors that abortion is a mainstay of population assistance, foreign aid for this purpose adds up to less than a quarter of one percent of the total spent for population. On the supply side foreign donors have been prevented by law or inhibited by politics from pouring vast amounts into this controversial area. On the demand side, despite the widespread practice of abortion by individual women, it remains illegal in many countries and a point of moral and political debate in the domestic politics of these countries. Hence even if the total volume of funds available for abortion were increased tenfold, the money would not be quickly or easily spent.

Third, with the exception of United Nations agencies, most organizations supplying funds for abortions operate on a clandestine and usually illegal basis. As one expert commented, "Not even your best friends will tell you what they are doing overseas." In some countries, including the Philippines, aid for abortion is both against the law, and against the country's official population policies. This is not to deny that there are many ambiguities about what, precisely, is "legal," or that officials who speak publicly against abortion may give tacit support to clandestine foreign aid supporting it. The gap between rhetoric and reality is greater here than in most spheres of development, for understandable reasons. Nevertheless, severe legal and cultural restrictions on abortion create a climate in which private agencies providing abortion services may behave more like intelligence operatives than bearers of foreign aid.

Fourth, the most common type of foreign aid involves the technique known as uterine aspiration. This goes under various code phrases, especially "menstrual regulation" and "menstrual induction." The essential feature is that the womb is efficiently emptied without forceful dilation of the cervix.[2] The International Projects Assistance Service (IPAS) manufactures the required equipment, and almost all the organizations active overseas distribute kits for this purpose. In many countries doctors, nurses, paramedics, and midwives are being provided with such kits and trained in their use.

Fifth, abortion in the developing countries can be a profitmaking proposition. Especially in urban areas and where a country has tasted the fruits of development, as in Taiwan and Korea, women are willing to pay for abortion services. Where in the typical family planning clinic client fees meet only a small proportion of total costs, with abortion a small amount of money, even a loan, can go a long way toward expanding services. This point has not been lost on business-minded agencies seeking a maximum return on their investment. In several countries American donors have provided loans to one abortion clinic, which repaid the loan and generated enough profits to open new clinics.

Finally, the politics of abortion in the United States have had an overwhelming impact on foreign aid for abortion. The highly charged atmosphere in this country has led not only to the Helms Amendment of 1973 specifically banning the use of foreign aid monies for abortion, but to a series of indirect effects. Established philanthropic organizations will not fur l abortion services for fear of jeopardizing their core activities. Federal officials, fearing violations of the law, abuse from Congress, or reprimands from their superiors, use their discretion to keep U.S. overseas involvement with abortion to a minimum. These repercussions extend to agencies that receive American funds, such as the International Planned Parenthood Federation. Faced with demands for tight accounting on abortion and anxious to avoid American reaction to visible initiatives in this field, recipient agencies walk a more narrow path than they would prefer. Hence the United States has become both the prime source of capital for abortion services and the foremost instigator of constraints on activism.

AGENCY ACTIVITIES

As of 1979 only a handful international donors were involved in direct support of abortion activities in the developing countries; others provided indirect assistance for research, meetings, and information activities. With most of the large donors shrinking from visibility much of the action has fallen to more intrepid and flexible smaller agencies.

The Agency for International Development (AID), the principal foreign aid organization of the U.S. government, was an ardent supporter of abortion until it was brought to a standstill by the Helms Admendment. From its beginnings in the 1960s until the Helms Amendment was passed in 1973 AID's Office of Population actively supported the development of new techniques for abortion, including the uterine aspirator. The Office Director at that time. Dr. Reimert T. Ravenholt, was a strong advocate of all methods of birth control, including abortion, and an international advocate for the aspirator. But even with his keenness for "postconceptive" methods of birth control, AID did not invest great amounts of money in abortion programs overseas, essentially because political leaders interested in family planning did not wish to jeopardize their other work. The prevailing sentiment was that contraception was sensitive enough without adding the complexities of abortion. Hence despite Ravenholt's strong support for improved abortion methods, there were not, until 1973, many recipient nations.

In 1973, Senator Jesse Helms of North Carolina amended the Foreign Assistance Act by drastically curtailing AID's activities on abortion. The Amendment reads:

Section 114. Limiting use of funds for abortion—None of the funds made available to carry out this part (Part I of the Foreign Assistance Act of 1961) shall be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any persons to practice abortions.

As this language was necessarily vague about operational implications, the Administrator of AID issued the following "policy determination" on June 10, 1974.[3]

1. No AID funds will be used to ". . .procure or distribute equipment provided for the purpose of inducing abortions as a method of family planning."

2. AID funds will not be used for the direct support of abortion activities in the developing countries.

3. "A.I.D. does not and will not fund information, education, training, or communication programs that seek to promote abortion as a method of family planning. A.I.D. will finance training of developing country doctors in the latest techniques used on OB-GYN practice. A.I.D. will not disqualify such training programs if they include pregnancy termination within the overall curriculum. However, A.I.D. funds will not be used to expand the pregnancy termination component of such programs, and A.I.D. will pay only the extra costs of financing the participation of developing country doctors in existing programs. Such training is provided only at the election of the participants."

4. "A.I.D. will continue to support research programs designed to identify safer, simpler, and more effective means of fertility control. This work includes research on both foresight and hindsight methods of fertility control." [Hindsight methods, of course, are those involving some form of abortion.]

5. "A.I.D. funds are not and will not be used to pay women in the developing countries to have abortions as a method of family planning. Likewise, A.I.D. funds are not and will not be used to pay persons to perform abortions or to solicit persons to undergo abortions."

In short, AID could provide no funds for the direct support of abortion or motivation for abortion, but it could continue certain kids of training and research involving abortion. It could also contribute to organization, such as the Pathfinder Fund, which were involved in providing abortion services provided that AID's money was not used directly for that purpose.

In practice, this restriction has forced AID to withdraw from most abortion activities. In 1979 less than one-half of one percent of its population funds were spent on any aspect of abortion. A good part of these funds go to the International Fertility Research Program in North Carolina, which conducts studies on effective methods of birth limitation. Among these are various

abortion methods, including different techniques of "menstrual regulation." Research on these methods, which is conducted by collaborators in several countries, does involve abortion, but under the terms of the Helms Amendment it is permissible so long as there is no active promotion or provision of services. AID also supports training programs in which medical doctors are given instruction in abortion methods under the conditions outlined earlier.

Coupled with the political controversies surrounding abortion, the Helms Amendment has affected AID and its funding recipients in many ways. Most important, the overall level of monitoring and control in this field has increased at least fivefold. Sensitive to the political dangers at stake for themselves and the agency, administrators, lawyers, contract officers, and auditors in AID and elsewhere in the government keep a close watch on any activities even close to abortion. Within AID, officials must be exceptionally careful of what they do in the first instance and then clear all proposals through multiple levels of approvals. Needless to say, this process dampens the enthusiasm of those most committed to providing abortion services. Organizations receiving AID funds, most notably the International Planned Parenthood Federation (IPPF) and the Pathfinder Fund, are also under strong pressure to maintain detailed records showing that AID funds have not been used for abortion. Where there is doubt, the burden of proof is on the receiving organization. This is a classical case of the political context of administration constraining public officials to minimize controversy. Recipient organizations have also been forced to change their entire reporting system and add their own auditors to deal with the demands and questions of monitors from the government.

The only two major agencies that do operate openly in this field, though without publicity and on a small scale, are the World Bank and the United Nations Fund for Population Activities (UNFPA). The UNFPA's policy is to respond to country requests for assistance for all kinds of population programs, provided that they are within the organization's mandate and do not violate UN policies on human rights. The UNFPA places no restrictions on methods of fertility control, and is willing to entertain requests for abortion assistance. To date it has provided such assistance to India, Thailand, and Tunisia. It also contributes to the Special Program to the World Health Organization, which includes research on methods of abortion, and to university research programs investigating abortion methods. In 1979 UNFPA assistance for all activities in abortion came to less than one-quarter of one percent of its total budget. The World Bank operates under similar policies, and spends an even smaller proportion of its funds on abortion. While both organizations receive substantial funding from the United States for a wide variety of aid projects, their position is that the monies provided must come with no spending restrictions. They will thus resist any attempt by contributors to impose a curb on abortion expenditures.

Major philanthropic organizations, including the Ford and Rockefeller Foundations, have always shied away from funding abortion projects. While Ford has long been a frontrunner in support for population activities, and for a time was the largest single contributor to the field, it has consistently turned down projects involving abortion services. The Rockefeller Foundation has been similarly inclined. Despite some urging from AID and other agencies to fill the gap created by the Helms Amendment, established foundations apparently decided to avoid abortion projects. Two reasons were cited by persons familiar with these organizations. The first is that association with abortion could touch off controversies that would impair work in less volatile areas of higher priority. The second is that the illegal nature of abortion in many countries and the common use of clandestine techniques to promote abortion services would cause considerable squeamishness among professional staff members at the foundations. Critics accuse these organizations of excessive caution springing from a desire to protect their image in the "establishment," while more sympathetic observers commend them for common sense and adherence to the law and to their basic institutional values. Whatever the case, the large foundations have given little more than moral support to international programs for abortion services.

The Population Council of New York falls somewhere between the foundations which help to keep it in existence and more activist agencies. Perhaps the single most respected professional organization in population studies, the council has had a notable impact on population policies, programs, and research in many nations. In legal constitution, internal organization, staff composition, and institutional demeanor it is much like a large foundation. The word "professionalism"was cited by many staff members as a keynote of the Council's behavior, while the desire for cooperative relationships with governments has generally led to an "above board" approach in technical assistance. One might thus expect that it would have some of the same antipathies to abortion projects as the Ford and Rockefeller Foundations, with which it is in close contact. At the same time the Council has undertaken advisory assignments in the developing countries, including projects carried out in very delicate political environments. It also did not shrink from controversy when it developed and promoted the Lippes loop, and when it became a frank advocate of voluntary family planning programs. But from its inception in 1952 and 1976 its activities on abortion were confined to research and writing. During his presidency the late Bernard Berelsons had serious ethical and prudential reservations about foreign aid for abortion, and his board seemed to share those misgivings.

In 1976 the presidency passed to George Zeidenstein, and in a report to the board that June, Zeidenstein made three recommendations related to abortion: (1) that the Council's purpose, should be, *inter alia*, to "stimulate, encourage, promote, conduct, support . . . abortion;" (2) that its Bio-Medical Center engage in "mission-oriented research" on abortion technology; and (3) that the organization add abortion to the "range of services" it provides.[4] This recommended change drew a strong dissent from trustee John Noonan, Jr., who resigned in protest. Despite this shift in policy, over the past three years the Population Council's involvement with abortion has been minimal, and not strikingly different from the period before 1976. Christopher Tietze continues to conduct statistical research on various facets of abortion and there are some small research efforts overseas, but on the whole the Population Council remains more like the Ford Foundation than more activist agencies. The reasons are probably the same as in the foundations—a fear that controversy over abortion will cripple the organization in other areas, problems of professional self-image for staff members, and difficulty in acting without breaking the laws of other countries.

The International Planned Parenthood Federation of London (IPPF) has been the most outspoken advocate of legal abortion services in the developing countries, though not the most ardent promoter of such services. The IPPF is the central office for several dozen semi-autonomous private national family planning associations. As a central body it receives funds from international donors, including AID, and passes money and supplies along to the local associations. It also tries to set policies and standards applicable to all associations, including policies on abortion. The IPPF's stated position is that abortion should be legally available to those who desire it and that local associations, when possible, should assist in providing the necessary services. But while it has considerable leverage from its funding position, the IPPF must also respect the constraints and preferences of its local affiliates. In practice the central office can recommend, lobby, and cajole, but it cannot force a member association to take action on abortion.

Despite its frequent pronouncements on the need for safe and legal abortion services and its lobbying efforts in many countries, the IPPF spends only about one-third of one percent of its total funds on abortion. As of 1978 it had carried out specific projects in ten countries as well as various regional and global efforts, mostly in training.

In the Philippines, where abortion is both illegal and explicitly against official population policy, the IPPF provided 200 'menstrual regulation" kits for demonstration purposes. IPPF also conducted a local seminar that set off sharp controversy. Beginning in 1974 the IPPF affiliate, the Family Planning Organization of the Philippines (FPOP) organized a series of meetings under the title of "Symposia on Advances in Fertility."[5] The topics included medical and legal aspects of abortion, procedures and techniques of abortion, and the dangers and attendant health risks of abortion. The first meeting touched off a storm of protests from religious and civil leaders, and led the government to reaffirm its official opposition to abortion. Nevertheless, the FPOP continued its symposia, which were clearly aimed at legitimizing discussion of abortion in the Philippines and which were made possible by funding from IPPF.

Further controversy arose when the FPOP distributed "menstrual regulation" kits to local doctors. Although the government had laws specifically prohibiting the importation of abortive devices, these kits were brought into the country as "medical instruments" to obtain "sample tissue for examination." While aware that the vacuum aspirators had been imported and were being distributed to private doctors, the government's official body in this field, the Commission on Population, chose not to take action. Since the FPOP did not take a public stand favoring abortion, and since it did not use these devices in its own clinics, the Commission felt that its regulatory powers were limited. Other observers concluded that POPCOM officials were de facto not opposed to such underground activities so long as they generated no public uproar. These examples show the potential of the

IPPF and its collaborating organizations for circumventing national laws and policies, and also suggest that officials responsible for enforcing those policies may themselves not be totally opposed to their violation.

One of IPPF's largest projects, totalling about $62,000, was in Bangladesh, where 5,000 vacuum aspiration kits were provided to the local family planning association. These kits have also been supplied to Korea, Singapore, Hong Kong, Thailand, Vietnam, and India. Although most of these projects have been relatively small—usually under $30,000—the IPPF has not provided details of its activities in its published reports, even in its main report to donor agencies.[6] One reason, apart from the illegal and controversial nature of these activities, may be that the federation is under constant scrutiny from the U.S. government to insure that it is not violating the Helms Amendment.

Another activist agency, and one that has been more willing to "go public" with its activities, is the Pathfinder Fund of Boston. Pathfinder was founded in 1929 by Dr. Clarence Gamble to find new ways of promoting birth control. Its characteristics have been innovation, small size and quick action. In recent years innovation has meant activities in abortion, particularly the promotion of the uterine aspirator. A Pathfinder flyer issued around 1975 states:

Abortion—safe, legal, and available—is important as a backup for contraceptive failure, and as a way to bring women into programs of contraception at the moment they are most susceptible to persuasion. But because of the Helms Amendment to the foreign-aid law, no AID money can be spent to promote abortion. Therefore we do this important work with money raised from the private sector.

Pathfinder is encouraging the establishment of abortion as a woman's right. We are promoting the early-abortion procedure known as "menstrual induction"—through publications, distribution of instruments, and direct grants. And Pathfinder has sponsored a major conference.[7]

In recent years Pathfinder has engaged in two kinds of abortion activities: helping to establish clinics in countries where abortion services are illegal but tolerated by the government; and distributing vacuum aspiration kits to clinics and private practitioners who wish to use them. Thus it has recently worked with a local doctor to open a private abortion clinic in Colombia, and has similar activities elsewhere in Latin America. When asked about the legality of this move in Colombia, an individual familiar with the project said that the clinic was indeed illegal, but that prosecution was unlikely, if only because the children of public figures were using its services. A staff member further commented: "Where abortion is culturally acceptable we don't think that the law is restrictive in an ethical sense. We are also concerned at the practical level—will it be enforced or not. "He likewise raised a crucial point about legality: the difference between the laws on the books and the laws as interpreted by the government. In Bangladesh, abortion is still technically illegal in most cases, but the government has instructed medical schools that by 1981 the country's 420 local health centers should offer "menstrual regulation" services. There is thus a difference between the law and executive regulations, with the latter taking precedence in Bangladesh.

The Pathfinder Fund, which receives over 90 percent of its funds from AID, has been hard hit by the Helms Amendment. The net effect has been to force the organization to choose between providing family planning services without abortion or abortion without broader services. If Pathfinder wants to help establish a family planning unit without abortion. AID will cover all or most of the costs. But if abortion is included, AID will provide only the contraceptives. As a Pathfinder official put it, "The Helms Amendment has disastrously affected population programming by destroying all the linkages between abortion and contraceptive recruiting, "Pathfinder has also been forced to change its accounting and auditing system in order to convince government monitors that no federal funds are being spent for abortions.

One of the most influential and yet anomalous organizations in the field is the Population Crisis Committee, which has been a powerful lobbyist for birth control in Washington. This organization has been very much "up front" on the United States domestic scene. With its board made up of retired ambassadors and generals, prominent businessmen, and other notable public figures, it would seem an unlikely supporter of illegal abortion activities overseas. And yet that is precisely what it does outside the United States, though never under its own name. A recent UN document on population programs and projects contains this description of the Population Crisis Committee-Draper Fund:

PCC/DF works to generate support for reducing world population growth in two basic ways: through high-level advocacy at home and abroad to increase government commitment to strong, effective family planning programmes; and through its highly selective support of innovative, cost-effective private family planning projects in developing countries . . . Through arranging private support of special projects overseas. PCC makes possible indigenous activities that can be readily expanded or replicated.

While abortion is not specifically mentioned in this description, closer checking reveals that this is its major form of "innovative, cost-effective, private family planning projects." Abortion activities account for about one half of the Committee's "Special Projects" and about one-fourth of its international budget. The organization works as follows:

PCC has no overseas operations. Instead, it funds or finds funding for selected high-leverage projects initiated by or recommended to PCC by IPPF and other family planning/population organizations that have a proven track record in overseas operations. Projects are undertaken in collaboration with indigenous leaders and groups. . . Projects selected for support are those that promise exceptional return in lowered birth rates per dollar invested. Typically such projects involve one of the ten most populous Third World countries; they demonstrate or extend an approach to delivery of family planning services that has proven cost-effective in lowering birth rates in similar conditions elsewhere; they require private money because the government is not ready to accept a new approach until it has been proven successful; and they include a sensible plan for expansion or replication.[9]

At present the Population Crisis Committee leans strongly toward programs involving the participation of local businessmen. In abortion programs they speak of a three-legged stool involving a doctor, who provides the services, the woman, who receives them, and the businessman, who organizes them to generate a profit. In practice, PCC looks for projects in which a small amount of seed money can be used by local entrepreneurs to launch self-funding abortion activities on a much larger scale. PCC officials offer as an example a project in Taiwan in which a loan for one clinic ultimately led to a total of nineteen, all patterned exactly after the first. PCC prefers projects in which abortion services are closely linked to contraception so that the experience is not repeated. The following are some of its projects:

Philippines: Menstrual Regulation Training. To train and equip doctors to perform menstrual regulation on the island of Mindinao. $34,000 committee for two years beginning May 1978 to International Projects Assistance Services.[10]

Colombia: Bogota Pregnancy Clinic. To provide inexpensive, humane treatment for incomplete abortions using the new technology developed for simple first-trimester abortion, to train doctors throughout Latin America in these abortion clean-up techniques, and to reduce the incidence of abortion in Colombia by using the occasion of botched abortion to involve women in appropriate family planning practices:[11]

Bangladesh. (1) Abortion Training and Supplies. Training for doctors from government health centers, mobile camps and health districts in the use of the latest abortion techniques and supply of non-electrical vacuum aspirators. $8,356 committed for one year to International Projects Assistance Services. (2) Abortion training. To train new doctors and qualified paramedics in early abortion, menstrual regulation and the treatment of incomplete abortions as well as contraceptive counseling in 6 regional and 2 Dacca medical colleges. $35,000 committed for one year to the Pathfinder Fund.[12]

The agencies most often chosen for project execution are the Pathfinder Fund and International Project Assistance Service (IPAS). PCC officials feel that private abortion services have a bright future in the developing countries, mainly because they are profitable and thus appeal to the entrepreneurial instincts of local people. They also feel that the Helms Amendment may have been a blessing in disguise, for it has forced abortion advocates to rely less on large donors and the public sector and make productive explorations into abortion as a business venture. Beyond its catalytic role in stimulating abortion activities, the PCC is the American purchasing agent for the IPPF and supplies it with vacuum aspiration kits manufactured by the IPAS. Though unobtrusive in its international operations, the PCC is undoubtedly one of the most influential agencies in this field. And besides its own indirect funding of abortion and other projects, PCC takes an active role in fundraising.

The most aggressive organization in this arena is the International Projects Assistance Service (IPAS), formerly known as the International Pregnancy Advisory Service. This is an organization that is disreputable and proud of it. Its policy is to move in wherever it can to promote abortion. As a former staff member said, "Our policy is that the more abortion is illegal, the more attractive it is because it is necessary. If it is legal other organizations can handle it." At present IPAS works in three areas: (1) providing loans for the establishment of abortion clinics; (2) manufacturing vacuum aspiration equipment for sale to other organizations, such as Pathfinder and the IPPF; and

(3) direct abortion services. Their strategy on this last front is to identify doctors who are interested in abortion, whether it is legal or not, and then help them to initiate new services. They are now supporting clinics in some twenty countries, including Mexico, Brazil and Indonesia, where abortion is illegal. They are also training midwives in the Philippines to use the vacuum aspirator, even though this technique is specifically banned by the government. In Bangladesh, Pakistan, Sri Lanka, Thailand, and Mexico, IPAS offers vacuum aspirator kits through a direct mail program, and provides training in their use. They find themselves handicapped in raising funds, mainly because their direct action tactics leave potential donors uncomfortable about supporting a "pariah." Foundations such as Ford and Rockefeller are unwilling to support them, while AID is unable to do so. Hence they must depend on grants from the PCC and other private sources as well as on the revenues generated by their loan program and manufacturing operations. Although, as they put it, "our response is always yes," the Executive Director claims that the funds available are much smaller than the interest they find in expanding abortion services.

Other organizations involved in some spects of abortion are Family Planning International Assistance, the international division of the Planned Parenthood Federation of America; Population Services International; and Johns Hopkins University, which provides training in techniques of abortion. But the most critical actors are IPPF, Pathfinder, the Population Crisis Committee, and IPAS.

TOWARD NEW GROUND FOR ETHICAL DEBATE

Foreign aid for abortion raises a host of ethical questions. The most basic is, of course, the morality of abortion itself. Debate on this issue is not simple within the United States, but it becomes immensely more complicated when the scene of action involves two or more nations. The root problem is that there is no universally accepted ethics, nor even a common language for debating moral issues across countries and cultures. Thus when we ask what ethical principles should guide the UN in aid for abortion, we quickly stumble over the questions of what and whose moral views should prevail. Should we opt for a frank national relativism, allowing each government to announce its moral standards and then having the UN respect those judgments? This position is appealing in its simplicity, but it clashes with the concept of universal human rights also endorsed by the UN. And where governments have unequivocally stated their opposition to abortion on religious, moral, or political grounds, should pro-choice advocates try to claim that their conceptions of individual rights take precedence over national sovereignty? These are tough questions that will not be resolved with instant absolutes or ready relativisms. And the debate is not likely to progress very far without much more systematic work on a cross-cultural and cross-national ethics. At this time our poverty of principles is outdone only by the richness of rhetorical flourishes in the abortion debate.

While the morality of abortion will remain the paramount question in evaluating foreign aid for that purpose, it is not the only issue at stake. Other questions arise from the objectives, processes, and composition of international assistance in this field. There may well be situations in which the most staunch pro-choice advocate would concede that certain kinds of foreign aid for abortion are unjustified, and where equally ardent pro-life representatives might grant that aid for problems related to abortion is ethically acceptable. To stake out some new ground for etchical debate it will be helpful to begin with three working principles.

The first is that the overarching goal of foreign aid should be individual and family welfare. All assistance to the developing countries should aim to promote such universally sought goods as health, education, a decent level of living, self-respect, and the ability to control significant aspects of one's existence. While this principle has been used by pro-choice as well as pro-life groups to support their respective claims, there are questions transcending the usual debates. The broadest implication of the welfare principle is that foreign aid should be used to remove or reduce the conditions leading poor women to seek abortions in the first place. Basically, these conditions are poverty and ignorance. A welfare orientation would argue strongly against foreign aid for abortion that does nothing to change the socio-economic conditions leading to high fertility. A single-minded concern with the fertility variable seems inconsistent with the promotion of individual and family welfare. The same criticism would apply to pro-life groups that seem more intent on stopping foreign aid for abortion than on increasing the amounts spent on general development activities. Indeed, if pro-life forces align themselves with anti-UN lobbies to cut off all American funds to the World Bank and the UNFPA, as has been threatened in the past, they would join their antagonists in an obsession with fertility to the detriment of economic justice.

The welfare principle further suggests that foreign aid for abortion would not be justified if its sole or primary aim was to bring down the birth rate. It would seem a flagrant violation of welfare to use the desperation of women for population control while doing nothing to remove the conditions producing such desperation. Specifically, programs providing only abortion services, with no assistance for health or contraception, would be ethically suspect on welfare grounds, and doubly so when they yield a profit. The welfare criterion might also argue for foreign aid to treat incomplete abortions. Human compassion calls for helping women who incur the risk of death or serious illness from badly performed abortions, even if one disapproves of the source of that risk. Many physicians of pro-life sympathies have no moral qualms about providing medical services in these circumstances, although they would reject the preventive step of medically supervised abortions. In short, raising the question of welfare may help to take the debate about foreign aid to at least a few steps beyond the polarization that has been its hallmark to date.

A second principle is that foreign aid for population should respect national autonomy. The World Population Plan of Action, approved in Bucharest in 1974, sets forth the following guideline: "The formulation and implementation of population policies is the sovereign right of each nation. This right is to be exercised in accordance with national objectives and needs and without external interference. . . . The main responsibility for national population policies and programs lies with national authorities." [13] Adherence to this principle would seem a prima facie obligation for international donors. According to this norm the UNFPA and the World Bank would be justified, on procedural grounds, in supplying aid for abortion to countries requesting their help. By the same token the clandestine activities reviewed earlier would be unjustified, particularly when abortion is not only technically illegal but directly contravenes a country's official population policy.

Three overlapping arguments have been raised against respect for national autonomy. The first is that in many countries laws about abortion have no moral force since they are merely vestiges of colonialism and are not observed in practice. One pro-choice physician compared them to the antiquated laws on the books in many states, such as those governing the positions of men and women walking together. A specific case cited was Bangladesh, where laws and executive edicts were patently contradictory. This example does suggest that there are legitimate grounds for debate about what really constitutes a country's policies. Where the government itself openly requests aid for abortion, donor agencies would obviously not be violating its autonomy by providing such assistance. But where the government is manifestly and forcefully on record as being opposed to abortion, as in the Philippines, and assures its critics that abortion is not being practiced with the consent of national authorities, covert foreign aid for abortion to nongovernmental recipients would violate autonomy.

A second argument is that foreign aid programs should honor not the laws that are on the books, but the laws of cultural preference as expressed in citizen's behavior. Thus when large numbers of women by their actions show a clear preference for abortion, donors should respect their wishes rather than outmoded laws restricting safe abortions. Sometimes this argument is premised on the notion of universal human rights for women, sometimes on the principle that culture is a higher law than legislation. The problems with this argument are both substantive and procedural. On substantive grounds one would want to know if all cultural preferences, including the execution of minority groups, cannibalism, and female circumcision, should override a country's laws, or if a universal right to life of the fetus should be cited as a basis for subverting laws permitting abortion. From a procedural standpoint the critical difficulty lies in deciding who should make decisions about the relative merits of a country's laws vis-a-vis competing sources of legitimacy. It hardly seems justifiable for donor agencies to take it upon themselves to make this judgment, since their own bureaucratic or political interests are usually at stake in the decision. At the very least one would want the matter to be adjudicated by some neutral court of appeals.

A third argument against respect for laws restricting abortion is that governments themselves are often divided on this question. In such pluralistic settings some groups are in favor of action and others opposed. Under these conditions, donor representatives have argued, foreign agencies have a right to work with supportive officials, even if abortion is illegal and against the country's official policy. In other words, when opinion is split on abortion policy there is nothing wrong with donors taking sides since there will also be nationals on that side. But here, too, there are ethical difficulties. By taking sides, particularly when support is accompanied by a generous infusion of foreign monies, the donors are,

in fact, infringing on national autonomy in a particularly delicate area. Foreign intervention becomes especially questionable when external financing is used as a bargaining chip in negotiating what is fundamentally a moral and political question on the national scene. Second, international agencies supplying aid for abortion under conditions of secrecy are themselves being hypocritical and aiding governmental double-dealing. This approach seems highly unjustified if the government simultaneously denies taking aid for abortion and accepts funds for that purpose. In such circumstances domestic critics of abortion, such as the Roman Catholic hierarchy in the Philippines, are being deliberately deceived about the government's intentions and the donor's actions, and are thus deprived of their right to comment on population activities. The ethical problems of covert intervention are compounded when, as is often the case, the donor's aim is to establish a beachhead of services which will be extremely difficult to dislodge even when they are made public. While such issues arise in other spheres of foreign assistance, they are of particular significance here because of the deep moral and religious values at stake in abortion.

A great drawback to violations of national autonomy is that they cannot be turned into a workable universal principle. One "categorical imperative" might read: "Whenever a donor agency considers national autonomy subservient to its own conception of human rights or public policy, its conception should prevail." According to this criterion foreign organizations opposing the U.S. Supreme Court's 1973 decision on abortion would have a moral warrant to use clandestine means in supporting the proposed constitutional amendment against abortion. Hence Saudi Arabia and other conservative Islamic countries would be justified in supplying the United States Right to Life movement with, say, $100 million for undercover activities in support of this amendment. Most of us would find this a horrifying prospect, yet this is very close to what is being done on a smaller scale to promote abortion in developing countries.

A third guiding principle is that *foreign aid for abortion should not jeopardize foreign aid for socioeconomic development.* The great bulk of economic assistance today goes for activities other than population, including agriculture and nutrition, education, health, and public works. Most aid programs try to improve human welfare by finding better ways of producing rice and wheat, by increasing access to schooling for the rural poor, by experimenting with low-cost methods of delivering health care, and through similar means. To work well in promoting development, foreign aid requires an atmosphere of mutual trust and collaboration, not only between the donor agency and the government but with other segments of the society as well. The greatest risk of covert aid for abortion is that it will pollute this environment and place all foreign assistance under a cloud of controversy and doubt. There are already suspicions in some quarters, particularly in Latin America and Africa, that donors bootleg as much birth control as possible into countries that do not want it. These suspicions are abetted by evidence that a decade ago, when family planning programs were coming into their own, donors imported the Lippes loop under the billing of "Christmas tree ornaments" and other contraceptives as "fungicides." The point here is that fears about hidden agendas and surreptitious activities on abortion can undercut the efforts of agencies that operate completely above board, even in areas seemingly unconnected to birth control. And in the population field itself doubts about donor integrity can make a government reluctant to open the door for assistance to family planning services or even research. If an African Minister of Health fears that a family planning program will be taken over by abortion advocates and later cause a political explosion, he may be reluctant to move down that path at all. No program is an island in foreign aid.

In the end we must ask what constitutes ethical foreign aid. Is assistance to other countries primarily a means to help governments attain their own purpose, or is it an instrument for subverting those purposes? The issues raised here can fruitfully be debated by persons who differ on the morality of abortion but who share a common commitment to the promotion of national development and international cooperation. It is a debate that is badly needed.

FOOTNOTES

1 This article is based on several interrelated sources: the author's own research on foreign aid agencies: unpublished country studies prepared for the Hastings Center's Project on Cultural Values and Population Policies by scholars in several of the developing countries; and recent interviews dealing specifically with foreign aid for abortion. Persons contacted included present or former staff members of the Population Council, the Office of Population of the Agency for International Development, the Population Crisis Committee, the Pathfinder Fund, the International Projects Assistance Service, the International Fertility Research Program, and the U.S. Senate.

2 H.R. Holtrop and R.S. Waife, *Uterine Aspiration Techniques in Family Planning* (Chestnut Hill, Mass.: The Pathfinder Fund, 1976), p. 1.

3 U.S. Department of State, Agency for International Development, "A.I.D. Policies Relative to Abortion-Related Activities." Policy Determination, PD-56, June 10, 1974.

4 George Zeidenstein, "Future Directions of the Population Council." Report prepared for the meeting of the Board of Trustees of the Population Council, June 8-9, 1976.

5 Material describing this incident is contained in M.E. Lopez, A.M.R. Nemenzo, L. Quisumbing-Baybay, and N. Lopez-Fitzpatrick, *Cultural Values and Population Policy: Philippines. The Sociological Study* (Quezon City: Institute of Philippine Culture, Ateneo de Manila University, 1978).

6 The information summarized here was obtained from an informal report on abortion prepared by IPPF in 1979.

7 The Pathfinder Fund, "Pathways in Population Planning." Promotional flyer issued circa 1975.

8 United Nations Fund for Population Activities, *Population Programmes and Projects, Vol. I: Guide to Sources of International Population Assistance* (New York: United Nations Fund for Population Activities, 1979), p. 297.

9 *Ibid.*

10 United Nations Fund for Population Activities, *Population Programmes and Projects, Vol. II: Inventory for Population Projects in Developing Countries Around the World 1977/78* (New York: United Nations Fund for Population Acitivities. 1979), p. 303.

11 *Ibid.*, p. 71.

12 *Ibid.*, p. 31.

13 United Nations, World Population Conference, *Action Taken at Bucharest* (United Nations, New York: Center for Economic and Social Information/OPI for the World Population Conference, 1974), p. 10.

IPPF AND FOREIGN AID FOR ABORTION

Donald Warwick, writing about "Foreign Aid for Abortion" (*Hastings Center Report*, April 1980, pp. 30-37), misrepresents the position of the International Planned Parenthood Federation in several important respects.

IPPF is a Federation of 95 Family Planning Associations, each of which is an autonomous, indigenous organization in its own country. These Associations individually determine their roles and programme priorities according to the needs and conditions in their own countries, while adhering to the basic aims and objectives of the IPPF. Family Planning Associations collectively decide the Federation's policies through several tiers of committees of volunteer representatives. The office in London is the Central Office of the Secretariat; it is not the IPPF. There are, in fact, six regional offices also performing secretariat functions in different parts of the world.

Mr. Warwick implies that donor governments are able to influence IPPF policies. While it is true that if a donor does not wish its funds to be used for abortion-related activities, IPPF respects that position; nevertheless IPPF's policies on abortion assistance are derived from the views and wishes of its members, not from its donors. Many IPPF member associations receive no financial support from the Federation; their policies are not influenced by external funds.

IPPF has no stated position that "abortion should be legally available to those who desire it and that local associations, when possible, should assist in providing the necessary services." IPPF has deliberately refrained from taking an international position on abortion, in respect for the wide diversity of legal and social conditions in which its member associations work. It has, however, urged its members to strive for humane treatment for women undergoing abortions and to ensure the availability to them of contraceptive advice and services.

Given the policy, laid down in 1971 and reaffirmed in 1976 and again in 1979, it is incorrect to say that IPPF is "the most outspoken advocate of legal abortion services in the developing countries." IPPF maintains an open attitude on abortion, neither imposing policies on its members not prohibiting the development of their own policies. Family Planning Associations are free to decide their own positions and the Federation is made up of those who totally approve of abortion and those bitterly opposed to abortion, as well as many which have taken no firm stand either way.

Contrary to the impression conveyed by Mr. Warwick, IPPF conducts its affairs in public, rendering regular, full reports to its policy bodies and to its donors and not seeking to minimise the diversity of problems and situations in which its family planning activities are conducted. It has enjoyed the confidence of its donors and respects the desire of its members for independence in addressing the differing domestic issues that confront them—Frances Ennis (Mrs.), *Director, Information and Public Relations, IPPF.*

Donald Warwick replies:

Aside from the organizational formalities of IPPF, which I do not dispute, Ms. Dennis makes four points bearing on the substance of my article:

1. *IPPF has taken no official position on abortion.* In a flyer entitled "Policies for the '80s" the IPPF states:

As a fundamental principle in both provision of and advocacy for family planning services, (Family Planning Associations) should strive to ensure the availability, where national laws permit, of all safe and effective methods of fertility regulation. They should consider actively campaigning

against any restriction on any of these methods.

Since the IPPF considers medically supervised abortions and specifically vacuum aspiration as "safe and effective methods of fertility regulation," this statement must be considered in favor of abortion. A document called "Guidelines for New Three-Year Work Programme 1974/1976" (M. P. 54—7A) is more frank about IPPF's true operating policies. The section on abortion opens with this statement:

Programmes aimed at increasing the factual knowledge of illegal abortion and its hazards . . . in order to educate governments into taking steps to remove abortion from the criminal code, should be undertaken in a number of countries where such action will not do serious harm to the basic family planning programme (p. 6).

The same document says that "it may be possible to start pilot projects on menstrual regulation as a method of fertility regulation, where abortion is legal." The book *Abortion* by M. Potts *et al.* further contains this observation:

An International Planned Parenthood Federation Conference on the medical and social aspects of abortion held in Accra in December 1973 focused attention on the abortion problem in the African continent. One of its suggestions was that the Karman curette (vacuum aspirator) should be routine equipment for paramedical workers and traditional mid-wives (p. 432).

Finally, my article showed quite clearly that the IPPF has, in fact, supported the distribution of vacuum aspirators in countries were such devices are illegal. Hence whatever IPPF's stated position on neutrality, it has in word and deed been one of the foremost lobbyists for abortion in the developing countries.

2. *IPPF conducts its affairs in public and does not hide its abortion activities.* The letter's language is cloudy on this point, but this seems to be its message. In October 1978, the IPPF published a fairly thick, printed *Report to Donors.* While it makes passing reference to abortion, it mentions *nothing* about IPPF's clandestine distribution of vacuum aspirators. The latter activity was mentioned in a confidential, mimeographed report obviously regarded as "top secret." This double-entry accounting is hardly an example of openness.

3. *IPPF does not try to influence national Family Planning Associations on abortion policies.* For years IPPF has been an active lobbyist with its member associations, not only on abortion but on many policy matters, such as the medical acceptabililty of Depo Provera. As a dispenser of funds and institutional recognition to local associations, IPPF is in a strong position to bargain, cajole, lure, and otherwise influence their activities. The earlier quotation from "Policies for the '80s" is quite specific in its recommendations to such associations. And as my article documents, and Ms. Dennis does not deny, the IPPF has specifically been a strong promoter of the vacuum aspirator and has supplied this instrument to local associations. Central initiative in this area appears to have been vigorous.

4. *IPPF is not influenced by its own donors.* A few years ago the Agency for International Development, a major IPPF donor, was criticized by the U.S. General Accounting Office for supplying funds to IPPF in such a way that their use could not be tracked. The context of the GAO report was public criticism about the use of AID funds for abortion. According to very reliable sources, IPPF was forced by this and related developments to change its accounting system to ward off further criticism about the "co-mingling" of funds. Moreover, for years IPPF was regularly cited by AID in Congressional hearings as an effective "intermediary" in AID's population mission. The evident implication—and one never denied by IPPF—was that this organization went beyond services that it would have provided in any event to that extra margin of initiative constituting an effective intermediary. Only the very naive could believe such formalistic proclamations of immunity to donor influence and abstention from influence on recipients.

While on this subject, let me correct an error and make a clarification concerning the United Nations Fund for Population Activities (UNFPA). The error is a statement that the UNFPA has indirectly supported abortion in Thailand. Such is not the case. The mistake arose from a document listing Thailand under the heading of "Prospective Support," which I interpreted as funding for program development but which turned out to be only a future possibility. The clarification concerns the UNFPA's support for abortion in recipient countries. The point to be underscored, and which may have been ambiguous in the article, is that the UNFPA does not give direct support for abortion but will cover abortion services on request when they are part of a national family planning program. The article mentioned Tunisia and India as cases where the UNFPA provided that kind of support. Recently the UNFPA wrote me that "no direct or indirect funds have been provided to support abortion in India." As earlier interviews gave a different picture for India, which has included abortion in its national program, there is probably a difference of interpretation over precisely what the UNFPA is supporting in that country. There and elsewhere the use of foreign aid funds is notoriously difficult to trace. Whatever the case for India, the policy described does hold for Tunisia so that the basic point made remains valid.

[From the Wall Street Journal, Dec. 19, 1984]

PLANNED PARENTHOOD'S PLANS

Is there no end to the coldheartedness of this Scroogelike Reagan administration? It has now taken steps to defund Planned Parenthood, announcing that it will withhold the U.S. allotment of some $17 million next year. Already, some editorials are raising injured cries to protest this action.

Planned Parenthood is one of those organizations—like the Sierra Club or Action for Children's Television—that has somehow got people to believe that it is in the mom's-apple-pie business. It is widely believed that Planned Parenthood is just delivering fairly harmless civic lectures on the benefits of being careful. Now, it is said, the organization has become the victim of the Reagan administration's anti-abortion policies. But there are reasons beyond the issue of abortion to have reservations about Planned Parenthood.

Several months ago, the International Planned Parenthood Federation, headquartered in London, published "Human Numbers, Human Needs," a small book "summing up what has been learned in the past 10 years. "Space does not permit, as the saying goes, but some samples of what the federation now knows to be true are instructive.

"There is a clear need for long-term planning, at national, and where possible, at global levels," opine the booklet's authors. Their plea for a global Gosplan is backed with much talk of "redistribution"—of "wealth," "incomes," "resources" and just about anything else that isn't nailed down. Moreover, "the affluent consumers of Northern countries and the Southern elites constitute perhaps the major threats to the world's oceans and fish stocks, tropical forests, genetic diversity and global climate." Nations winning the war against uncontrolled birth "are not usually countries of pronounced inequalities."

One admired model is China, which has "the most remarkable of all families planning policies. . . . Chinese parents are told that if action had been taken sooner it would have been acceptable for them to have had two children—the need for the one-child limit is, it is stressed, the price of delay." The close reader detects no word of China's recent practice of forced, third-trimester abortions. Ah, but we are again raising that tasteless abortion issue.

What we are dealing with here most of the time is twaddle. Just to keep its political bona fides in order, the IPPF proudly announces that South Africa is "currently suspended." Afghanistan and Vietnam, of course, are in good standing; let us pray, since our tolerance has some limits, that this is not because of the vigorous population-control measures the armies of those two governments are conducting against native peoples.

Planned Parenthood's love affair with socialism has become more than a harmless upper-middle-class hobby and now borders on the ludicrous. When Europe's governing Socialists are abandoning statism for the free market, Planned Parenthood still rushes in the opposite direction: "If food was equally distributed, the world, and developing countries as a whole, would have enough food to meet everyone's needs."

Of course they would, but the far left "planners" in places like Ethiopia and Mozambique are proving to be gruesomely unsuccessful at achieving these equities, or for that matter any food production or distribution at all. The Reagan administration is correct in deciding that the American public should no longer be a party to Planned Parenthood's plans for the world's poor.

The PRESIDING OFFICER. Is there further debate?

Mr. EVANS. Mr. President, let me speak briefly on this issue. First, to reiterate what some of my colleagues have said earlier on, we have acted on this issue, and acted decisively several weeks ago. I am increasingly distressed by the multitude of times that we seem to have come back to repeat ourselves on issue after issue which comes before this Senate.

I do not believe this question is one of abortion. It is a question of equal treatment. The Senator from North Carolina has related to the President's abhorrence of abortion. I share that opposition to abortion. He talks about the mandate to continue in international population programs. I suggest then to be consistent the Senator should have added the denial to governments as well as nongovernmental units this prohibition. But what disturbs me most is the amendment as it is written has so many questions and

ambiguities that I find it difficult for anyone to support it.

What does "in connection with making available assistance for population planning" mean? Some have already spoken to that issue. It could mean giving the President unusual powers in dictating policies in any country which may be a recipient of U.S. aid.

The implications of the language are so broad that at a minimum the Senate, it seems to me, Mr. President, would benefit from the interpretation of constitutional scholars as to what this language means.

The amendment has not had committee hearings. No one saw it before last Friday. It was never raised at all in committee. A short floor debate cannot do justice in clarifying its meaning to the Senate.

Part of the amendment is certainly redundant, to say the President shall retain authority under article II of the U.S. Constitution. I cannot conceive of anyone attempting, much less the Senate having the power, to remove from the President whatever rights he may have under article II of the Constitution.

Then it goes on to say:

> The President . . . shall have authority hereunder to implement whatever policies he deems necessary to curb human rights violations, including but not limited to infanticide, abortion, involuntary sterilization, and racial or ethnic discrimination.

Two areas in that phrase I find particularly difficult. "Whatever policies he deems necessary." Where do you stop?

In our current relationships with the country of Nicaragua, the administration has not stated that it would unequivocally refrain from military force in that country if all else fails. Does this amendment suggest that even that would fall under the rubric of whatever policies he deems necessary to curb human rights violations?

Then it goes on to say, "including but not limited to," and that opens the door even wider, not just to the specific things listed but to whatever else could be considered. No one, including the mover of the amendment, has suggested what the term "not limited to" really includes.

Then, finally, when after this massive suggestion of power to the President for whatever policies he deems necessary, then it says, "and such authority may be delegated to any officer of the United States who may be designated by the President for that purpose."

Sweeping powers not delineated very accurately, and sweeping powers which then can be translated under who knows what officers of the United States.

My fear is not half so much with the President, for I have great confidence in his ability to accurately and responsibly carry out his duties under the Constitution, but my deep concern is that when something this broad is stated and then authority further delegated down the line, we almost assuredly will at some time find an abuse or misuse of such great power.

Mr. President, I think we have acted decisively, we have acted wisely. We have tried to be consistent in our policies as they relate to other governments and to nongovernmental organizations. I hope that my colleagues will join with me in defeating this amendment.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, it seems to this Senator, at least, that part of the Helms amendment is that it proposes to give the President the power necessary to curb human rights violations. I believe we are all in favor of that. There is some disagreement, apparently, about the language, and perhaps disagreement on other points. The language reads, in part:

> Policies he deems necessary to curb human rights violations, including but not limited to infanticide, abortion, involuntary sterilization, and racial or ethnic discrimination, and so on.

Mr. President, it seems that there is a crying, urgent need for such policies and for the President to be able to exercise such policies. Senators by now are aware, event those whose daily fare is the Washington Post and the New York Times, that tens of thousands, hundreds of thousands, probably millions of women are being forced to undergo abortions involuntarily in that paradise known as the People's Republic of China, and that American dollars, indirectly to be sure, are helping to finance this ghastly program of involuntary abortion.

Senators who are of the opinion that the fetus is not a person, perhaps is not a human being, nevertheless must be concerned about the rights of those women in China.

Steven Mosher, who has written a book recently on this subject, spent a year or something like that living in a rural village in China recently and estimated the number of those women who would bear their children were they not forced by authorities to undergo abortion.

What about the rights of those women? That is a gross violation of human rights of the very kind condemned by the Nuremberg trials, in which a number of Nazi officials were found guilty of this very same crime, violation of the human rights of the mothers of those aborted children.

Mr. President, the Senate, and, for that matter, both Houses of Congress, over and over again in recent years have gone on record consistently as opposing Federal funding of abortions. This is quite apart from the question of the nature of abortion, itself, the rights of the unborn. Some feel the unborn have no rights. Others, including this Senator, feel that the offspring of human beings are human beings; that it is self-evident that they deserve, once again, practically speaking, the Constitution they once had. But that is a separate question, really, in this debate on the Helms amendment.

Without any question, women who are being forced to undergo abortion are being deprived of their human and civil rights. Just as Americans deplore the use of American dollars to finance abortions in this country and demand of their representatives votes against Federal funding of abortion, by the same logic they would demand or certainly request and urge their representatives to vote against the measures that permit the flow of American dollars to perform forced abortions elsewhere.

The purpose of the Helms amendment, in part, is to give power to ensure the President has the power in the distribution of funds under the Agency for International Development to ensure, to the best of his ability, that American funds are not used or do not flow indirectly to China or elsewhere where gross and ghastly human rights violations are occurring.

It seems to this Senator that the Helms amendment is in order in view of an amendment adopted in the committee, apparently, by the Senator from Kansas as part of the foreign aid bill, and which bill subsequently was passed by the Senate.

Some need for correction is there. There is a need there. The Helms amendment fills that need, it seems to this Senator.

Some might argue that the language could be improved. Maybe so. Maybe that is something they might want to discuss with the Senator from North Carolina. But surely we cannot overlook these forced abortions in China. We cannot sit still and allow the President's hands to be tied to deal effectively with that kind of human rights violation.

Therefore, Mr. President, with all due respect, I urge my colleagues to support the Helms amendment in the same spirit we have supported over and over again, year after year, the Hyde amendment and language of that kind.

I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I will be moving to table the underlying amendment, amendment 290, 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.

The PRESIDING OFFICER. The clerk will call the roll.

Mrs. KASSEBAUM. Mr. President, I said I would be moving to table. I do not want to cut off debate yet.

Mr. BRADLEY and Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I oppose the amendment of the Senator from North Carolina. He would have us believe that anyone opposing his amendment is somehow a supporter of coerced abortions and infanticide. In short, Mr. President, this is hogwash.

The Foreign Aid Authorization Act, which was adopted by the full Senate 3 weeks ago, makes U.S. policy on the issue on infanticide and coerced abortion very clear. First, U.S. dollars cannot be used for any family planning program in China; our country does not—and will not—condone coerced abortion. Indeed, under current law, no U.S. assistance will be provided to any country or organization that includes involuntary or coerced abortion as part of its population planning programs. In addition, the act requires the President to speak out against the coercive population planning methods employed by China by voting against any U.N. aid to China for population planning.

The legislative language included in the Foreign Aid Authorization Act that recently passed the Senate is clear on this issue. We as a nation are unalterably opposed to coerced abortion and infanticide.

So, Mr. President, once we set aside the rhetoric, what is the real intent of the amendment offered by the Senator from North Carolina? I think I know the answer.

Mr. President, we are all aware that last year, the administration adopted a new policy with reference to international family planning. The new policy added restrictions on eligibility for family planning grants to nongovernmental organizations. When this policy change was originally proposed, many of us contended that it would effectively cut off Federal funds to nongovernmental organizations such as International Planned Parenthood, the largest provider of family planning services to less developed countries. That was our contention; we were correct. The International Planned Parenthood Federation has been defunded.

I still cannot comprehend the logic of this policy. This debate is not about abortion—remember that the law now says that no U.S. funds can be used for abortion. This debate is about whether the United States should help provide family planning services to developing countries. Ultimately, this debate is also about whether the United States should take effective steps to prevent millions more children from starving every year. In a tragic piece of irony, the administration's new policy will do a great deal to suppress family planning efforts, the most sensible way to avoid abortions. Women living in developing countries need access to safe and effective methods of family planning if they are to exercise their right to make decisions about family size.

Mr. President, over the recent recess, I visited Calcutta, India with a number of other Senators. We visited the orphanage of Mother Theresa. One cannot visit Calcutta and see families living on the streets, see families huddled in drainpipes, see children literally starving, not only unable to get medical care but also unable to get adequate food, living in a city where even the city officials cannot tell you how many people live there—one cannot experience the horror of street life in Calcutta and support this kind of amendment. Because what it says is that we will not attempt to aid the family planning efforts in countries that want to try to get their population under control by giving women a chance to determine their family size.

Mr. President, I cannot comprehend a policy that says, let the children starve but above all, no familiy planning assistance.

Last August, Senator PACKWOOD and I introduced a resolution in an attempt to change the administration's new policy on international family planning. Unfortunately, we were not successful in convincing the administration to change its policy. Because the administration continues to insist on its wrong-headed policy, the Senate directed the administration—through the amendment offered by Senator KASSEBAUM to the Foreign Aid Authorization Act—to change its policy.

Our Resolution said, "Administration, change your policy. Make family planning assistance available to all groups."

Mr. President, I fully supported Senator KASSEBAUM's effort. Her amendment simply required that we treat nongovernmental and multilateral organizations in the same way that we treat foreign governments in establishing eligibility for population assistance funds. Until last summer, eligibility requirements for all potential recipients were the same, but given the policy change this is no longer the case. Eligibility requirements for foreign governments have not changed but the administration has imposed additional restrictions on nongovernmental and multilateral organizations. In brief, the Kassebaum amendment eliminated the new requirements imposed by the administration, including one that these groups may not use any funds—including their own—for any abortion related activity if they are to maintain eligibility for U.S. population assistance funds. If we overturn the Kassebaum language, the administration will continue its shortsighted policy.

In other words, the administration will continue to deny funds for family planning to the organizations that have been most successful in executing family planning internationally. That means that children in countries like Calcutta will continue to starve because their mothers will not be given a choice to determine their family size.

So, Mr. President, there may be a lot of talk today about eliminating coerced abortions or infanticide, but the amendment offered by the Senator from North Carolina has nothing to do with this. The amendment is an attempt to overturn the legislative language included by Senator KASSEBAUM in the Foreign Aid Authorization bill, and as such, it must be opposed.

There is a second reason why we must, as a body, reject the amendment offered by the Senator from North Carolina. Not only does the Helms amendment overturn the Kassebaum amendment, it also gives the President broad, sweeping powers—and I quote here from the amendment—"to implement whatever policies he deems necessary to curb * * * infanticide, abortion and involuntary sterilization * * *" I am not comfortable giving the President unlimited authority to implement policies that he deems necessary on any subject matter, much less abortion.

Mr. President, as I stated last August, the policy changes implemented by the administration represent wrong-headed policy. If it is not overturned, we will see greatly diminished family planning activities worldwide. In other words, more Calcuttas, more maternal and infant deaths, more abortions, and the very real possibility of harsher government controls on individual freedoms. The Helms amendment is designed to nullify the Kassebaum provision included in the Foreign Aid Authorization Act passed by the Senate just 3 weeks ago. So the Senator from North Carolina wants us to reverse the position that the Senate endorsed just 3 weeks ago.

Mr. President, I urge my colleagues to oppose the amendment offered by the Senator from North Carolina, and I am pleased to yield to the Senator from Kansas.

The PRESIDING OFFICER (Mr. HECHT). The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I move to table amendment No. 290——

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

Mrs. KASSEBAUM. I will be glad to.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair. I have learned many things this day, among them being that I am somewhat more capable of speaking for myself than the Senator from New Jersey is capable of speaking for me. Now, I will not use the tone that the Senator from New Jersey used, nor will I use words like "hogwash." I am not sure that is within the Senate rules, but that is all right; the Senator from New Jersey is entitled to express himself as he wishes. But when he begins to misrepresent the intent and the meaning of the amendment, that is something else again. But so the record will be clear just before we vote, this amendment is designed to give the President flexibility to curb abortion, among other things, in U.S. population policy. Thus, it is only the most convoluted logic that would lead the Senator from New Jersey or anyone else to believe that maintaining the President's current constitutional authority to curb abortion will lead to more abortion. This simply does not make sense, Mr. President. Ronald Reagan is a perceptive man. He has fine talent in his administration. Therefore, making sure that he has authority to continue to curb abortion obviously will not lead to more abortion.

Furthermore, Mr. President, the pending amendment does not—I repeat, does not—set requirements or restrictions as to any specific recipient of U.S. population assistance. All are free to compete for the available grants. Nobody is disqualified by this amendment.

But as I have said over and over again this afternoon, it does leave to the President the authority which is rightfully his for setting the requirements and restrictions that he believes are in the best interests of the United States and the furtherance of human rights in our foreign policy.

Finally, contrary to anything that the distinguished Senator from New Jersey may believe or may say, there is nothing in this amendment that undercuts U.S. population assistance for family planning. The Senator talked about the pitiful children in India and I share his sympathy for them. But as the Senator spoke, I wondered what the Senator's solution is for these pitiful children in India. We all feel sympathy for them. Would the Senator help them by destroying them? Surely, he does not mean that and I do not suggest that he does.

But I do say, Mr. President, that this amendment draws a sharp distinction between family planning and the subjects of this amendment over which the President has and, if this amendment is approved will continue to have, authority to make policy: infanticide, abortion, involuntary sterilization, and racial or ethnic discrimination and other human rights abuses. None of these in my judgment has any legitimate role in family planning. I thank the Senator from Kansas for yielding to me.

Mr. PACKWOOD. Mr. President, I rise today in strong opposition to the Helms amendment to the Foreign Relations Authorization Act. The Helms amendment gives the President complete power and responsibility—without the consent of Congress—to form our U.S. foreign policy on international family planning. This amendment abrogates all congressional responsibility for shaping international family planning policy and, in fact, says to the President, "We don't care or don't want to know about international family planning policy, just do it."

Well, Mr. President, it is no secret why my colleague from North Carolina [Mr. HELMS] would like to hand this carte blanche power over to this President.

There have been repeated and documented assurances that no U.S. funds are being used abroad to pay for abortion as a method of family planning. That, Mr. President, does not appear to be enough of a prohibition for Senator HELMS or this administration.

Without the consent of Congress, the Agency for International Development [AID] has taken this abortion funding prohibition one dramatic step further by demanding that nongovernmental organizations [NGO's] eligible for U.S. family planning funding not use their private funds to perform or promote abortion. This policy means that if an NGO uses private—non-AID—funds to refer a patient to an abortion facility, that NGO will no longer be eligible to receive U.S. funding.

Is this a policy Congress approved or adopted? No, Mr. President. In fact, Mr. President, it goes well beyond the intent of law this Congress enacted over 13 years ago. When this body debated the original 1973 Helms amendment to the Foreign Assistance Act of 1961 prohibiting the use of U.S. funds to pay for abortion abroad, Mr. HELMS said of his amendment which is the curent law AID should be administering:

"We could, in fact, go far beyond the present amendment and require all abortion activities, from whatever funds, to be stopped before our assistance could be received. But the present amendment does not do that. . . it (the amendment) is intended to prevent the use of AID funds—that is to say funds collected from the taxpayers of the United States—in the practice and promotion of abortion. [119 CONGRESSIONAL RECORD, 32292 (October 1, 1973)]".

Clearly, AID has "gone far beyond" the letter of the law established by this Congress and the intent articulated by the sponsor of the law, Mr. HELMS.

Make no mistake about it, we are talking here about a dramatic shift in the intent of the law that has served our foreign policy for many years. This is a policy never approved by Congress and a policy shift I don't believe this Congress wants. I don't believe my colleagues want to tell private groups what to do with their private money.

Let me review now:

First. How AID has implemented this new policy I have just described, and

Second. Then share with you why it is so hard for NGOs to meet this new requirement.

Third. Finally, why AID faces major obstacles in reprogramming population assistance funds originally planned for use by the International Planned Parenthood Federation [IPPF] and the United Nations Fund for Population Activities [UNFPA] in fiscal year 1985.

Last December, the U.S. Agency for International Development [AID] refused to renew its 17 years of support for the International Planned Parenthood Federation. As a result, approximately $11 million in cash—not including commodities—was freed up for reprogramming to other family planning programs in fiscal year 1985. In March, AID announced that if it received congressional approval, it also would reprogram $10 million originally scheduled for expenditure by the United Nations Fund for Population Activities [UNFPA].

In testimony, AID Administrator M. Peter McPherson repeatedly has assured Congress that he faces no difficulty in reprogramming the funds released from IPPF, UNFPA, or any other family planning organization the agency may defund as a result of the administration's reinterpretation of Congress' prohibition on the use of AID funds to pay for abortion. However, as of May 1, 1985 with only 5 months remaining in the fiscal year, AID has been unable to reprogram any of the funds for two reasons:

AID's Bilateral Population Program cannot absorb substantial increases in population aid, since only a limited number of governments receive bilateral aid, and

AID is still trying, but without success, to develop requirements for the implementation of the administration's new population aid policy with which nongovernmental organizations [NGO's] are able to comply operationally.

At this stage, AID faces the problem of not only being unable to reprogram the moneys originally scheduled for IPPF and UNFPA, but also being unable to reprogram tens of millions of dollars more because other organizations are unlikely to be able to comply with AID's new requirements.

In closing Mr. President, I'd like to add a more human insight into the impact of this new policy for my colleagues to consider. Currently, an estimated 400 million women lack access to family planning services worldwide. I am reminded of a similar phenomenon long ago in America, when in 1873, the fanatical head of a group calling itself the New York Society for the Suppression of Vice, Anthony Comstock, pushed a law through Congress that made the giving out of contraceptive information a Federal offense. Known as the Comstock laws, this lack of information greatly impacted the poor. Thousands of desperate women, many with 9 or 10 children crowded into 1-room tenements, tried to abort fetuses themselves or go to a back alley abortionist. An estimated 25,000 died from illegal and unsafe abortions per year at the turn of the century in this country before the Comstock laws were repealed.

Because of a severe shortage of contraceptives in poor developing nations, many Third World women are similarly resorting to abortions to end an unwanted pregnancy. An estimated 35 to 55 million abortions occur in the world each year, and half of them are illegal. Currently, 50 to 60 percent of the beds in the maternity wards in many Third World hospitals are filled with women seriously ill or dying from illegal abortions. Illegal abortions are a leading cause of death among Third World women. Advocates of a policy that would decrease the availability of desperately needed international family planning services should consider that history has demonstrated that the practical impact of less access to contraceptives may actually lead to more women resorting to abortions.

I urge my colleagues to vote against the Helms amendment.

Mr. McCLURE. Mr. President, I am about to ask unanimous consent that the pending amendment be temporarily set aside so that the Senate might entertain an amendment to be offered by myself. Before doing that, let me suggest I have talked to the majority and minority managers of the bill. I have also talked to the Senator from Kansas, who had indicated a desire to make a motion to table. I think there is no objection from either side. I also beleive that the amendment that I will offer will be accepted by the managers of the bill. I will take only a few minutes to explain that amendment. I, therefore, do ask unanimous consent the pending matter be temporarily laid aside so that I might offer an amendment.

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

AMENDMENT NO. 332

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 332.

At the end of the bill add the following new section:

"The Department of Defense shall prepare a report, to be submitted to Congress in both classified and unclassified form by July 15, 1985, that describes in detail the direct and indirect military consequences and effects of all Soviet violations of all arms control treaties and agreements."

Mr. McCLURE. Mr. President, the amendment is short and concise. Let me suggest, too, that in talking with the distinguished Senator from Rhode Island, the minority manager of the bill, he points out, quite properly, that a month ago the Senate adopted language calling for a similar report but on January 31 of each year. The reason I have offered this amendment is twofold, but primarily because yesterday in the President's report to the Congress on interim compliance he indicated the Department of Defense had been directed to analyze and report to him not only on the military and security implications of treaty violations but upon compensatory actions that could be taken by the United States to offset the security threats because of treaty violations on the part of the Soviet Union, that report to be presented to the President by November 15 of this year.

It seems to me wise that we should attempt to get as much information as we can as early as possible dealing with the military and security implications of those treaty violations so that we can begin to judge both the severity of that action and the kind and nature of the actions that should be taken in whatever way is necessary to protect the security of the United States and our allies.

I should point out, too, that the Defense Authorization Act for fiscal year 1986 carries report language calling for exactly the same kind of report by July 15, and this would carry forward into statute what is already in report language approved by the Senate committee on the bill that has now been approved by the Senate. I believe that it would be a constructive exercise for us to get this report.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I think the idea of the Senator from Idaho is excellent. There is in my own personal view a certain redundancy in that the Senate appr ed yesterday, in the Arms Cont. l and Disarmanent Agency authorization amendment to this bill, a provision which I authored, setting forth a requirement for a similar report to be filed on an annual basis by January 31. My amendment deals with both U.S. adherence to and the compliance of other nations with arms control agreements. One of the requirements in this legislation is there be provided recommendations as to any steps which should be considered to redress any damage to the U.S. national security and to reduce compliance problems.

However, in a spirit of comity and friendship, I have no objection to the adoption of this amendent.

I point out that it is conceivable that the bill may not even be signed into law by the very date called for by the proposed amendment.

Mr. McCLURE. The Senator is correct that it is possible. I hope that is not true.

Similarly, it is possible that the Department of Defense authorization bill, which carried the report language to which I made reference, may also not be law by July 15. But I think we have to try to get that information as soon as we can.

I thank the Senator for his support.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. McCLURE. I yield.

Mr. HELMS. Mr. President, I commend the Senator for his amendment.

I must say to him that I have prepared, but will not offer, an amendment to his amendment to provide specific protection for the Poseidon. There is another vehicle, which will be on this floor within a very few days, and I will offer it at that time.

Mr. McCLURE. I thank the Senator from North Carolina.

I share his concern about what will be done with the Poseidon, as does my colleague from Idaho. I think we will have opportunities, as time passes, to deal with that question.

I thank the Senator for his restraint today.

Mr. LUGAR. Mr. President, I commend the distinguished Senator from Idaho for his amendment, which seeks information which we should have promptly. On our side, we accept the amendment and hope it will be adopted unanimously.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 332) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 290

Mrs. KASSEBAUM. I move to table amendment No. 290, and 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. DOLE. Mr. President, as I understand it, we could be nearing the end of this bill, although I have been advised that there may be another Contra amendment, which I think would be out of order, based on the agreement we had last week. In any event, it is my understanding that, depending on what happens to the motion to table, it could be the last amendment.

I alert Senators that there could be an additional vote following this, maybe two votes.

The PRESIDING OFFICER (Mr. HECHT). The question is on agreeing to the motion to table the amendment. 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. CRANSTON. I announce that the Senator from Hawaii [Mr. INOUYE] and the Senator from Iowa [Mr. HARKIN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—53

Baucus	Gore	Nunn
Bentsen	Gorton	Packwood
Biden	Hart	Pell
Bingaman	Hatfield	Pryor
Boren	Heinz	Riegle
Bradley	Hollings	Rockefeller
Bumpers	Kassebaum	Rudman
Burdick	Kennedy	Sarbanes
Byrd	Kerry	Sasser
Chafee	Lautenberg	Simon
Chiles	Leahy	Simpson
Cohen	Levin	Specter
Cranston	Long	Stafford
Dixon	Mathias	Stevens
Dodd	Matsunaga	Warner
Evans	Metzenbaum	Weicker
Glenn	Mitchell	Wilson
Goldwater	Moynihan	

NAYS—45

Abdnor	Ford	McClure
Andrews	Garn	McConnell
Armstrong	Gramm	Melcher
Boschwitz	Grassley	Murkowski
Cochran	Hatch	Nickles
D'Amato	Hawkins	Pressler
Danforth	Hecht	Proxmire
DeConcini	Heflin	Quayle
Denton	Helms	Roth
Dole	Humphrey	Stennis
Domenici	Johnston	Symms
Durenberger	Kasten	Thurmond
Eagleton	Laxalt	Trible
East	Lugar	Wallop
Exon	Mattingly	Zorinsky

NOT VOTING—2

Harkin	Inouye

So the motion to table amendment (No. 290) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Indiana.

Mr. LUGAR. Mr. President, the distinguished minority leader at an earlier time in the debate——

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. Senators will please take their seat. The Senate will be in order.

The Senator from Indiana.

Mr. LUGAR. Mr. President, at an earlier point in the debate, the distinguished minority leader asked for assurance with regard to moneys to be spent for the Contras in Nicaragua. Specifically, he asked whether $14 million was needed, given the fact that this bill might become law with only 3 months left in the year, and he asked if some degree of proportionality might be considered.

I responded at that time with my own feelings as to why that would be inappropriate. He asked that there be some administration word on this.

We have sought a letter and I have understood for the last hour that a letter has been signed by Mr. McFarlane and the messenger is en route. I must admit I do not have the letter in hand. I wish that I did.

But let me assure the minority leader that when the letter does come, I will share it with him immediately and it will respond that the $14 million is needed but, likewise, that if the $14 million should not be spent, that the money would revert to the Treasury and that it would not be available for the forthcoming year.

We had, as we discussed in the debate, two separate items, the $14 million that was unfenced in the current fiscal year and the $24 million that was to be authorized for the following year.

So I would assume the minority leader, although I believe the money will be required largely for capital equipment items as opposed to a day-by-day situation, that if this is not so, it will go back into the Treasury and it would not be reprogrammed for use in the following year.

Mr. BYRD. Mr. President, I thank the distinguished manager of the bill. Is it his intention to insert the letter into the RECORD?

Mr. LUGAR. It is my intention.

Mr. BYRD. I will be interested in seeing what the response is. I will not call up the other amendment which, by order of the Senate, I was entitled to call up. The supplemental appropriations bill will be coming along and I will take a good look at what the administration says in response to this question. So there will be other opportunities if we feel the urge and the need to offer an amendment. I will not do so on this particular bill this evening.

EXPLANATION OF AMENDMENTS RELATING TO STATE DEPARTMENT AND USIA INSPECTORS GENERAL, AND THE SENIOR FOREIGN SERVICE

● Mr. HELMS. Mr. President, yesterday this body adopted two amendments offered on my behalf by the distinguished chairman of the Committee on Foreign Relations. I am grateful to the Senator from Indiana [Mr. LUGAR] for his support of these measures, and to the ranking minority member of the committee for accepting them. For the purposes of the RECORD, let me describe these two measures in terms of their intent and purpose.

AMENDMENT NO. 316

Mr. President, amendment No. 316 would put into effect the recommendation by the Comptroller General that the State Department's Office of Inspector General should be made more independent and effective. In a GAO report dated June 2, 1983 (document No. AFMD83-56), the General Accounting Office outlined weaknesses of the present State Department Inspector General system. That report found that the State Department was the only 1 of 18 major Federal departments or agencies whose inspector general did not conform to the Uniform Principles and Standards of the Inspector General Act of 1978.

Mr. President, the GAO report details the problems which this lack of conformity has caused. First of all, a fundamental principle of Government audits requires that, in all matters relating to audit work, the audit organization and the individual auditors "must be free from personal or external impairments to independence, must be organizationally independent, and shall maintain an independent attitude and appearance." Those words are taken from the GAO report. However, in the State Department, the GAO found a number of situations in which the independence of the State Department Inspector General's inspection, audit, and investigative functions have been or could be impaired.

Moreover, Mr. President, the GAO found that the State Department IG has little actual operational control over investigations into allegations of waste, fraud, and abuse. The problem there is the proximity of the investigative entity—the Office of Security—and the State Department management hierarchy, another breach of fundamental requirement of independence.

Finally, Mr. President, the GAO found that, "Although the Foreign Service Act of 1980 requires that IG inspectors and audits comply with Government audit standards, GAO found the standards are not being complied with and the quality of the IG's work has been adversely affected."

My amendment enacts the recommendation of the Comptroller General

by placing the State Department Inspector General under the Inspector General Act of 1978. It guarantees the independence, standards of excellence, and ultimate accountability of the work of that office from problems like those detailed in the Comptroller General's report.

Mr. President, I ask that the report of the Comptroller General on the State Department Inspector General Office appear at this point in the RECORD.

The report follows:

STATE DEPARTMENT'S OFFICE OF INSPECTOR GENERAL SHOULD BE MORE INDEPENDENT AND EFFECTIVE

The basic duties and responsibilities of 17 of the 18 statutory inspectors general (IGs) established by the Congress in recent years generally conform to the provisions of the Inspector General Act of 1978. Only the State Department IG's authorizing legislation differs significantly from the inspector general concept as embodied in the 1978 act.

These differences have permitted the new statutory State IG to continue to operate in a manner that impairs the independence and effectiveness of the IG's office.

GAO recommends that the Congress either place the State Department IG under the Inspector General Act of 1978 or conform the IG's authorizing legislation to the 1978 act. The Secretary of State and the IG also need to take certain actions, such as establishing a permanent staff of qualified auditors and investigators within the IG's office.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, DC.

Hon. JACK BROOKS,
Chairman, Subcommittee on Legislation and National Security, House Committee on Government Operations.

DEAR MR. CHAIRMAN: This report is in response to your February 9, 1982, request that we review the operations of the Department of State Inspector General's office. The report discusses (1) differences between the Inspector General Act of 1978 (Public Law 95-452), under which most statutory inspectors general operate, and section 209 of the Foreign Service Act of 1980 (Public Law 96-465), which established the State Inspector General; (2) how differences between the two acts affect State Inspector General operations; (3) problems with the State Inspector General's independence and effectiveness; and (4) the need for the Congress to either place the State Department IG under the Inspector General Act of 1978 or conform the IG's authorizing legislation to the 1978 act.

We did not obtain official agency comments on this report. As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its date. At that time, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

CHARLES A. BOWSHER,
Comptroller General of the United States.

DIGEST

In recent years, the Congress has enacted several public laws to establish statutory inspector general (IG) offices in 18 major Federal departments and agencies. The basic duties and responsibilities of 17 of the IGs conform to the provisions of the Inspector General Act of 1978, which sets forth uniform principles and standards for these offices. The State Department's IG is the only one whose authorizing legislation—section 209 of the Foreign Service Act of 1980—continues to differ significantly from the 1978 act.

At the request of the Chairman, Subcommittee on Legislation and National Security, House Committee on Government Operations, GAO reviewed the State Department's IG operations to determine, among other things, how these differences affect the IG's work.

GAO found that the 1980 legislation included several important differences from the basic IG concept embodied in the 1978 act (see p. 2 and app. II). These differences permit the new statutory State IG to continue to operate in essentially the same manner as the previous administratively established IG rather than functioning like the independent statutory IGs in other agencies.

For example, the 1980 act, among other things:

Allows the State IG to use temporarily assigned Foreign Service officers and other persons from operational units within the Department to staff the IG office. Other statutory IGs rely primarily on permanently assigned staff.

Requires the State IG to conduct reviews routinely of all overseas posts and domestic operations, which is normally considered a management function. Other statutory IGs are not required to review all organizational units within their respective agencies.

Permits the State IG to use a unit of management (the State Department's Office of Security) to conduct investigations of fraud, waste, and abuse. Other statutory IGs conduct their own investigations.

These differences affect the independence and effectiveness of the statutory State IG.

MORE INDEPENDENCE IS NEEDED IN THE IG'S OFFICE

Provisions of the Foreign Service Act of 1980 and its legislative history raise questions about the degree of independence the Congress expected of the State IG. One committee report said the State IG was not expected to be as independent as the IGs established under the Inspector General Act of 1978. On the other hand, several provisions of the 1980 act indicate the State IG was to be independent. For example, *one section prohibits any State official from preventing or restricting an IG audit.* Accordingly, congressional intent regarding the degree of independence has been unclear. (See p. 9.)

Government audit standards, which the State IG is required by the 1980 act to follow, emphasize that *in all matters relating to audit work, the audit organization and the individual auditors "must be free from personal or external impairments to independence,* must be organizationally independent, and shall maintain an independent attitude and appearance." Although there are no Government-wide investigative standards, GAO believes investigations should also be carried out by personnel and organizations that are independent of department operations. GAO found, however, a number of situations in which the independence of the State Department IG's inspection, audit, and investigative functions has been or could be impaired.

For example, the State Department IG relies on a temporary staff of Foreign Service officers and audit-qualified professionals to conduct its inspections and audits. Although the use of temporarily assigned staff from operational units is expressly authorized by the Foreign Service Act of 1980, GAO believes *the IG's extensive use of temporary or rotational staff affects the IG office's independence* because (1) these staff members routinely rotate between the IG office and management positions within the organizations they review, and (2) *major decisions affecting their careers are determined by the State Department rather than by the IG office.* The IG's own staff, State Department officials they audit, and officials from other statutory IGs interviewed by GAO have raised questions about the State IG office's independence. (See pp. 7-11.)

Although IG officials acknowledged that major career decisions concerning their staff are decided by State Department management rather than by the IG office, they did not believe this represented an impairment to the IG staff's independence. (See p. 8.)

STATE IG IS PERFORMING A MANAGEMENT FUNCTION—INSPECTIONS

The Foreign Service Act of 1980 requires that the State Department IG, in addition to doing traditional audit functions, inspect and audit each foreign post and domestic unit at least once every 5 years. The statutory IGs under the Inspector General Act of 1978, on the other hand, are not *required* to review all organizational units within their respective agencies, nor are they required to conduct their reviews and evaluations within a legislatively mandated time frame. GAO believes that management, not the State IG, should be responsible for these routine inspections.

One of the fundamental responsibilities of agency management is to routinely monitor and assess its operations to determine whether its programs are meeting intended objectives efficiently and economically and to render a full account of its activities to the public. The inspections currently performed by the IG represent the only comprehensive review of foreign post activities. Until 1980—when the Foreign Service act established the new statutory State IG—these inspections had always been performed by departmental management.

The role of the independent audit organization, on the other hand, should be to evaluate how well agency management is carrying out its basic management responsibilities, including its routine monitoring and assessment functions. (See ch. 3, p. 15.)

STATE'S MANAGEMENT IS PERFORMING AN IG FUNCTION—INVESTIGATIONS

GAO found that the State Department IG has little operational control over investigations into allegations of fraud, waste, and abuse. Instead, the IG relies on State's Office of Security to assign the case, plan the approach, and conduct the investigation.

Although the legislative history for the 1980 act indicates that the IG could continue conducting investigations jointly with the Office of Security to ensure that the investigations do not jeopardize national security, GAO believes the present arrangement constitutes an organizational impairment to the independence of the investigative process because *the investigative entity—the Office of Security—is located within State's management hierarchy.* Also, both the timeliness and quality of investigations have suffered because the Office of Security has other high-priority responsibilities and its

staff are not adequately trained to handle IG investigations.

State officials told GAO that the Department is acting to improve investigative timeliness and quality (primarily by reorganizing the Office of Security and establishing a new General Fraud and Malfeasance Branch staffed with experienced investigators). However, this will not eliminate GAO's concern about management investigating itself. (See ch. 4, p. 19.)

GREATER EMPHASIS IS NEEDED ON COMPLIANCE WITH GOVERNMENT AUDIT STANDARDS

Although the Foreign Service Act of 1980 requires that IG inspections and audits comply with Government audit standards, GAO found the standards are not being complied with and the quality of the IG's work has been adversely affected by the State IG (1) using staff who do not have adequate audit experience and training, (2) requiring staff to operate under severe time constraints, and (3) *not requiring staff to adequately document their work.*

IG officials maintain that the use of Foreign Service officers who have not received adequate audit training, and the time constraints under which the staff are required to operate, have not adversely affected the quality of the IG office's work. Although *IG officials acknowledge their staff's workpapers do not meet Government audit standards* they believe the workpapers are adequate for their purposes. (See ch. 5, p. 23.)

RECOMMENDATION TO THE CONGRESS

GAO believes the exceptions contained in the 1980 legislation to the basic IG concept embodied in the Inspector General Act of 1978 have contributed to problems GAO found with the State IG's independence and effectiveness. (See p. 29.) Accordingly, GAO recommends that the Congress either (1) *repeal section 209 of the Foreign Service Act of 1980 and* place the State Department IG under the inspector General Act of 1978 or (2) *conform section 209 to the Inspector General Act of 1978.*

RECOMMENDATIONS TO THE SECRETARY OF STATE AND THE INSPECTOR GENERAL

GAO recommends that the Secretary of State and the Inspector General work together to establish a permanent IG staff of qualified auditors, and discontinue the IG office's reliance on a temporary staff whose tenure, promotions, and reassignments are decided by departmental managers.

GAO also recommends that the Secretary and the Inspector General establish an investigative capability within the IG office to enable the IG office to conduct its own investigations. In this regard, they should consider transferring from the Office of Security to the IG office those qualified investigators assigned to the Office of Security's new General Fraud and Malfeasance Branch.

In addition, GAO makes other recommendations to the Inspector General to improve the office's independence and effectiveness. (See p. 30.)

AGENCY COMMENTS

GAO did not obtain official State Department comments on the report but discussed the issues in the report with State IG officials and incorporated their views where appropriate.

CHAPTER 1—INTRODUCTION

In recent years, the Congress has enacted several public laws establishing independent statutory inspector general (IG) offices in 18 major Federal departments and agencies. Of the 18 offices, 15 were established pursuant to the Inspector General Act of 1978 (Public Law 95-452, Oct. 12, 1978), as amended,[1] which contains uniform principles and standards for the operation of these offices.

Each of the other three IG offices was established pursuant to its own specific authorizing legislation, the provisions of which differ in some respects from those contained in the 1978 act. However, conforming amendments enacted in 1980 brought the authorizing legislation for two [2] of these three IG offices into line with the Inspector General Act of 1978, in terms of the IG's legislatively mandated duties and responsibilities. *Only the authorizing legislation[3] for the Department of State's IG office (State IG) continues to differ in several major respects from the 1978 act.*

In recognition of these differences, and in keeping with (1) the House Government Operations Committee's responsibility to oversee legislation creating statutory IG offices and (2) the Legislation and National Security Subcommittee's jurisdiction over the Department of State, the Subcommittee Chairman asked us to help the Subcommittee compare the State IG with the IGs of other departments and agencies. (See app. I.) Among other things, the Chairman specifically requested that we compare section 209 of the Foreign Service Act of 1980 with the Inspector General Act of 1978, and determine how significant differences in the two acts affect the work of the State IG. A more detailed discussion of our review objectives, scope, and methodology is included at the end of this chapter.

STATE IG LEGISLATION DIFFERS FROM THE 1978 INSPECTOR GENERAL ACT

The inspector general concept, as set forth in *the 1978 Inspector General Act, consolidates auditing and investigative responsibilities under a single senior official who reports directly to the agency head or officer next in rank below the head.* This results in independent and objective units which conduct and supervise audits and investigations relating to programs and operations of their respective departments and agencies. The inspectors general are intended to provide leadership and coordination and recommend policies (1) to promote economy and efficiency in the administration of programs and operations and (2) to prevent and detect fraud and waste. They also provide a means for keeping agency heads and the Congress informed about administrative problems and deficiencies, the effectiveness of programs and operations, and the need for and progress of corrective action.

The State Department was initially included in the proposed legislation to create independent statutory IGs in major Federal departments and agencies (subsequently enacted as the Inspector General Act of 1978). *The Department argued that it should not be included in the legislation because of its unique foreign policy responsibilities.* In 1980, the Congress again considered amendments to include the State Department under the 1978 act; it subsequently chose to accept an alternative proposal to allow State to have its own special IG legislation—section 209 of the Foreign Service Act of 1980.

Section 209 of the Foreign Service Act of 1980 has several features that set it apart from the 1978 IG legislation. A detailed analysis of the differences and similarities between the two acts is in appendix II. Some of the more important differences are summarized below:

The 1978 IG legislation makes IGs responsible for performing audits and investigations and other activities related to economy, efficiency, and effectiveness in the administration of programs and operations. In addition to the duties and responsibilities outlined in the 1978 legislation, the 1980 Foreign Service Act requires that the State IG *inspect* and audit each Foreign Service post, bureau, and other operating units within the Department to determine whether they are complying with U.S. foreign policy objectives.

The 1980 Foreign Service Act requires that these inspections and audits of posts, bureaus, and other operating units be done at least once every 5 years. *The 1978 legislation establishes no such audit cycle for the other inspectors general, nor does it require that they audit each organizational entity.*

Because of the need to perform the inspection and audit function discussed above, *the 1980 Foreign Service Act requires that the State IG staff have, in addition to the individual qualifications required of an agency IG in the 1978 legislation, knowledge and experience in foreign affairs.*

Both the 1978 and 1980 acts authorize the inspectors general to select, appoint, and employ such persons as necessary to carry out their statutory responsibilities. The 1980 act additionally authorizes the State IG to assign persons from operational units within the State Department and the Foreign Service to the IG office.

Both the 1978 and 1980 acts authorize inspectors general to investigate allegations of waste, fraud, and mismanagement. However, the 1980 act's legislative history indicates the State IG could continue conducting investigations jointly with the Department of State's Office of Security to ensure that the investigations do not jeopardize national security.

STATE IG RESPONSIBILITIES, ORGANIZATION, AND STAFFING

All audit, inspection, and investigation activities within the Department of State are performed by or under the direction of the Office of Inspector General, which is in Washington, D.C. The State IG has two Deputy Inspectors General, an Assistant Inspector General for Audits, and an Assistant Inspector General for Investigations.

In fiscal 1982, the State IG was authorized 76 positions: 11 managers, 50 inspectors, and 15 support staff. The total fiscal 1982 IG

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[1] Public Law 95-452 initially established statutory IG offices in 12 Federal departments and agencies including Agriculture, Commerce, Housing and Urban Development, Interior, Labor, Transportation, Community Services Administration, Environmental Protection Agency, General Services Administration, National Aeronautics and Space Administration, Small Business Administration, and the Veterans Administration. It was subsequently amended to include the Department of Education (Public Law 96-88, Oct. 17, 1978), the Agency for International Development (Public Law 97-113, Dec. 29, 1981), and the Department of Defense (Public Law 97-252, Sept. 8, 1982), for a total of 15 statutory IGs under the 1978 act.

[2] Public Law 94-505 (Oct. 15, 1976) and Public Law 95-91 (Aug. 4, 1977), which established statutory IG offices within the Department of Health, Education, and Welfare (now Health and Human Services) and the Department of Energy, respectively, were amended by Public Law 96-226 (Apr. 3, 1980) to conform their legislatively mandated duties and responsibilities in certain respects to those contained in the 1978 act.

[3] Sec. 209 of the Foreign Service Act of 1980 (Public Law 96-465, Oct. 17, 1980).

budget was $3.5 million, of which $2.6 million was for salaries.

The State IG is staffed with both temporarily assigned Foreign Service officers and audit-qualified professionals. The Foreign Service officers generally serve 2-year tours in the IG office, after which they rotate to other positions in the Department. The audit-qualified professionals have been hired primarily for their audit skills from various Government audit agencies, including the General Accounting Office (GAO). They initially serve 4-year tours in the IG office and then rotate into other positions in the Department.

OBJECTIVES, SCOPE, AND METHODOLOGY

At the request of the Chairman, Subcommittee on Legislation and National Security, House Committee on Government Operations, we reviewed the operations of the Department of State Inspector General's office to determine (1) how the differences between the Inspector General Act of 1978 (Public Law 95-452) and the Foreign Service Act of 1980 (Public Law 96-465) affect the State IG's work and (2) whether the IG is meeting GAO's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" (hereafter referred to as Government audit standards). Our review focused on the State IG operations since passage of the Foreign Service Act of 1980.

We made our review at the State IG office and at other departmental bureaus in Washington, D.C.; and at U.S. missions in Belgium, Denmark, Mali, Norway, Pakistan, Senegal, Tunisia, and Turkey.

We analyzed the legislative histories of the Inspector General Act of 1978 and section 209 of the Foreign Service Act of 1980 to compare and contrast the similarities and differences between the two acts. We reviewed Federal laws, regulations, and implementing instructions relating to the IG's audit, inspection, and investigative responsibilities. We also reviewed the organization and functions of the State IG in relation to the 1980 Foreign Service Act and Government audit standards.

To evaluate the adequacy and usefulness of the State IG inspections and to determine whether they comply with Government audit standards, we reviewed recent IG inspection reports on seven foreign posts (Belgium, Denmark, Mali, Norway, Pakistan, Senegal, and Turkey). These posts were selected in consultation with State IG management to provide a cross-section of foreign posts inspected by the IG and of the problems and issues an inspector might find. We visited each foreign post to discuss the adequacy and value of IG inspections with mission officials including ambassadors, deputy chiefs of mission, and section heads.

In Washington, we reviewed the IG workpaper files to determine whether findings, conclusions, and recommendations contained in the inspection reports were adequately supported. We discussed the IG inspection concept and process with Department of State managers including desk officers, executive directors, directors, and deputy assistant secretaries of regional bureaus. In addition, we accompanied an IG inspection team to Tunis, Tunisia, to observe an inspection that was underway.

To determine whether the IG audits complied with Government audit standards we judgmentally selected and reviewed IG working papers and reports for seven audits conducted during calendar 1981 and 1982. We discussed four of these audits with the State Department officials responsible for the audited area to obtain their views on the adequacy and value of the IG audit.

To evaluate the State IG's investigative responsibilities we judgmentally selected 20 investigations from the IG's log of about 300 open and closed case files. We later selected nine additional investigations after interviews and discussions with IG and departmental officials. We reviewed both the correspondence and investigative files in the IG's office, and the investigative files in the special assignment staff and passport and visa branches of State's Office of Security.

We interviewed officials in the IG office and the Office of Security to obtain their views on the investigative process. We did not verify the statistics on investigations provided to us by the IG and we accepted the IG staff's judgements about the quality of the investigative work done by Office of Security personnel.

We reviewed the personnel summaries of the training and experience of Foreign Service officers assigned to the State IG office as of April 1982 to evaluate whether their experience and training sufficiently qualified them to serve as auditors/inspectors in accordance with Government audit standards.

We interviewed officials from 15 other statutory inspector general offices to compare their operations to that of the State IG and to obtain their views on activities we had observed there. Finally, we interviewed selected former and current IG staff members to discuss issues raised during our review.

The scope of our efforts to comprehensively review the State IG's operations was impaired because *the IG workpapers we reviewed, which were intended to support selected inspection and audit reports, were generally inadequate.* This prevented us from determining whether the findings, conclusions, and recommendations contained in IG reports were valid.

Our review was made in accordance with Government audit standards except for the limitation discussed above. Also, we did not obtain official State IG comments on our report, although we did discuss the issues in the report with appropriate IG officials.

CHAPTER 2—MORE INDEPENDENCE IS NEEDED WITHIN STATE'S OFFICE OF INSPECTOR GENERAL

Section 209 of the Foreign Service Act of 1980 requires that the Department of State's Office of Inspector General comply with Government audit standards in carrying out its inspection and audit functions. Regarding the issue of independence, these standards state:

"In all matters relating to the audit work, the audit organization and the individual auditors, whether government or public, must be free from personal or external impairments to independence, must be organizationally independent, and shall maintain an independent attitude and appearance."

These standards place the responsibility for maintaining independence upon auditors and audit organizations. Auditors should consider not only whether they are independent and their own attitudes and beliefs permit them to be independent, *but also whether there is anything about their situation that might lead others to question their independence.*

Our review disclosed, however, a number of situations in which the independence of the State IG's inspection, audit, and investigative[1] functions has been or could be perceived as impaired. Most of the examples we identified fall within three broad areas. First, the State IG relies on a temporary staff comprised of both Foreign Service officers and audit-qualified professionals to conduct its inspections and audits even though these staff members routinely rotate among IG and management positions within the organizations they review, and major decisions affecting their careers—such as tenure, promotions, and future assignments within the Department—are determined by State Department management rather than by the IG office.

Second, the State IG relies upon the Department's Office of Security to conduct most of the investigations of fraud, waste, and abuse. Because most State investigations involve overseas locations, the Office of Security uses its overseas security staff to perform the investigative work. *These personnel, however, face personal and external impairments to their independence when they are assigned to investigate their own supervisors, other senior post officials, and individuals with whom they live and socialize at foreign posts.*

Finally, the Inspector General's active participation on departmental policy and decisionmaking committees could lead others to question the IG office's independence on subsequent reviews of the programs or organizations affected by these committees.

STAFFING AND PERSONNEL PRACTICES IMPAIR INDEPENDENCE OF STATE IG

Government auditing standards state that when auditors encounter any situations that affect their ability to work and report findings impartially, they should consider their independence impaired and decline to perform the audit. *The standards describe several circumstances in which an auditor cannot be impartial.* These include the following:

Official, professional, personal, or financial relationships that might cause the auditor to limit the extent of the inquiry, to limit disclosure, or to weaken the audit findings in any way.

Previous involvement in a decisionmaking or management capacity that would affect current operations of the entity or program being audited.

Biases that result from employment in, or loyalty to, a particular group, organization, or level of government.

Influences that jeopardize the auditor's continued employment for reasons other than competency or the need for audit services.

All these criteria appear to be directly applicable to staffing and personnel practices discussed in this section.

IG staff face impairments to their independence

Unlike other statutory inspectors general, the State IG does not have a permanent staff. *Approximately half the State IG staff are Foreign Service officers on 2-year details. The other half are audit-qualified pro-*

[1] Section 209 of the Foreign Service Act of 1980 does not require that the State IG's investigations comply with Government audit standards. In fact, there are no Government-wide investigative standards. We believe, however, as we stated in our report "DOD Can Combat Fraud Better By Strengthening Its Investigative Agencies" (AFMD-83-33, Mar. 21, 1983), that investigations should be carried out by personnel and organizations that are independent of department operations.

fessionals hired from other auditing organizations, who rotate in 2- to 4-year cycles between the IG office and administrative positions in the Department and at foreign posts. We believe their previous involvement in decisionmaking and management positions could affect the objectivity and impair the independence of such individuals.

These Foreign Service officers and audit-qualified staff face further impairments to their independence: major decisions affecting their careers are controlled by management rather than by the IG. For example, we were told that *promotions for Foreign Service personnel, including both audit-qualified staff and Foreign Service officers assigned to the State IG, are based on annual evaluations by promotion boards set up by the Department's personnel office. These boards, which consist of Foreign Service officers and non-State Department officials, select the people who will be promoted.* This means that IG staff promotions are determined or influenced by individuals whose functions and activities may have been inspected or audited by the IG staff. Awareness of this could impair the independence of the staff in carrying out inspections and audits.

Along the same vein, *audit-qualified professionals hired initially as IG inspectors must receive Foreign Service tenure after 3 to 5 years or leave the State Department.* The tenuring process is also administered by the Department's personnel office. *It involves tenuring boards consisting entirely of Foreign Service personnel who evaluate a candidate's suitability for the Foreign Service* and, in the case of audit-qualified individuals, the candidate's ability to perform auditing work. Again, *the State IG office has no control over this process.* This situation is similar to that of the promotion boards and could adversely affect the objectivity and impartiality of the audit-qualified staff.

Finally, *reassignments from the State IG office of both Foreign Service officers and audit-qualified professionals are determined by the Department's personnel office.* Decisions are based on expressed preferences and the needs of the Department. *The State IG office has no control over the process.* The desire of IG staff to receive favorable assignments after their State IG tour could, again influence their objectivity.

In discussing these issues with the IG management, the Inspector General told us he firmly believes in using rotational or temporary staff. He said he would not want a staff of only audit-qualified professionals or only Foreign Service officers. He believes both types are needed. Further, the Inspector General felt his office was too small to be able to have a career ladder for a permanent staff. He said that only by rotating the audit-qualified professionals into departmental positions can he offer them career opportunities.

Although IG officials acknowledge that major career decisions concerning their staff are decided by State Department management rather than by the IG office, they did not believe this represented an impairment to the IG's independence. The officials further noted that the Foreign Service places a high premium on integrity.

We believe the various staffing and personnel practices discussed above represent impairments to the independence of the State IG office and its staff, and are contrary to Government audit standards.

Subsection 209(c)(1) of the Foreign Service Act of 1980 states that the State IG *shall comply* with generally accepted Government audit standards in carrying out the inspection and audit activities under the act. Although this subsection does not mention any specific exceptions to this requirement, subsection 209(e)(2) provides that at the IG's request, State employees and Foreign Service officers may be assigned to the Inspector General. *It expressly states, however, that the individuals so assigned "shall be responsible solely to the Inspector General, and the Inspector General or his or her designee shall prepare the performance evaluation reports for such individuals."* The latter provision appears to indicate that the Congress wanted to provide at least some degree of independence to these individuals while assigned to the IG's office. Other indicators in the legislation of congressional intent regarding independence include: (1) the requirement that only the President may appoint or remove the State IG; (2) the restriction against the assignment of general program operating responsibilities to the State IG; and (3) the prohibition against any State official preventing or restricting the State IG from initiating, carrying out, or completing any audit or investigation.

However, the House Committee report on the 1980 act states that:

"* * * Due to the peculiar nature of the office of the Inspector General of the Foreign Service and its responsibilities concerning the activities and operations of Foreign Service posts overseas, the committee believes that it is not only unnecessary but also undesirable to legislate the kind of independence which is contained in the Inspector General Act of 1978. * * *"

The Committee report was silent as to the specific application of this statement. Accordingly, we believe there is some question as to the intent of the Congress regarding the degree of independence expected of the State IG.

We firmly believe independence is the cornerstone of any audit organization, and as long as the State IG is allowed to continue the staffing and personnel practices described in this chapter it will never achieve the degree of independence needed to function as an effective audit entity. Moreover, we found nothing peculiar or unique about the State IG office's responsibilities that would justify its having less independence than other statutory IGs.

Others also acknowledged impairments to independence in State IG office

The State IG's own staff, the State Department officials they audit, and officials from other statutory IGs we interviewed have also raised questions about the State IG office's independence because of its staffing and personnel practices.

State IG Staff

Some State IG staff members acknowledged that they face potential impairments to their independence. For example, we asked 14 current and former Foreign Service officer inspectors to comment on whether they consider themselves independent and whether they believe others view them as independent.[2] Although *all said they believe they personally are independent, seven acknowledged that their independence could be questioned by others.* One of the seven told us that Foreign Service officers have an inherent conflict of interest in auditing or inspecting activities they previously performed, and that the IG's audit-qualified staff are also put into compromising positions because of their desire to rotate into the Foreign Service. Another officer told us that while auditing a particular departmental bureau, he was in the process of trying to arrange for his rotation out of the IG office. He noted that since the bureau he was auditing had input into the assignment selection process, others could question his independence.

Eight out of nine current and former audit-qualified professionals whom we asked to comment on their independence acknowledged that their rotation in and out of management positions within the department could raise independence questions.

For example, *one staff member stated that "the name of the game" in the IG office is making contacts to try to get a good assignment after leaving that office.* It was his opinion that, as a result, no one in the IG office wants to push big problems through the system because it would be like "shooting yourself in the foot" (that is, jeopardizing your chances of getting a good assignment after the IG tour). This staff member further stated that he does not believe he is as independent as he was at a previous audit agency because of this need to make contacts within State.

Another staff member said that from a professional audit organization standpoint, the State IG office is not independent because staff tenure, promotions, and reassignments are decided outside the IG office. He also said Foreign Service officers temporarily assigned to the IG office might not be objective.

Departmental Officials

Some departmental officials who were audited by the State IG also believed the IG's staff faces impairments to its independence. Six out of 12 departmental officials we asked to comment on the IG's use of temporary staff, particularly the use of Foreign Service officers, said that the use of temporary staff did raise questions about the State IG's independence.[3] For example, one official stated that, in his opinion, the IG office could never be independent or objective because no matter what assignment Foreign Service officers were currently in—whether in the State IG, an embassy, or a departmental bureau—they were always considering promotion potential and their next possible assignment. He observed that when Foreign Service officers are assigned to the IG office, the Department has Foreign Service officers auditing themselves.

Other Statutory IGs

All officials from the other 15 statutory IGs we contacted said that, in their opinion, relying primarily on temporary staff who rotate back and forth between management and the IG's office would create serious impediments to any IG's independence. Further, officials from these IGs stated that they would not staff their offices with temporary or rotational staff because of the potential independence problems.

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[2] At the time we initiated our review, the IG's inspection staff consisted of abut 27 Foreign Service officers (including 4 retired officers brought back to serve as inspectors for a temporary period) and 21 audit-qualified professionals. We selected staff for interviews on this and other issues discussed in this report primarily based on their availability. Most of the former IG staff members we contacted were located in Washington, D.C.

[3] The departmental officials we interviewed were familiar with the five IG domestic reviews we judgmentally selected for review.

Earlier GAO report questioned practice of using temporary staff in State IG office

In a 1978 report to the Congress, we pointed out that the practice of detailing Foreign Service officers to the State IG for temporary tours as inspectors raised questions about their independence.[4] Specifically, we noted that:

"The fact that Foreign Service Officers are detailed as inspectors for temporary tours of 2 years and then reassigned to activities which they may have evaluated has negative as well as positive aspects. On the one hand, the Foreign Service Officer has extensive experience in the foreign affairs area, but on the other hand, this same experience could lead the officer to accept the present operating methods without raising questions that might occur to independent observers. The likelihood and the awareness that an inspector will later become one of the inspected officers in a new role as an Ambassador, deputy chief of mission, political officer, or economic/commercial officer could constrain him from reporting as candidly as he otherwise might. These circumstances and the inspectors' own close relationships with the Foreign Service and its functions tend to dilute their independence and lessen others' confidence in the completeness and objectivity of their inspections and reporting * * *."

At the time of our earlier review, the Foreign Service Act of 1946, as amended, required that Foreign Service officers be detailed to the State IG office as inspectors. Based on our findings in the 1978 report, we recommended that the Congress amend the 1946 act to eliminate this requirement.

When the Congress enacted the Foreign Service Act of 1980, the requirement was dropped; however, as previously discussed, the act allows the State IG to continue to use temporarily assigned Foreign Service officers. In summary, the 1980 act permits the new statutory IG to follow the same staffing practices as the predecessor IG organization which was an integral part of management's internal review process.

INDEPENDENCE IMPAIRMENTS ALSO HAMPER STATE IG INVESTIGATIONS CONDUCTED BY THE OFFICE OF SECURITY

As discussed in more detail in chapter 4, the State IG relies upon the Department's Office of Security to investigate most charges of fraud, waste, and abuse rather than establishing its own in-house investigative capability as the other statutory IGs have done. Because most State investigations involve overseas locations, the Office of Security uses its security staff to perform the investigative work. We found, however, that these investigators face serious personal and external impairments to their independence.

Although they officially report to the Office of Security in Washington, D.C., the security officers are subject to the administrative direction of the chief of mission or his designee, and receive performance appraisals from senior post officials. Sometimes they are put in the precarious position of having to investigate their own supervisors or other high ranking post officials. Also, the security officers live and socialize with individuals whom they may have to investigate. We believe these personal relationships could affect their ability to conduct impartial investigations.

Our review of investigative case files and discussions with Office of Security personnel disclosed several examples that illustrate the seriousness of the impediments confronting these investigators. In one case, post officials refused to allow a security officer to send investigative information to headquarters supervisors. The security officer attempted to cable to headquarters superiors information on the investigation's status and the anticipated investigative approach. The security officer was informed by post officials that the cable could not be sent as written. According to the investigator, post officials wanted to delete a great deal of information because they did not want their "dirty laundry" seen by everyone. The investigator told us he was instructed by post officials not to communicate in any way with *Office of Security officials. The officer had to make a special trip to Washington to brief headquarters superiors.*

In another case, a security officer who was asked to help investigate an allegation involving an administrative consular, deputy chief of mission, and ambassador, was subjected to "verbal and cryptic threats" from the officials implicated in the investigation. *He was told that eventually he was going to pay for his involvement and that his future career in the Department was dead.* He told us that after the investigation was completed, working and socializing with employees at the embassy became very difficult because people were always wondering if he was looking over their shoulders. The officer said that *because he was continually harassed and threatened, and because he was ostracized by many employees, he rotated to another post.*

In a third case, the Office of Security did not use the local security officer to conduct an investigation at a particular post because it recognized that the officer's involvement would place him in an unfavorable light with post personnel. *The investigation was delayed about 9 months while the Office of Security made arrangements for another officer to investigate the case.*

Office of Security officials acknowledged that this type of conflict is inherent in their investigative process. They pointed out, as an example, that *special investigator communications channels used for contacting Office of Security headquarters supervisors are routinely monitored by post officials.* In June 15, 1982, testimony before the Senate Permanent Subcommittee on Investigations, a former Department of State security officer confirmed this when he stated:

"* * * Many of my confidential telegrams to the Office of Security in Washington regarding the status and direction of this investigation had received unnecessary distribution within the embassy. Consequently, my activities were compromised to the suspects early in the investigation."

We believe the problems discussed in this section help support the position we take in chapter 4 regarding the need for the State IG office to develop its own inhouse investigative capability. Officials from all the other statutory IG offices we contacted stated that the independence of investigations would always be subject to question if the IG did not conduct its own investigations.

THE INSPECTOR GENERAL'S INVOLVEMENT IN DEPARTMENTAL DECISIONMAKING PROCESSES IMPAIRS HIS OFFICE'S INDEPENDENCE

As discussed earlier in this chapter, generally accepted Government audit standards identify circumstances in which auditors cannot be impartial because of their view or personal situation, including previous involvement in a decisionmaking or management capacity that would affect current operations of the entity or program being audited.

We believe the Inspector General's involvement with two key State Department committees—the Priorities Policy Group and the Committee on Foreign Service Posts—places him in a situation where his independence could be questioned.

The Priorities Policy Group, chaired by the Under Secretary for Management, formulates the Department's budget, prepares options and recommendations, and implements major management decisions. In addition to the Inspector General, we were told other members include the Comptroller, Director General of the Foreign Service, Director for Policy and Planning, and the Director of Management Operations.

Also, the Inspector General is a voting member of the Committee on Foreign Service Posts which acts in an advisory capacity on any proposal to open, close, or change the status of a diplomatic mission or a consular post. Other committee members include the Director General of the Foreign Service; Assistant Secretary for Administration; Assistant Secretary for Consular Affairs; and the Director for Management Operations. The committee forwards its recommendations to the Under Secretary for Management for consideration.

The Inspector General maintains that his role on both committees is strictly advisory and that his office's independence is not impaired by his participation. He said he serves on the two committees to help ensure compliance with his office's inspection and audit report recommendations.

While we agree that IG recommendations should be considered by these committees, we do not believe it is necessary for the Inspector General to participate on them to ensure compliance. Further, we believe the IG office's independence is impaired by the Inspector General's participation. In the case of the Priorities Planning Group, by participating on a group that is involved in the Department's budget process, the Inspector General is taking the role of a departmental manager thereby impairing his office's independence. For example, one departmental manager who attends the group's meetings commented to us that the Inspector General is a respected committee member who actively participates in the committee's deliberations.

While the other committee's function is advisory, the Under Secretary for Management told us he places a great deal of reliance on the committee's recommendations. We believe the Inspector General is assuming a role similar to that of other committee members—his involvement can be perceived as being that of a decisionmaker or manager and not that of an independent auditor.

The independence problems caused by the Inspector General's involvement in departmental decisionmaking processes are not unique to the State IG. We have noted similar situations involving other IGs.

CHAPTER 3—STATE'S INSPECTION FUNCTION SHOULD BE PERFORMED BY DEPARTMENTAL MANAGEMENT RATHER THAN BY THE OFFICE OF INSPECTOR GENERAL

For many years, the State Department had been required by law to conduct "inspections" of each foreign post at least once every 2 years, and to use Foreign Service officers to conduct these inspections. *Accord-*

[4] "State Department's Office of Inspector General, Foreign Service, Needs to Improve Its Internal Evaluation Process" (ID-78-19, Dec. 6, 1978).

ing to State officials, these periodic inspections are the only comprehensive means it has for routinely monitoring and assessing the operations of its overseas posts. Prior to the Foreign Service Act of 1980, this function was performed by agency management, primarily through one or more of the agency's internal review organizations (including an "inspector general" administratively established by State within the Foreign Service).

However, when the Congress enacted the Foreign Service Act of 1980 it required that routine inspections of all foreign posts and domestic bureaus be performed by the new statutory IG. We believe this legislatively mandated responsibility is a program function that more properly belongs to agency management—not to an independent statutory IG.

Government managers, as an inherent part of their basic management responsibility, are expected to routinely monitor and assess their own operations to assure themselves, their superiors, legislators, and the public that their programs and operations are well controlled and meet intended goals and objectives. The role of the independent audit organization, on the other hand, is to evaluate how well agency management is carrying out its basic management responsibilities, including its routine monitoring and assessment function.

INSPECTIONS HAVE TRADITIONALLY BEEN PERFORMED BY DEPARTMENTAL MANAGEMENT

The inspection function began at the Department of State in 1906 as a means of checking on consular activities abroad. At that time, departmental management had no means of knowing whether the consuls at a station were doing their work properly, except from information that casually found its way to the Department from letters or conversations of American travelers.

Legislation enacted in 1906 established five "Consuls General at Large" to inspect consular offices at least once every 2 years. The Rogers Act of 1924 changed the title "Consuls General at Large" to "Inspectors" and required that Foreign Service officers be detailed to inspect foreign post activities. The Foreign Service Act of 1946 continued this activity and further required that diplomatic and consular posts be inspected in a substantially uniform manner at least every 2 years.

In 1957, the State Department administratively established an inspector general office within the Foreign Service, and assigned to it the responsibility for the overseas inspections. Basically, this office was an internal review organization which received day-to-day guidance from the Deputy Under Secretary for Management and was, in effect, agency management's mechanism for routinely monitoring and assessing foreign post activities.

After several reorganizations to streamline and improve its internal review and evaluation activities, the Foreign Service Inspector General began using "conduct of relations" teams in 1973 to perform the legislatively mandated inspection function.

In our 1978 report, we noted that the conduct of relations teams usually consisted of two or three Foreign Service officers and one auditor. The Foreign Service inspectors examined economic, commercial, and political affairs and related policies, programs, and objectives; while the auditor generally reviewed budget and finance, administrative, and general services activities. The team then issued a single report covering all aspects of the inspection (the term "inspection" includes all monitoring activities performed by the team, including the auditor). Our 1978 report criticized both the inspection process and the resulting reports on several important issues. Among other things:

The inspections focused mainly on individual posts and followed the same fixed guidelines year after year.

The inspectors tried to cover too many areas in too little time, and did not cover any of them in depth.

The inspectors did not do sufficient work to identify the underlying causes and make meaningful recommendations to correct the problems noted during the inspection.

The inspectors seldom dealt with substantive matters. For example, in one case concerning an economic/commercial section at one embassy, inspectors reported numerous factual and evaluative comments on the staffing, experience, dedication, and competence of personnel in the section. They also reported the section was engaged in economic reporting on a wide range of subjects of keen interest to the United States. The inspectors, however, did not evaluate any of the economic reporting subjects from the standpoint of (1) relationship to overall U.S. interests, (2) specific projects or efforts being undertaken or planned, (3) actual or potential issues, problems, and controversies involved, (4) possible solutions, and (5) obstacles that might be impeding selection. Such information would provide a better insight into how the section was accomplishing its purpose.

Finally, we reported that about 68 percent of the Foreign Service Inspector General's staff resources and about 75 to 80 percent of its other expenses were being devoted to conduct of relations inspections, and that there was a need for the Inspector General to concentrate on more substantive work, including (1) regional or worldwide expanded-scope efficiency and economy audits, and (2) program results reviews of agency programs and activities.

1980 ACT REQUIRES THAT INSPECTON FUNCTION BE PERFORMED BY NEW STATUTORY IG

In addition to the normal IG functions outlined in the 1978 act, the 1980 act requires that the State IG inspect and audit each Department of State foreign post and domestic unit at least once every 5 years. Our review disclosed that the routine inspection function performed by the new statutory IG has not changed significantly from the way it was handled by agency management's internal review organization, and that most of the problems discussed in our 1978 report still exist.

As discussed elsewhere in this report, the authorizing legislation for State's new statutory IG office contains several exceptions and deviations from the provisions of the 1978 act. *These allow it to continue to operate in essentially the same manner as the old Foreign Service Inspector General office, which was an internal review organization under agency management.* One of the most significant deviations is that the 1980 act requires State's statutory IG to inspect and audit *all* foreign posts and domestic bureaus *at least once every 5 years.*

The statutory IGs under the 1978 act, on the other hand, are not required to review all organizational units within their respective agencies, *nor are they required to conduct their reviews and evaluations within a legislatively mandated period. Instead, they have the discretion to spend their resources on the reviews and evaluations that have the greatest potential payoff in improved agency programs and operations. Only 5 of 15 other statutory IGs we contacted performed any type of inspection function.* However, they said their inspection activities were very limited in relation to their total resources, and were performed as an integral part of their independent audit responsibilities rather than through routine management-type monitoring of agency program activities. In this regard, we noted that *about 50 percent of the State IG's staff resources and about 75 percent of its travel resources were being devoted to overseas inspections.*

ROUTINE INSPECTIONS OF OPERATIONS SHOULD BE PERFORMED BY DEPARTMENTAL MANAGEMENT

We do not believe the State's statutory IG should be specifically charged with routinely inspecting the Department's overseas and domestic operations. Instead, this function should be performed by agency management.

One of the fundamental responsibilities of agency management is to routinely monitor and assess its operations to determine whether its programs are meeting intended objectives efficiently and economically and to render a full account of its activities to the public. Also, feedback obtained through this process gives management essential information it needs to carry out other basic management functions, such as planning, staffing, taking needed corrective actions, and redirecting program operations.

State Department management has not established an internal review mechanism to routinely assess its operations since the inspection function was transferred to the new statutory State IG office. Department managers told us they rely heavily on the State IG inspections because they are the only comprehensive source of information about foreign posts' operations.

While the information obtained through the inspection function may be very important to the departmental managers in making day-to-day decisions concerning program operations as noted above, agency management—not an independent IG—has the primary responsibility for routinely obtaining this type of data. The primary role of the State IG should be to evaluate how well agency management is carrying out its various management functions—one of which is to routinely monitor and assess its operations. This does not preclude the State IG from conducting inspections. The inspection technique may be used by the IG office to check on how well management conducts its inspections or to periodically survey foreign post activities to identify potential audit areas.

In support of our position on the distinction between the respective roles of agency management versus independent audit organizations, it should be noted that when the Congress recently created an independent statutory IG office at the Department of Defense, it did not require that the new IG take over the traditional military inspection function. Although the military services, like the State Department, have a long tradition of performing routine inspections of their various installations and operations, the Congress evidently recognized that military inspections are an internal review and monitoring function that should be performed by management—not by an independent statutory IG. Accordingly, it left the responsibility for these traditional inspections with the individual services.

CHAPTER 4—THE OFFICE OF INSPECTOR GENERAL SHOULD CONDUCT ITS OWN INVESTIGATIONS

State's Office of Inspector General should establish an in-house investigative capability and begin conducting its own investigations of fraud, waste, and abuse like the other statutory inspectors general. The present arrangement wherein the State IG relies upon the Department's Office of Security to conduct most of its investigations presents a number of problems which limit the overall independence and effectiveness of the investigative function within the Department.

As already discussed in chapter 2, the personal and external impairments to independence faced by post security officers when they must investigate their supervisors, peers, or other individuals with whom they work and associate, raise serious questions about their ability to conduct the investigations and report their findings objectively and impartially. We believe *the present arrangement also consititutes an organizational impairment to independence because the investigative entity—the Office of Security—is located within State's management hierarchy.* Finally, both the timeliness and quality of investigations have suffered because the Office of Security has responsibilities of higher priority and its staff are not adequately trained in IG-type investigations.

OTHER STATUTORY IG OFFICES CONDUCT THEIR OWN INVESTIGATIONS

Officials at the 15 statutory IG offices we contacted said they each have their own trained criminal investigators to review allegations of fraud, waste, abuse, and mismanagement. Moreover, their investigators are directly involved in all aspects of assigned cases—from initial processing and planning to investigating and reporting.

These officials said it was their understanding that the Congress intended, under the Inspector General Act of 1978, for each IG office to establish its own independent in-house investigations staff. They explained that unless this function was located within the IG's office, the independence and objectivity of the investigations could be open to question.

STATE IG INVESTIGATIONS ARE CONDUCTED BY THE DEPARTMENT'S OFFICE OF SECURITY

Prior to the establishment of State's statutory IG by the Foreign Service Act of 1980, allegations of fraud, waste, abuse, and mismanagement within the State Department were routinely referred to the Office of Security for investigation. Under the 1980 act, the State IG was given responsibility for conducting these investigations; however, the legislative history of the act indicates that the IG could continue conducting investigations jointly with the Office of Security to ensure that the investigations do not jeopardize national security.

We found that the new statutory IG has continued to operate essentially in the same manner as the previous IG organization by relying almost exclusively upon the Department's Office of Security to conduct its investigations.

Rather than establish an in-house investigative capability like that of the other statutory IGs, the State IG told us he decided to continue using the Department's Office of Security for this purpose on the grounds that it would be more cost effective. He explained that the Office of Security personnel who were conducting most of the investigations were already located at overseas posts, where most of the allegations of fraud, waste, and abuse occur.

The State IG's use of the Office of Security to conduct investigations results in an organizational impairment to the IG's investigative operation because the Office of Security reports to the Department's Under Secretary for Management—a line management unit. *In effect, having the Office of Security conduct IG investigations allows a management unit to investigate allegations against management.*

The State IG office has generally limited its involvement in investigations to a monitoring and oversight role. This role has been handled by the IG's Office of Investigations since its establishment in June 1981. The office is staffed by two former Office of Security investigators who serve as Assistant and Deputy Assistant Inspectors General for Investigations. However, the IG's Office of Investigations has little operational control over investigations because the Office of Security assigns the staff, plans the approach, and supervises the job.

PROBLEMS EXIST WITH TIMELINESS AND QUALITY OF INVESTIGATIONS DONE BY OFFICE OF SECURITY

Although the Office of Security has agreed to give a high priority to IG requests for investigation, it has been unable to do so because its primary mission or protecting life and property has a higher priority. *The Office has four major responsibilities which it considers to be of higher priority than conducting IG investigations:* (1) protecting the Secretary of State, (2) providing security for U.S. diplomatic personnel and facilities abroad, (3) protecting foreign dignitaries, and (4) conducting background investigations on presidential appointees.

The Office of Security's inability to promptly initiate investigations for the IG is reflected in its investigative workload statistics. An analysis by the IG staff showed that *the overall backlog of cases pending investigation had grown from 34 on January 1, 1981, to 156 as of June 1, 1982.* The analysis also showed that many of the cases assigned to the Office of Security had no recorded investigative activity for long periods of time. For example, *about 40 percent of the June 1, 1982, pending Office of Security investigations showed no investigative effort in the previous 30 days; approximately 24 percent had no recorded investigative activity in the past 60 days; and approximately 14 percent showed no activity in 90 days or more.*

Office of Security officials acknowledge the problem. In its 1983 budget request the Office asked for additional investigators, noting that

"With the recent implementation of the Foreign Service Act there has been an increase in emphasis on the prevention, detection, and investigation of Waste, Fraud, and Mismanagement (WFM) cases * * *. However, under our current staffing, we have been unable to provide the requested support to the IG in all instances. Unfortunately, the demands of the other priority cases have created situations in which we are unable to support the IG * * *."

State IG officials identified several cases for us that show that some investigations are delayed for months. For example, in May 1982 the IG requested that the Office of Security reinvestigate a January 1982 case because the final investigative report had "developed nothing of value." *However, the IG's office finally did the investigation itself when it became evident that the Office of Security would be unable to provide an investigator for at least 5 months. Its resources were committed to "heavy protective requirements" through July 1982, and to the United Nations General Assembly session scheduled for September and October 1982.*

The quality of investigations performed for the IG has also suffered. According to State IG officials, *approximately 40 percent of the 62 investigations completed from January 1 to June 1, 1982, had to be returned to the Office of Security for additional work because the investigative effort was not considered adequate. For example, in some cases basic investigative leads had not been pursued and fundamental questions had not been asked; in others, investigative inquiries were superficial.*

State IG officials attribute the inadequate work to a lack of proper investigative training. They said although the *security officers receive training in protective and physical security, and in background/suitability investigations, few receive appropriate training in Federal criminal investigations, particularly in white collar crime and cash flow analysis.*

Office of Security officials told us that while it would be desirable for their investigators to attend appropriate investigative training programs offered by the Federal Law Enforcement Training Center and the Federal Bureau of Investigation, they had been unable to do so because of other high priority responsibilities.

ACTIONS TO IMPROVE INVESTIGATIONS DO NOT GO FAR ENOUGH

According to the State IG, the Office of Security is taking action—principally through a reorganization of its investigative functions—to improve investigative timeliness and quality.

Under the new organization, IG investigations will be conducted by the office of Security's recently established General Fraud and Malfeasance Branch. Office of Security officials said this branch will be staffed with about 17 personnel who have had extensive experience in various phases of law enforcement and criminal investigative work. The staff will also receive specialized training in fraud and white collar crime, which should imporve the training in fraud and white collar crime, which should improve the quality of IG investigations. The General Fraud and Malfeasance staff will be "principally devoted" to IG investigations, according to the officials, and this should improve timeliness.

We agree that the above action could improve the overall quality and timeliness of IG investigations. We note, however, that the specially trained staff could still be diverted to other Office of Security duties (such as protective detail), which could continue to affect investigative timeliness.

In addition to improving quality and timeliness, the planned action should remove some of the investigators' personal and external impairments discussed in chapter 2, since most investigations would be handled out of the Office of Security headquarters. *However, the reorganization will not eliminate our concern about the organizational impairment to the independence of the IG's investigative process—that is, having management investigate itself.* Until the State IG assumes complete responsibility for its investigations, the independence of the investigative process will always be open to question. *We belive this issue can be resolved easily by the State Department permanently transferring to its IG office those Office of Security personnel who have been*

selected to conduct IG investigations. This action would also give the State IG complete operational control over its own investigative activities and bring the State IG into conformance with the other statutory IGs who conduct their own investigations.

CHAPTER 5—GREATER EMPHASIS IS NEEDED ON COMPLIANCE WITH GOVERNMENT AUDIT STANDARDS

The Foreign Service Act of 1980 requires that the State IG's inspections and audits comply with Government audits standards. We found, however, that several standards are not being complied with. As a result, the quality of the State IG's work has been adversely affected by (1) Foreign Service officers being assigned to the IG office without receiving adequate audit training; (2) IG staff being required to operate under severe time constraints, which impairs the scope of their work; and (3) IG staff not being required to adequately document their work.

FOREIGN SERVICE OFFICERS DO NOT RECEIVE ADEQUATE AUDIT TRAINING

Government audit standards place upon the audit organization and the auditor the responsibility for ensuring that the audit is conducted by personnel who collectively have the skills necessary for the type of audit to be done. This standard states, however, that those possessing special skill in a field other than accounting and auditing, as is the case with Foreign Service officers, must receive appropriate audit training.

The State IG does not provide its Foreign Service officers with sufficient audit training to meet the standard. The training provided consists of four basic courses: (1) a 2-day course on auditing methods and Government auditing standards, (2) a 2-day course on interviewing skills, (3) a 3-day inspectors' management seminar, and (4) a 2-day seminar on Government fraud. While these courses provide audit-related information, their length and depth are not adequate to develop the specific skills necessary to be an effective auditor.

Further, as we noted in our 1978 report, training sessions alone do not produce proficient management auditors any more than college courses do. Proficiency in management auditing skills and techniques is acquired and developed mainly through regular exposure on the job. *Two-year terms for inspectors, in our opinion, are not long enough to allow the acquisition of skills essential for effective management review and analysis.*

Of the 10 Foreign Service officers we interviewed on this issue, 9 did not believe the training they received prepared them adequately for their IG duties. Furthermore, all of the nine audit-qualified professionals we interviewed believed that Foreign Service officers did not recieve sufficient audit training to function effectively.

The Inspector General maintains that Foreign Service officers can learn auditing in two years. He said that officers selected for IG assignments are "top-notch" personnel and serve in an on-the-job training capacity for their first few assignments. He also noted their review teams are a mix of both new and experienced staff. He acknowledged that the actual training is less than desirable because of their travel requirements and that Foreign Service officer training is mostly on-the-job, supplemented by classes when time permits. However, he contends there is no evidence that his staff is not doing an adequate job.

We believe insufficient audit training can seriously affect the quality of the State IG's work, particularly in view of the fact that Foreign Service officers were team leaders on about 70 percent of the IG's overseas and domestic reviews during calendar 1981 and 1982. We question the ability of Foreign Service officers, who have received virtually no audit training, to provide proper supervision and ensure that the State IG's work is performed in accordance with Government audit standards.

TIME CONSTRAINTS ADVERSELY AFFECT THE IG'S WORK

Government audit standards state that when an audit's scope is impaired, the audit is adversely affected and the auditor(s) will not have complete freedom to make an objective judgment. According to the standards, an unreasonable restriction on the time allowed to competently complete an audit is considered a scope impairment.

The Foreign Service Act of 1980 requires that the State IG review at least once every 5 years the administration of activities and operations of 253 overseas U.S. diplomatic and consular activities, as well as numerous State Department domestic bureaus and other headquarters operating units. *To meet this requirement, the IG schedules three 14-week cycles each year during which selected foreign posts and domestic units are reviewed. These 14-week cycles, however, severely limit the IG staff's ability to adequately review assigned areas and hamper their ability to comply with Government audit standards.*

IG staff acknowledge adverse effects of time constraints

Some IG staff members acknowledged that the scope of their work has been frequently reduced because of the 14-week work cycles and that this time constraint, among other factors, affected their ability to comply with generally accepted Government audit standards.

For example, *the team leader and several team members responsible for a 1982 review of a major State Department activity felt the time allowed for the review was insufficient.* The team leader wrote on his end-of-assignment evaluation form that one cycle was insufficient to perform necessary tests, complete evaluation of data compiled during the audit, and adequately support recommendations. A team member commented that a single cycle did not allow the team sufficient time to validate its findings and verify its conclusions through visits to selected overseas sites.

In another example, an IG staff member commented that he did not have enough time to cover most assigned areas on overseas reviews and that many times he had to drop areas that should have been audited. Another member told us he was part of a team that reviewed all foreign post operations in six Central American countries during an 8-week period in 1982. He stated he could not adequately review post administrative operations because too many posts had to be covered in the limited time available.

Finally, one *IG staff member told us that on several reviews he had to cut back on the number of issues being looked at to accommodate the 14-week cycle.* He acknowledged that this is a scope impairment and not in accordance with Government audit standards.

In March 1981, the Assistant IG for Audits asked an experienced audit-qualified professional to estimate the staff and time requirements needed to comprehensively review the administrative operations of a foreign post.[1] *The estimates far exceed the resources and time the State IG currently devotes to these areas.* For example, according to the estimate the IG would need about 72 audit-qualified professionals to review each post's administrative functions within the required 5-year period. In addition, about 380 staff days would be needed to review the administrative operations of an individual post.

We noted, however, that the IG's office had only about 20 audit-qualified professionals as of December 1982 and some of these do not work full time on foreign post reviews. *Also, during our observation of an actual IG review in Tunis, Tunisia (discussed below), we noted that the IG team spent the equivalent of about 50 staff-days reviewing the post's administrative operations. This was only about 13 percent of the estimated staff-days needed to adequately perform such a review.*

In discussing the issue of time constraints with the IG management, the Inspector General acknowledged they are working close to the limits but doubted his staff is missing anything major. The other IG officials maintained the office is doing all it can within the available time and resources.

GAO's observations confirm that time constraints adversely affect the IG's work

We observed during the Tunis review that the IG's staff did not conduct a comprehensive review of the post's administrative operations because of insufficient time.

For example, we noted that the staff member responsible for reviewing the post's general services operations had to limit testing and rely largely on testimonial evidence to support the final conclusions and recommendations. The staff member spent about 30 minutes at the post's nonexpendable property warehouse verifying the existence of only six items costing about $3,100 out of an inventory that the general services officer estimated at approximately $2 million. Although the inspection report concluded that "The operations of the General Service unit are exceptionally well managed and the services provided to the mission community are generally timely and efficient," we believe sufficient testing was not done to reach this conclusion.

In another case, we noted that although a staff member believed the post had an excessive number of Foreign Service nationals in one section, time did not permit pursuance of the issue. The staff member could only recommend that the post study its use of these employees.

Foreign post officials believe some IG reviews were not adequate

Some officials at six of the seven foreign posts we visited, which were previously reviewed by the State IG, told us the IG reviews of their operations were superficial or lacked depth. The administrative officer at one post stated he believed the IG staff got bogged down in the routine of their work and did not have time to do an adequate management evaluation. For example, the officer claimed the IG staff overlooked a serious management problem in the personnel section, which he did not disclose to us, and did not adequately analyze his general services operations for evidence of potential fraud, waste, and abuse.

[1] This is just one aspect of a foreign post operation reviewed by IG staff. It includes such functions as contracting, supply management, personnel, and budget and fiscal matters.

At another post, the budget and management officer also told us he did not believe the State IG staff had done enough to adequately review the post's internal controls. Consequently, we reviewed one of the post's petty cash funds *and found the following internal control weaknesses: (1) the responsible U.S. officer was not conducting required cash counts, (2) an unauthorized employee was in charge of the fund, (3) the fund was not properly safeguarded, and (4) cash disbursements were being made from the fund for supplies and materials before the items were actually received.* Our review indicated that the first three weaknesses existed at the time of the State IG review but were not detected. We could not determine whether the fourth problem existed at the time of the IG review. We were also unable to determine the extent of the IG's testing in these areas or identify possible reasons why these internal control weaknesses went undetected because the supporting documentation for this portion of the audit was inadequate.

IG STAFF DO NOT ADEQUATELY DOCUMENT THEIR WORK

Government audit standards require that sufficient, competent, and relevant evidence be obtained to support the auditor's reported findings, conclusions, and recommendations, and that a record of the auditor's work be retained in the form of workpapers. However, we could not determine whether sufficient, competent, and relevant evidence was obtained by the IG staff for 11 of 12 reports we reviewed because the workpapers contained numerous deficiencies. For example:

Several IG reviews appeared to rely extensively on interviews; however, we found no written memorandums of these interviews. Instead, the workpapers contained only handwritten notes which, in some cases, were illegible or not readily understandable without additional explanation. We therefore could not determine how this information was used to support the report.

Most workpapers included numerous documents such as cables and internal memorandums written by the auditee. However, the IG staff usually had not labeled these documents or identified the reason for obtaining them. We again could not readily determine the relevance of these documents. In addition, the workpapers rarely had a table of contents for individual files.

We took workpapers for two IG reports and asked the appropriate staff to identify the workpapers supporting their findings, conclusions, and recommendations. Both persons said they did not have enough time to develop workpapers that met prescribed auditing standards. In addition, they said it was neither necessary nor cost beneficial—in terms of staff time—to create workpapers merely to satisfy GAO review needs. They further questioned the need to meet workpaper standards when—

Quality control over report accuracy is limited to the post officials' review of the IG draft report prior to the team's departure,

No supervisory review of their workpapers has ever been done, and

IG reports are for internal departmental use rather than for external congressional or public use.

One Deputy Inspector General said that the IG office did not follow workpaper standards because (1) although audit-qualified professionals are familiar with the standards, Foreign Service officers assigned to the IG office are not; and (2) IG staff, unlike GAO staff members, seldom get arguments from the auditee, so the IG believes extensive documentation isn't needed. The Assistant IG for Audits told us that, due to the time constraints under which their work is performed, preparing workpapers according to Government audit standards is not a high priority. We also noted that although this official (who is the IG's highest ranking audit professional) is responsible for arranging internal reviews to determine if the IG staff are operating, documenting, and reporting in accordance with Government audit standards, he actually serves in a staff position and has no line authority over the quality of IG work.

We cannot agree with the IG staff's statements questioning the general need to prepare workpapers that meet Government audit standards. *The Foreign Service Act of 1980 requires that the State IG comply with these standards.* Furthermore, adequately prepared workpapers are essential to give the IG a basis for assuring the quality of its staff's work. For all intents and purposes, the State IG does not have a quality review process.

The Inspector General acknowledged that his staff's workpapers are less than adequate. However, he emphasized that because the Department complies with most IG recommendations, workpapers are desirable but not extremely necessary. IG officials further noted they are trying to improve their workpapers.

We believe the factors identified in this chapter adversely affect the quality of the IG's work. They clearly illustrate the need for the State IG to implement a quality review system to ensure that its reviews comply with generally accepted Government audit standards.

CHAPTER 6—CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

In recent years, the Congress has enacted several public laws to establish statutory IG offices in 18 major Federal departments and agencies. The basic duties and responsibilities of 17 of the 18 IGs generally conform to the provisions of the Inspector General Act of 1978, which sets forth uniform principles and standards for the operation of these offices. However, when the Congress established a statutory IG office in the State Department through the Foreign Service Act of 1980, the authorizing legislation and the legislative history included several important exceptions to the basic IG concept embodied in the 1978 act.

We found that these exceptions permit the new statutory State IG to continue to operate in essentially the same manner as the previous administratively established IG rather than functioning like the other independent statutory IGs, particularly in three major areas. Specifically, the statutory State IG has continued to:

Make extensive use of temporarily assigned Foreign Service officers and other persons from operational units within the Department to staff the IG office, even though their independence is seriously impaired and many lack proper audit experience and training;

Conduct routine cyclical inspections of all overseas posts and domestic bureaus, even though this function is a more proper role for agency management than for an independent IG;

Use a unit of management to perform a major IG responsibility: conducting investigations of fraud, waste, and abuse in agency programs. This limits the overall independence and effectiveness of the IG investigative function within the Department.

In summary, we found that little has changed in the State IG's operation since our 1978 report.

We believe the exceptions contained in the 1980 legislation to the basic IG concept embodied in the Inspector General Act of 1978 have contributed to the above deficiencies which impair the independence and effectiveness of the new statutory State IG. Accordingly, we believe section 209 of the 1980 act should be repealed and the State IG brought under the 1978 IG act. In our opinion, all statutory IGs should operate under the same basic authorizing legislation with uniform principles and standards. However, an acceptable alternative would be for the Congress to amend section 209 of the Foreign Service Act to make it conform to the 1978 IG act.

RECOMMENDATION TO THE CONGRESS

We recommend that the Congress either (1) repeal section 209 of the Foreign Service Act of 1980 and create an independent Inspector General in the State Department by placing the Department under the Inspector General Act of 1978 or (2) conform section 209 of the Foreign Service Act of 1980 to the Inspector General Act of 1978.

RECOMMENDATIONS TO THE SECRETARY OF STATE AND THE INSPECTOR GENERAL

We recommend that the Secretary of State and the Inspector General work together to establish a permanent IG staff of qualified auditors, and discontinue the IG office's reliance on a temporary staff whose tenure, promotions, and reassignments are decided by departmental managers.

We also recommend that the Secretary and the Inspector General establish an investigative capability within the IG office to enable the IG office to conduct its own investigations. In this regard, they should consider transferring from the Office of Security to the IG office those qualified investigators assigned to the Office of Security's new General Fraud and Malfeasance Branch.

We further recommend that the Inspector General:

Stop participating in departmental decisionmaking processes such as the Department's Priorities Policy Group and Committee on Foreign Service Posts.

Establish a quality review system to ensure that the work of the office complies with Government audit standards.

APPENDIX I

LEGISLATION AND NATIONAL SECURITY SUBCOMMITTEE, COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, February 9, 1982.

Hon. CHARLES A. BOWSHER,
Comptroller General, U.S. General Accounting Office, Washington, DC.

DEAR GENERAL: In keeping with the Government Operations Committee's oversight responsibilites over legislation creating statutory Offices of Inspector General and the Legislation and National Security Subcommittee's oversight jurisdiction over the Department of State, the Subcommittee is this year beginning a comparison of the Department of State Office of Inspector General with the Offices of Inspector General of other departments and agencies. It would be helpful if the General Accounting Office could provide the Subcommittee with background information for this comparison.

With enactment of the Foreign Service Act of 1980, on October 17, 1980, a statutorily-created Office of Inspector General was established in the Department of State. The language of the Inspector General Act of 1978 is substantially incorporated in Section 209 of the Foreign Service Act which established that Office. However, certain provisions in the Foreign Service Act are unique to the State Department Inspector General. We would like the General Accounting Office to compare Section 209 of Public Law 96-465 with Public Law 95-452 and determine how the significant differences in the two Acts impact on the work of the Department of State Office of Inspector General.

In addition, please advise us whether the auditors of the Department of State Office of Inspector General meet the qualifications required by the General Accounting Office standards and whether Foreign Service Officers serving temporary duty assignments meet the GAO standards. Is the Office as currently established meeting required inspection and audit standards? As they study develops, other questions will arise. From time to time it would most probably be helpful for your study team to get together with Subcommittee staff to review progress made and to receive additional details as may be necessary for a mutually beneficial effort.

I would appreciate having this review completed by July 31, 1982. In addition, I would appreciate GAO not discussing the findings, conclusions or recommendations with the Department of State. Thank you for your consideration.

Sincerely yours,

JACK BROOKS,
Chairman.

APPENDIX II

DIFFERENCES AND SIMILARITIES BETWEEN THE INSPECTOR GENERAL ACT OF 1978 AND THE FOREIGN SERVICE ACT OF 1980

The Inspector General Act of 1978 (Public Law 95-452, 92 Stat. 1101) sets forth uniform practices and procedures to be followed by the inspectors general established in 12 executive departments and agencies. This act makes the agency inspectors general primarily responsible for (1) audits, investigations, and other activities related to economy, efficiency, and effectiveness in the administration of programs and operations, and (2) detecting and preventing fraud and abuse in programs and operations.

The 1978 act did not establish inspectors general in the Departments of Defense, Justice, Treasury, or State. The legislative history of the 1978 act indicates doubt about whether to include the Department of State. Instead, the Department was given more time to address the concerns identified by the Congress.

The Foreign Service Act of 1980 (Public Law 96-465, Title 1, sec. 209, 94 Stat. 2080, 22 U.S.C. 3929) established the Inspector General of the Department of State and the Foreign Service (State Inspector General).

The following summarizes the major differences and similarities between the 1978 and 1980 acts.

Duties and responsibilities

The 1978 act assigns broad duties and responsibilities to the agency inspectors general, including the duty to (1) establish policy for and conduct, supervise, and coordinate audits and investigations relating to agency programs and operations; (2) review existing and proposed legislation and regulations relating to programs and operations; (3) recommend policy for and conduct, supervise, or coordinate other activities carried out or financed by the agency to promote economy and efficiency or prevent and detect fraud and abuse in programs and operations; (4) recommend policy for and conduct, supervise, or coordinate relationships between the agency and other Federal agencies, State and local government agencies, and nongovernment entities on the matters detailed in item (3); and (5) keep the agency head and the Congress fully and currently informed concerning fraud and other serious problems, abuses, and deficiencies relating to programs and operations, and recommend corrective action therefor (sec. 4(a)).

The 1980 act does not contain a separate section setting forth the duties and responsibilities of the State Inspector General. The State Inspector General, unlike the IGs established in the 1978 act, is not specifically required to recommend corrective action for identified problems, abuses, and deficiencies. Nor is he required to review legislation and regulations related to programs and operations.

The 1980 act does assign more detailed responsibilities to the State Inspector General as to the timing and scope of its inspections, audits, and investigations. The State Inspector General is required to inspect and audit the activities and operations of each Foreign Service post and bureau and other operating unit of the State Department at least once every five years (sec. 209(a)(1)). The act also requires that any inspection, investigation, and audit conducted by or under the direction of the Inspector General shall include the systematic review and evaluation of these units, including an examination of:

(1) whether financial transactions and accounts are properly conducted, maintained, and reported;

(2) whether resources are being used and managed with the maximum degree of efficiency, effectiveness, and economy;

(3) whether the administration of activities and operations meets the requirements of applicable laws and regulations and specifically, whether such administration is consistent with the requirements of section 105 [of the 1980 act concerning merit principles; protection for members of service; and minority recruitment];

(4) whether there exist instances of fraud or other serious problems, abuses, or deficiencies, and whether adequate steps for detection, correction, and prevention have been taken; and

(5) whether policy goals and objectives are being effectively achieved and whether the interests of the United States are being accurately and effectively represented (sec. 209(b)).

Although the 1978 act does not contain comparable provisions regarding the audit responsibilities of agency inspectors general, the above paragraphs (1) to (4) are traditional audit functions. That is, paragraph (1) is analogous to a financial audit; (2) to economy and efficiency audits; and (3) to a compliance audit.

Paragraph (5) above is characteristic of a program results or effectiveness audit, requiring the State Inspector General to determine whether the United States foreign policy objectives are being achieved. The legislative history indicates that the uniqueness of this requirement sets the State Inspector General apart from the inspectors general established by the 1978 act. The following comment on this requirement appears in the House report:

"* * * In the view of the committee, the historically dual responsibility of the office of the Inspector General to prevent waste and misuse of funds and also to determine compliance with U.S. foreign policy objectives sets this office apart from other Inspectors General. It is not enough to know that a bureau or office in Washington or a post overseas is functioning efficiently and that its accounts are accurate, for at the same time, that post, bureau, or office may not be effectively representing U.S. foreign policy interests."

Authority

The 1978 act vests the agency inspectors general with broad authority so that their statutory responsibilities can be effectively carried out (sec. 6). This authority is made applicable to the State Inspector General by reference (sec. 209(e)(1)). The authority includes (1) having access to all records, reports, audits, documents, recommendations, and other relevant materials available to the department or agency concerned; (2) making such investigations and reports relative to the department or agency as the Inspector General deems necessary; (3) requesting necessary information or assistance from Federal, State, or local governments; (4) subpenaing such documents, reports, accounts, and other information the Inspector General deems necessary; and (5) having direct and prompt access to the head of the department or agency when the Inspector General deems necessary.

Qualifications

Both the 1978 and 1980 acts provide that the Inspector General possess certain qualifications, namely: integrity and demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or investigation (secs. 3(a) and 209(a)(1), respectively). The 1980 act imposes an additional requirement that the State Inspector General should have knowledge and experience in the conduct of foreign affairs. This requirement of course reflects the State Inspector General function to determine whether policy goals and objectives are being effectively achieved and whether the interests of the United States are being accurately and effectively represented (sec. 209(b)(5)). The legislative history also states that the auditors, investigators, and inspectors who serve the State Inspector General should collectively possess auditing and foreign policy training.

Independence

Appointment and Removal

Both the 1978 and 1980 acts provide that the inspector general shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation (secs. 3(a) and 209(a)(1), respectively). Further, both acts provide that only the President can remove an inspector general, and that the President must communicate the reasons therefor to both Houses of Congress (secs. 3(b) and 209(a)(2), respectively.)

Supervision and Performance of Duties

Both the 1978 and 1980 acts require that the inspectors general report to and be under the general supervision of the head of the department or agency concerned (secs. 3(a) and 209(a)(1), respectively.) The 1978 act further states, however, that an agency inspector general may be required—pursuant to the exercise of a delegation of authority from the head of an agency—to report to and be under the general supervi-

sion of the officer next in rank below such head, but "shall not report to, or be subject to supervision by, any other office of such establishment" (sec. 3(a)).

The 1980 act does not contain a similar provision limiting the Secretary's authority to delegate his reporting and supervisory authority over the State Inspector General. In view of the broad authority the Secretary of State has to delegate the functions he is required to perform (5 U.S.C. 301), the Secretary has more discretion than the heads of other departments and agencies in placing the Inspector General under the supervision of another departmental official.

Concerning the performance of a specific audit or investigation, both the 1978 and 1980 acts prohibit the head of the department or agency concerned, or any other officer therein, from preventing or prohibiting an "Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation" (secs. 3(a) and 209(a)(1)).

Assignment of Additional Functions

The 1980 act specifically requires that the State Inspector General shall perform such functions as the Secretary of State may prescribe, except that the Secretary cannot assign any general program operating responsibilities (sec. 209(a)(1)). The House Committee Report provides the following comment as to the intended meaning of this provision:

"This subsection also provides that the Inspector General shall perform other functions prescribed by the Secretary of State. These other functions will be limited to evaluatory and advisory functions to improve the effectiveness and efficiency of the management of foreign affairs, and will not include substantive responsibilities for any programs, activities, or operations which are themselves subject to independent audit or review."

The 1978 act also precludes the assignment of program responsibilities to the department or agency inspectors general, but contains no provision for the assignment of additional functions. However, the legislative history clearly shows the Congress intended that agency inspectors general would perform audits and investigations at the request of the head of the department or agency, depending upon the availability of staff resources:

"Generally, the committee envisions that if the agency head asked the Inspector and Auditor to perform an audit or an investigation or to look at certain areas of agency operations during a certain year, the Inspector General and Auditor General should do so, assuming staff resources were adequate. However, the Inspector and Auditor General's authority to initiate whatever audits and investigations he deems necessary or appropriate cannot be compromised. If the head of the establishment asked the Inspector and Auditor General not to undertake a certain audit or investigation or to discontinue a certain audit or investigation, the Inspector and Auditor General would have the authority to refuse the request and to carry out his work. Obviously, if an Inspector and Auditor General believed that an agency head was inundating him with requests in certain agencies in order to divert him from looking at others, this would be the type of concern which should be shared with Congress."

Employment and Assignment of Additional Personnel

Both the 1978 and 1980 acts authorize the inspectors general to select, appoint, and employ such persons as necessary to carry out their statutory responsibilities (secs. 6(a)(6) and 209(e)(1)). It appears that this authority is intended to give inspectors general an added measure of independence from the head of the department or agency concerned, due to the possibility that the denial or limitations of such employment authority may unduly hamper their operations.

The assignment of persons to the offices of the inspectors general from operational units of the department or agency presents the risk that the assigned person's independence may be compromised. While the 1978 act is silent on this matter, the 1980 act explicitly authorizes the State Inspector General to have persons from operational units within the State Department and the Foreign Service assigned to his office (sec. 209(e)(2)). However, the same provision states that any person so assigned shall be responsible solely to the Inspector General.

Reports

Both the 1978 and the 1980 acts require the inspectors general to prepare and submit periodic written reports summarizing their activities during the applicable period (secs. 5(a) and 209(d)(2). The reports are to be submitted to the agency head and then forwarded to the Congress within 30 days; the 1978 act requires a semiannual report while the 1980 act requires an annual report. The acts require the reports to contain nearly the same information, except that the 1978 act requires agency inspectors general to report each occasion on which access to records, documents, other information, or assistance was denied and the denial was taken to the agency head for resolution (sec. 5(a)(5)).

Both the 1978 and the 1980 acts require that copies of each inspector general report be made available to the public upon request and at a reasonable cost (secs. 5(c) and 209(d)(2)). The 1980 act specifically provides that nothing in section 209(d) shall be construed to authorize the public disclosure of any information that is either specifically prohibited by law or required by Executive order to be kept secret.

Appointment of assistant inspectors general

The 1978 act requires inspectors general to appoint two assistant inspectors general in charge of audits and investigations, respectively (sec. 3(d)). While the draft legislation for the 1980 act initially contained an identical requirement (H.R. 6790), it was deleted by the Conference Committee. The Senate floor debate record indicates that the requirement would have unnecessarily limited the State Inspector General in appointing the personnel he deemed appropriate.

Investigations

Both the 1978 and 1980 acts authorize the Inspector General to investigate allegations of waste, fraud, and mismanagement (secs. 4 and 209(b)). However, the report of the House Committee on Foreign Affairs says this section is not intended to preclude the State Inspector General from conducting investigations of fraud and similar irregularities jointly with the State Department Office of Security. This is to ensure that such investigations do not jeopardize national security.

APPENDIX III

PUBLIC LAW 95-452, 95TH CONGRESS

An Act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Inspector General Act of 1978".

PURPOSE; ESTABLISHMENT

SEC. 2. In order to create independent and objective units—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Agriculture, the Department of Commerce, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Transportation, the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration;

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

thereby is hereby established in each of such establishments an office of Inspector General.

APPOINTMENT AND REMOVAL OF OFFICERS

SEC. 3. (a) There shall be at the head of each Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis law, management analysis, public administration, or investigations. Each Inspector General shall report to and be under the general supervision of the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not report to, or be subject to supervision by, any other officer of such establishment. Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation.

(b) An Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(c) For the purposes of section 7324 of title 5, United States Code, no Inspector General shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

(d) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the establishment, and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

DUTIES AND RESPONSIBILITIES

SEC. 4. (a) It shall be the duty and responsibility of each Inspector General, with respect to the establishment within which his Office is established—

(1) to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of such establishment;

(2) to review existing and proposed legislation and regulations relating to programs and operations of such establishment and to make recommendations in the semiannual reports required by section 5(a) concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by such establishment or the prevention and detection of fraud and abuse in such programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by such establishment for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(4) to recommend policies for, and to conduct, supervise, or coordinate relationships between such establishment and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by such establishment, or (B) the identification and prosecution of participants in such fraud or abuse; and

(5) to keep the head of such establishment and the Congress fully and currently informed, by means of the reports required by section 5 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by such establishment, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(b) In carrying out the responsibilities specified in subsection (a)(1), each Inspector General shall—

(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activitives, and functions;

(2) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

(c) In carrying out the duties and responsibilities established under this Act, each Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward avoiding duplication and insuring effective coordination and cooperation.

(d) In carrying out the duties and responsibilities established under this Act, each Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

REPORTS

SEC. 5. (a) Each Inspector General shall, not later than April 30 and October 31 of each year, prepare semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of such establishment disclosed by such activities during the reporting period;

(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

(3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

(5) a summary of each report made to the head of the establishment under section 6(b)(2) during the reporting period; and

(6) a listing of each audit report completed by the Office during the reporting period.

(b) Semiannual reports of each Inspector General shall be furnished to the head of the establishment involved not later than April 30 and October 31 of each year and shall be transmitted by such head of the appropriate committees or subcommittees of the Congress within thirty days after receipt of the report, together with a report by the head of the establishment containing any comments such head deems appropriate.

(c) Within sixty days of the transmission of the semiannual reports of each Inspector General to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.

(d) Each Inspector General shall immediately to the head of the establishment involved whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of such establishment. The head of the establishment shall transmit any such report to the appropriate committees or subcommittees of Congress within seven calendar days, together with a report by the head of the establishment containing any comments such head deems approprite.

AUTHORITY; ADMINISTRATION PROVISIONS

SEC. 6. (a) In addition to the authority otherwise provided by this Act, each Inspector General, in carrying out the provisions of this Act, is authorized—

(1) to have access to all records, reports, audits reviews, documents, papers recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act;

(2) to make such investigations and reports relating to the administration of the programs and operations of the applicable establishment as are, in the judgment of the Inspector General, necessary or desirable;

(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(4) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided*, That procedures other than subpenas shall be used by the Inspector General to obtain documents and information from Federal agencies;

(5) to have direct and prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(7) to obtain services as authorized by section 3100 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–18 of the General Schedule by section 5332 of title 5, United States Code; and

(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act.

(b)(1) Upon request of an Inspector General for information or assistance under subsection (a)(3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a)(1) or (a)(3) is, in the judgment of an Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

(c) Each head of an establishment shall provide the Office within such establishment with appropriate and adequate office space at central and field office locations of such establishment, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and

shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

EMPLOYEE COMPLAINTS

SEC. 7. (a) The Inspector General may receive and investigate complaints or information from an employee of the establishment concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.

(b) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(c) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take, or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

SEMIANNUAL REPORTS

SEC. 8. (a)(1) The Secretary of Defense shall submit to the Congress semiannual reports during the period ending October 1, 1982, summarizing the activities of the audit, investigative and inspection units of the Department of Defense. Such reports shall be submitted within sixty days of the close of the reporting periods ending March 31 and September 30 and shall include, but not be limited to—

(A) a description of significant instances or patterns of fraud, waste, or abuse disclosed by the audit, investigative, and inspection activities during the reporting period and a description of recommendations for corrective action made with respect to such instances or patterns;

(B) a summary of matters referred for prosecution and of the results of such prosecutions; and

(C) a statistical summary, by categories of subject matter, of audit and inspection reports completed during the reporting period.

(2) Within sixty days of the transmission of the semiannual reports, the Secretary shall make copies of such reports available to the public upon request and at a reasonable cost.

(3) If the Secretary concludes that compliance with the reporting requirements in paragraphs (1) and (2) of this subsection would require inclusion of material that may constitute a threat to the national security or disclose an intelligence function or activity, the Secretary may exclude such material from the report. If material is excluded from a report under this subsection, the Secretary shall provide the chairmen and ranking minority members of the appropriate committees or subcommittees with a general description of the nature of the material excluded.

(4) The Secretary may delegate his responsibilities under paragraphs (1) through (3): *Provided*, That the delegation be to an official within the Office of the Secretary of Defense who is a Presidential appointee confirmed by the Senate. In preparing the reports, the designee of the Secretary shall have the same access to information held by the audit, investigative or inspection units as the Secretary would.

(5) In order to effectuate the purposes of this Act with respect to the Department of Defense, the Secretary of Defense shall submit, not later than March 31, 1981, proposed legislation to establish appropriate reporting procedures, for the period after October 1, 1982, concerning the audit, investigative and inspection activities of the Department of Defense.

(b)(1) The Secretary of Defense shall establish a task force to study the operation of the audit, investigative, and inspection components in the Department of Defense which engage in the prevention and detection of fraud, waste, and abuse. The Secretary shall appoint the Director and other members of the task force: *Provided*, That the Director shall be a person who is not an employee of the Department of Defense. The Director shall have the authority to hire such additional staff as is necessary to complete the study.

(2) The Director and members of the task force and, upon the request of a member or the Director, the staff of the task force shall have access to all information relevant to the study and held by the audit, investigative, and inspection components in the Department of Defense including reports prepared by such components: *Provided*, That—

(A) such information or reports may be withheld if a component head determines that disclosure would compromise an active investigation of wrong-doing;

(B) the Inspectors General of the Military Departments may delete the names of individuals in a report prepared by them if the Inspector General determines that the inclusion of the names would affect the ability of the Inspector General to obtain information in future investigations and inspections; and

(C) no classified information shall be released to the task force unless the members and staff who will have access to the classified information have the appropriate clearances.

Upon the request of the Director, the Secretary of Defense and the Secretaries of the Military Departments shall assure that the task force has access to information as provided in this subsection.

(3) The task force shall prepare a comprehensive report that shall include, but not be limited to—

(A) a description of the functions of the audit, investigative and inspection components in the Department of Defense and the extent to which such components cooperate in thier efforts to detect and prevent fraud, waste and abuse;

(B) an evaluation of whether such components are sufficiently independent to carry out their responsibilities;

(C) the relationship between such components and the Criminal Division of the Department of Justice; and

(D) recommendations for change in organization or functions that may be necessary to improve the effectiveness of such components.

(4) The task force shall submit its final report to the Secretary of Defense and the Director of the Office of Management and Budget. The Secretary and the Director of the Office of Management and Budget may, in the form of addenda to the report, provide any additional information that they deem necessary. The Secretary shall submit the report and the addenda to the Congress not later than April 1, 1980. the task force shall be disestablished sixty days following such submission.

(5) Any matter concerning the intelligence or counterintelligence activities of the Department of Defense and assigned by regulation to the Inspector General for Defense Intelligence shall be excluded from the study of the task force.

TRANSFER OF FUNCTIONS

SEC. 9. (a) There shall be transferred—

(1) to the Office of Inspector General—

(A) of the Department of Agriculture, the offices of that department referred to as the "Office of Investigation" and the "Office of Audit";

(B) of the Department of Commerce, the offices of that department referred to as the "Office of Audits" and the "Investigations and Inspections Staff" and that portion of the office referred to as the "Office of Investigations and Security" which has responsibility for investigation of alleged criminal violations and program abuse;

(C) of the Department of Housing and Urban Development, the office of that department referred to as the "Office of Inspector General";

(D) of the Department of the Interior, the office of that department referred to as the "Office of Audit and Investigation";

(E) of the Department of Labor, the office of that department referred to as the "Office of Special Investigation";

(F) of the Department of Transportation, the offices of that department referred to as the "Office of Investigations and Security" and the "Office of Audit" of the Department, the "Offices of Investigations and Security, Federal Aviation Administration", and "External Audit Divisions, Federal Aviation Administration", the "Investigations Division and the External Audit Division of the Office of Program Review and Investigation, Federal Highway Administration", and the "Office of Program Audits, Urban Mass Transportation Administration";

(G) of the Community Services Administration, the offices of that agency referred to as the "Inspections Division", the "External Audit Division", and the "Internal Audit Division";

(H) of the Environmental Protection Agency, the offices of that agency referred to as the "Office of Audit" and the "Security and Inspection Division";

(I) of the General Services Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations";

(J) of the National Aeronautics and Space Administration, the offices of that agency referred to as the "Management Audit Office" and the "Office of Inspections and Security";

(K) of the Small Business Administration, the office of that agency referred to as the "Office of Audits and Investigations"; and

(L) of the Veterans' Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations"; and

(2) such other offices or agencies, or functions, powers, or duties thereof, as the head of the establishment involved may determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this Act,

except that there shall not be transferred to an Inspector General under paragraph (2) program operating responsibilities.

(b) The personnel, assets, liabilities, contracts, property, records, and unexpended

balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (a) are hereby transferred to the applicable Office of Inspector General.

(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(d) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in an Office of Inspector General to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

CONFORMING AND TECHNICAL AMENDMENTS

SEC. 10. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(122) Inspector General, Department of Health, Education, and Welfare.

"(123) Inspector General, Department of Agriculture.

"(124) Inspector General, Department of Housing and Urban Development.

"(125) Inspector General, Department of Labor.

"(126) Inspector General, Department of Transportation.

"(127) Inspector General, Veterans' Administration.".

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(144) Deputy Inspector General, Department of Health, Education, and Welfare.

"(145) Inspector General, Department of Commerce.

"(146) Inspector General, Department of Interior.

"(147) Inspector General, Community Services Administration.

"(148) Inspector General, Environmental Protection Agency.

"(149) Inspector General, General Services Administration.

"(150) Inspector General, National Aeronautics and Space Administration.

"(151) Inspector General, Small Business Administration.".

(c) Section 202(c) of the Act of October 15, 1976 (Public Law 94-505, 42 U.S.C. 3522), is amended by striking out "section 6(a)(1)" and "section 6(a)(2)" and inserting in lieu thereof "section 206(a)(1)" and "section 206(a)(2)", respectively.

DEFINITIONS

SEC. 11. As used in this Act—

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, or Transportation or the Administrator of Community Services, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs, as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, or Transportation or the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration or the Veterans' Administration, as the case may be;

(3) the term "Inspector General" means the Inspector General of an establishment;

(4) the term "Office" means the Office of Inspector General of an establishment; and

(5) the term "Federal agency" means an agency as defined in section 552(e) of title 5 (including an establishment as defined in paragraph (2)), United States Code, but shall not be construed to include the General Accounting Office.

EFFECTIVE DATE

SEC. 12. The provisions of this Act and the amendments made by this Act shall take effect October 1, 1978.

APPENDIX IV

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(1) shall have full responsibility for the direction, coordination, and supervision of all Government employees in that country (except for employees under the command of a United States area military commander); and

(2) shall keep fully and currently informed with respect to all activities and operations of the Government within that country, and shall insure that all Government employees in that country (except for employees under the command of a United States area military commander) comply fully with all applicable directives of the chief of mission.

(b) Any agency having employees in a foreign country shall keep the chief of mission to that country fully and currently informed with respect to all activities and operations of its employees in that country, and shall insure that all of its employees in that country (except for employees under the command of a United States area military commander) comply with all applicable directives of the chief of mission.

SEC. 208. DIRECTOR GENERAL OF THE FOREIGN SERVICE.—There shall be a Director General of the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, from among the career members of the Senior Foreign Service. The Director General shall assist the Secretary of State in the management of the Service and shall perform such functions as the Secretary of State may prescribe.

SEC. 209. INSPECTOR GENERAL.—(a)(1) There shall be an Inspector General of the Department of State and the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation from among individuals exceptionally qualified for the position by virtue of their integrity and their demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations, or their knowledge and experience in the conduct of foreign affairs. The Inspector General shall report to and be under the general supervision of the Secretary of State. Neither the Secretary of State nor any other officer of the Department shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation. The Inspector General shall periodically (at least every 5 years) inspect and audit the administration of activities and operations of each Foreign Service post and each bureau and other operating unit of the Department of State, and shall perform such other functions as the Secretary of State may prescribe, except that the Secretary of State shall not assign to the Inspector General any general program operating responsibilities.

(2) The Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(b) Inspections, investigations, and audits conducted by or under the direction of the Inspector General shall include the systematic review and evaluation of the administration of activities and operations of Foreign Service posts and bureaus and other operating units of the Department of State, including an examination of—

(1) whether financial transactions and accounts are properly conducted, maintained, and reported;

(2) whether resources are being used and managed with the maximum degree of efficiency, effectiveness, and economy;

(3) whether the administration of activities and operations meets the requirements of applicable laws and regulations and, specifically, whether such administration is consistent with the requirements of section 105;

(4) whether there exist instances of fraud or other serious problems, abuses, or deficiencies, and whether adequate steps for detection, correction, and prevention have been taken; and

(5) whether policy goals and objectives are being effectively achieved and whether the interests of the United States are being accurately and effectively represented.

(c)(1) The Inspector General shall develop and implement policies and procedures for the inspection and audit activities carried out under this section. These policies and procedures shall be consistent with the general policies and guidelines of the Government for inspection and audit activities and shall comply with the standards established by the Comptroller General of the United States for audits of Government agencies, organizations, programs, activities, and functions.

(2) In carrying out the duties and responsibilities established under this section, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward insuring effective coordination cooperation.

(3) In carrying out the duties and responsibilities established under this section, the Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

(d)(1) The Inspector General shall keep the Secretary of State fully and currently informed, by means of the reports required by paragraphs (2) and (3) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of activities and operations administered or financed by the Department of State.

(2) The Inspector General shall, not later than April 30 of each year, prepare and furnish to the Secretary of State an annual report summarizing the activities of the Inspector General. Such report shall include—

(A) a description of significant problems, abuses, and deficiencies relating to the administration of activities and operations of Foreign Service posts, and bureaus and other operating units of the Department of State, which were disclosed by the Inspector General within the reporting period;

(B) a description of the recommendations for corrective action made by the Inspector General during the reporting period with respect to significant problems, abuses, or deficiencies described pursuant to subparagraph (A);

(C) an identification of each significant recommendation described in previous annual reports on which corrective action has not been completed;

(D) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted; and

(E) a listing of each audit report completed by the Inspector General during the reporting period.

The Secretary of State shall transmit a copy of such annual report within 30 days after receiving it to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and to other appropriate committees, together with a report of the Secretary of State containing any comments which the Secretary of State deems appropriate. Within 60 days after transmitting such reports to those committees, the Secretary of State shall make copies of them available to the public upon request and at a reasonable cost.

(3) The Inspector General shall report immediately to the Secretary of State whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of activities and operations of Foreign Service posts or bureaus or other operating units of the Department of State. The Secretary of State shall transmit any such report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and to other appropriate committees within 7 days after receiving it, together with a report by the Secretary of State containing any comments the Secretary of State deems appropriate.

(4) Nothing in this subsection shall be construed to authorize the public disclosure by any individual of any information which is—

(A) specifically prohibited from disclosure by any other provision of law; or

(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

(e)(1) The Inspector General shall have the same authority in carrying out the provisions of this section as is granted under section 6 of the Inspector General Act of 1978 to each Inspector General of an establishment (as defined in section 11(2) of such Act) for carrying out the provisions of that Act, and the responsibilities of other officers of the Government to the Inspector General shall be the same as the responsibilities of the head of an agency or establishment under section 6(b) and (c) of such Act.

(2) At the request of the Inspector General, employees of the Department and members of the Service may be assigned as employees of the Inspector General. The individuals so assigned and individuals appointed pursuant to paragraph (1) shall be responsible solely to the Inspector General, and the Inspector General or his or her designee shall prepare the performance evaluation reports for such individuals.

(f)(1) The Inspector General may receive and investigate complaints or information from a member of the Service or employee of the Department concerning the possible existence of an activity constituting a violation of laws or regulations, constituting mismanagement, gross waste of funds, or abuse of authority, or constituting a substantial and specific danger to public health or safety.

(2) The Inspector General shall not, after receipt of a complaint or information from a member of the Service or employee of the Department, disclose the identity of such individual without the consent of such individual, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(g) Under the general supervision of the Secretary of State, the Inspector General may review activities and operations performed under the direction, coordination, and supervision of chiefs of mission for the purpose of ascertaining their consonance with the foreign policy of the United States and their consistency with the responsibilities of the Secretary of State and the chief of mission.

SEC. 210. BOARD OF THE FOREIGN SERVICE.—The President shall establish a Board of the Foreign Service to advise the Secretary of State on matters relating to the Service, including furtherance of the objectives of maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system and compatibility between the Foreign Service personnel system and the other personnel.

* * * * *

● Mr. HELMS. Mr. President, the taxpayer depends on Congress for effective oversight of all Government departments and agencies. My amendment would ensure that the highest standards of auditing and accountability will prevail in the Inspector General Office at the State Department, by making it absolutely independent and free from conflicts of interest. Not only will it help those congressional committees charged with oversight of State Department operations, but it also represents our commitment to the taxpayers of this country that we are serious about our responsibilities in this regard.

Mr. President, my amendment also provides for an independent inspector general at the U.S. Information Agency. The same problems which prevail at the State Department's Office of the Inspector General, as described in the GAO report just cited, also plague USIA. Two years ago, the Congress required USIA to acquire more trained auditors for their inspections efforts, but we did not go far enough: the USIA Office of Inspections has suffered from situations where inspectors have been in charge of inspecting their own performance while on previous assignments.

The work of the Inspections Division of USIA has been hampered by this lack of independence, Mr. President, and their present structure invites conflicts of interest galore. The USIA needs this independent inspector general every bit as much as the State Department.

Mr. President, this amendment also makes it possible for professionals in the career Foreign Service to do their jobs better. It will assure that they will not be asked to conduct any inspections, on temporary assignments to the inspector general staff, of managers who might later be their superiors on subsequent assignments within the Department of State or the USIA. I am sure that every professional, career and noncareer alike, will welcome a truly independent and professional IG staff.

AMENDMENT NO. 315

Mr. President, amendment No. 315 addresses certain problems of responsiveness to the democratic process presently found in existing legislation. It provides flexibility to the President of the United States in choosing effective senior management personnel for service in the Department of State.

Mr. President, the first provision of my amendment allows the President to choose the Director of the Foreign Service of his choice, without requiring that said Director General be from among the career members of the senior Foreign Service. Since the Director Gereral is immediately responsible to the Secretary of State in a senior management function, and holds a position which is subject to the advice and consent of the Senate, it is clear that the Congress will be able to exercise abiding oversight of this important function without limiting the President's options, as the law presently requires.

Mr. President, the next provision provides that the President may choose the best qualified candidate to be Chairman of the Board of the Foreign Service, without limiting such candidates to members of the career bureaucracy. Moreover, it allows that the Board of Foreign Service might be chaired by representatives of the U.S. Information Agency, the Department of Agriculture, the Department of Commerce, or any one of the other departments presently involved in Board functions, rather than necessarily the representative of the Department of State on that Board.

Mr. President, section 3 includes all members of the senior Foreign Service as management officials, which corresponds to the classification of their civil service counterparts in the senior Executive service in other Government departments.

Mr. President, while the State Department is charged with major responsibilities in conducting our foreign policy, it is unique among Government departments in allowing a confusion between management functions and those of labor. My amendment ad-

dresses some of those confusions and opens up key management positions to competition by all qualified individuals, whether or not they happen to be members of the career Foreign Service. Furthermore, my amendment requires that the State Department hierarchy conform to standards applied to every other Government bureaucracy, in clearly distinguishing between management and labor roles.

Mr. President, I ask that two articles which outline some of the problems addressed by this amendment be included at this point in the RECORD, the first, by Ambassador Lawrence H. Silberman, and the second by Mr. James Hackett. Both of these individuals have long and distinguished careers in the State Department, ACDA, and USIA. Their views are an important contribution to the discussion of these issues.

Mr. President, as the Chief Executive of our foreign policy apparatus, the President must be permitted to make the best possible selections for senior management posts.

The articles follow:

HOW THE WHITE HOUSE CAN REGAIN CONTROL OF FOREIGN POLICY

(By James T. Hackett)

INTRODUCTION

The authority and influence of the careerists in the United States Foreign Service [1] have increased considerably during the Administration of a President who came to Washington intent on reducing the federal bureaucracy. This anomalous situation directly affects foreign policy decisionmaking, which in turn limits the ability of the American people to direct the course of foreign policy through the electoral process.

The foreign service considers it a high duty to maintain the continuity of American foreign policy around the globe. While no one would deny the importance of continuity in day-to-day operations, policy is the province of the American people and the President they elect, and they do not always vote for continuity. Through free elections, the people periodically express their desire for change in the policies of government. Foreign policy must not be excluded from this democratic process in the interest of continuity. The issue, then, is the need to make the foreign service more responsive to the democratic process, while at the same time, preserving a significant role in the development and implementation of policy for career service experts.

An institutional method is needed to bring the foreign service bureaucracy under the effective management of the administration elected by the American people. Although it will take perseverance, it is possible for the elected administration to exercise management oversight of the foreign service. The President can take important steps toward that end by directing the Office of Personnel Management to oversee the foreign service, as it now does the civil service, and by appointing to policy-making positions in the Department of State more men and women dedicated to the political philosphy of his Administration.

Minor changes in the Foreign Service Act would complete the effort. These would remove the service's senior officers from labor union membership and activity and reconstitute the Board of Foreign Service, so that its oversight functions were under the control of the President, not of the foreign service.

BACKGROUND

As the foreign service has multiplied and expanded since World War II, successive Presidents have encountered difficulty in using it as an effective instrument of national power. In a series of postwar changes and reorganizations extending from 1946 to 1980, the service was enlarged and revised to meet what were seen as the needs and challenges of the latter half of the 20th Century. Today, nearly forty years after the inception of these changes, the foreign service has evolved into a powerful special interest bureaucracy that seems determined both to run its own affairs and to instruct the administration in office on the formulation of foreign policy.

In the State Department, a pervasive "old boy network" of senior foreign service officers (FSO's) effectively controls most appointments and assignments, assuring that members of the career service who are loyal to the system are placed in policy-making positions.[2] Most Secretaries of State, overwhelmed by the complexities of global foreign policy, have been only too willing to rely on the foreign service to run the State Department and to help formulate policy. Through this means, the foreign service has been able to maintain significant control of the foreign policy process, frustrating Presidents and leading to major policy conflicts between the State Department and national Security advisors and other government agencies. While administrations come and go, the foreign service bureaucracy continues to run things at Foggy Bottom.

Foreign service influence today is greater than ever for two reasons. First, the Foreign Service Act, drafted during the Carter Administration and pushed through Congress with substantial help from the American Foreign Service Association (AFSA) and pro-labor congressional staffers, gives the career foreign service new power. Most provisions of the law became effective in February 1981, just three weeks after President Reagan took office, so its impact has been felt only by the current Administration.

Second, it became apparent early in the Reagan Administration that the White House would defer to the State Department on non-career appointments at all levels, including presidential appointments. This was due initially to the take-charge manner of Secretary of State Alexander Haig, who insisted on deciding all senior appointments, and subsequently to the President's preference for a cabinet form of government.

What this has meant is that the foreign service has continued to dominate the selection process for policy-level jobs in Washington and ambassadorships abroad. The result is a State Department leadership that generally pursues policies to the left of the platform on which Ronald Reagan ran for the presidency, and indeed, which he has publicly articulated as President.

THE INSTITUTIONAL PROBLEM

The foreign service today is a separate, self-governing career service. Theoretically under the direction of the Secretary of State and his senior staff, it actually is a creation unique in government, an organization which is self-promoting, self-rewarding, self-duplicating, and largely self-assigning. Its members, most of whom belong to a professional organization turned labor union, the American Foreign Service Association, are employed in five different agencies, but State Department FSOs, totaling about 3,800 or over 63 percent of all officers, dominate and control the system.

They take care of each other. The old boy network of senior officers who "look out for their own" is very much a reality. Thus, the most important factor for career success as an FSO is to be on good terms with the senior members of the network, even more than with the political appointees of the administration in office.

While the main function of the foreign service is to staff the nation's embassies and consulates abroad, about 43 percent of FSOs are assigned to jobs in Washington, including the key positions of Under Secretary for Political Affairs and Under Secretary for Management. In fact, the top seven management officials of the Department, headed by the Under Secretary for Management, are now career officers.

With such an effective interest group in control at State, it is difficult for the White House to get advice or recommendations that do not reflect the policy inclinations and institutional biases of the foreign service, and which have not been diluted in the clearance process to eliminate options unpopular within the service. Of course, foreign policy is an arcane business, fraught with complications and not subject to clear or easy solutions. Even so, the State Department is prone to what Jeane Kirkpatrick calls the "principle of consensus," [3] which refers to the practice of sending forward recommendations that are the least common denominator acceptable to all of the bureaus and offices that must clear them.

This system of multiple clearances produces foreign policy recommendations by agreement, rather than by such objective criteria as what is most in the national interest or what most approximates the political philosophy of the administration in power. Yet it is in the interest of the foreign service to continue this system of policy-making by consensus, since it makes it difficult to fix the blame when something goes wrong.

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[1] The Foreign Service of the United States is a career government service that includes professional, technical, and clerical employees whose main responsibility is to serve abroad, staffing United States embassies, consulates and missions. Five Federal agencies employ foreign service personnel in varying numbers. This paper is concerned only with the 6,000 professional-level foreign service officers (FSO's), who are on the rolls of the following five agencies in the approximate numbers indicated: the State Department, 3,800; U.S. Information Agency, 900; Agency for International Development, 900; Department of Agriculture (Foreign Agricultural Service), 225; and the Department of Commerce (Foreign Commercial Service), 175.

[2] Laurence H. Silberman, "Toward Presidential Control of the State Department," Foreign Affairs, Spring 1979. Ambassador Silberman's excellent summary of the problem, which was written during the Carter Administration, is no less valid today.

[3] In a lecture delivered at The Heritage Foundation on October 4, 1983, Ambassador Kirkpatrick bemoaned the development of foreign policy by consensus and then added: "I have actually heard it said, and at very high levels of our government, that the most practical test of the right policy is the one which procures the broadest agreement. You know that's not necessarily so. It would be nice if it were, but it isn't. The right policy is in fact the one that is most effective in defending our institutions and values and protecting our interests in the world."

The institutional problem that has eluded solution through nearly forty years of changes in the system is how the President can best control the foreign policy apparatus to make it effectively pursue the goals of his Administration. It has been achieved on a case-by-case basis when Presidents have been willing to appoint a strong-minded Secretary of State who can and will dominate the career service. Eisenhower followed such a course with Dulles, as Nixon and Ford did with Kissinger. Another way is to bypass the foreign service by appointing a relatively weak Secretary and a strong National Security Advisor, as Nixon did when he put William Rogers at State and Henry Kissinger in the White House as National Security Advisor.[4] But this ties the effectiveness of the system to personalities; the institutional problem remains.

CONTROL OF THE SYSTEM BY STATE FSO'S

The State Department's FSOs so dominate the foreign service system that the other foreign affairs agencies (USIA, AID, Commerce, and Agriculture) must rely on State to support them in any labor-management disagreement. But since the foreign service dominates the Department, it often resorts to unilateral action in labor-management issues, dragging the other foreign affairs agencies along with it. This is what happened last year in a dispute with the unions over the issue of management control of executive bonuses.

The device established by law for interagency coordination of foreign service matters, the Board of the Foreign Service, has been totally ineffective in such issues. This is to be expected, since the Foreign Service Act put the Board under foreign service control by requiring it to be chaired by a "career member of the Senior Foreign Service," and as with Abraham Lincoln's cabinet the chairman has total control of the Board and its actions.[5] In other words, a fox is appointed to watch the other foxes.

Foreign service control is spreading

Through a labor-management agreement developed by FSOs serving in management positions and accepted by the President's appointees at State in order to keep peace, the foreign service has won total control of executive bonuses, thereby excluding management from participation in the process. Adding this to earlier State Department concessions on promotions and other management rights has resulted in a self-governing service that decides who gets in, who gets promoted, who gets bonuses, and beginning next year, who can be extended beyond mandatory retirement. The appointees of the administration elected by the people are excluded by law or labor-management agreement from participating in these normal management decisions.

The Administration cannot order a bonus or promotion, nor can it overrule either the supervisor or the FSO-controlled Promotion Board (except to deny a promotion in criminal or security cases) under present labor-management agreements. Any attempt to do so would raise a tremendous cry of "politics" from the foreign service. The significance of these promotion and bonus procedures is that the foreign service, unlike the rest of the federal government, is not being managed by the administration in office.

In addition, the foreign service enjoys substantial control over the assignment of its members to posts abroad. When USIA management began exercising some modest oversight on assignments in 1981, foreign service members mobilized their congressional supporters to question these procedures, implying that agency management should not be able to review or revise assignments made by career officers working in the agency's office of personnel. Deciding whether an officer goes to Rome or Calcutta is a tremendous exercise of power that the foreign service wants to control without intervention by the Administration. If the service were to obtain full control of assignments, it would constitute a major additional derogation of management authority.

FSO's fill noncareer jobs

While the State Department is overstaffed, there are not enough policy-making positions for the large number of senior FSO's.[6] The result is constant pressure from within the service for more senior positions, more and faster promotions, and strong opposition to the appointment of anyone from outside the service to any job within. It is this fierce opposition to outsiders that generates criticism by the foreign service of noncareer ambassadorial appointments and quiet but determined opposition to other noncareer appointments, as in the Senior Executive Service.

The foreign service has kept the number of noncareer appointments small by filling most of the Department's openings with FSO's. On those few occasions when the Administration has forced noncareer appointments at State, the Department has tried to create dummy jobs for them, e.g., new positions without real authority, thereby keeping Administration appointees out of policy-making positions.

THE PROBLEM OF OVERCAUTIOUS ADVICE

Another problem Presidents have had with the foreign service is the quality of its advice. FSOs are not trained to write clear, direct, short, or simple recommendations, nor is the State Department system designed to produce them. Diplomacy often requires the obfuscation of true goals or intentions, and survival in the foreign service means never, or hardly ever, sticking one's neck out, at least not until getting to the top. The natural inclination of FSOs is to observe these conventions (which are highly desirable in dealing with foreign governments) when preparing recommendations for their own government. In addition, recommendations prepared by the foreign service for the Secretary to send to the White House rarely consider attitudes of U.S. citizens or the political views of the Administration. Indeed, sometimes they are deliberately intended to revise or undercut those views. And most Secretaries, relying heavily on the career service, do not hesitate to forward such recommendations.

The Department's organizational structure also influences its advice. Organized along geographic lines, the five regional bureaus have prime responsibility for most of the activities that occur in their areas of the world. But when a policy recommendation is needed, the geographic bureau must clear its views with any other geographic bureau that claims even a residual interest in the issue, in addition to any of the functional bureaus or offices that may be interested. This clearance procedure makes sense in theory. It ensures that all possible implications have been considered, and prevents the parochialism that is unavoidable in organizations responsible for foreign policy in a particular region of the world. What often happens, however, is that a strong-willed individual, especially one of senior rank, can delay or water down virtually any recommendations except those that have originated at the highest levels of the Department.

In addition, officers who have no particular problem with the substance of a proposal often make stylistic or other changes that have the effect of fudging conclusions and recommendations (the State Department is called the Fudge Factory with good reason). Altogether, these factors often produce advice that is either imprecise or not in tune with the basic policy directions of the Administration.

Of course, it is generally assumed that the bureau head and his principal deputies will pursue the policies of the President. This cannot be taken for granted. Most foreign policy issues have many facets, and a bureau head who is not fully supportive of the President's policies can undercut them in clever and subtle ways. One way is through telephone coordination between FSO's in Washington and overseas. Since the ambassador's advice is sought by Washington on most matters, the FSO handling an issue in the State Department can influence the recommendation by telephoning the FSO ambassador or deputy chief of mission and soliciting the desired advice from the field before the telegram requesting advice is even sent from Washington. The submission of slanted or overcautious advice on policy issues can be the result. The solution to this problem is the appointment of bureau heads and principal deputies who clearly understand and support the policies of the President. This requires more White House and National Security Council involvement in the selection process.

[4] Henry Kissinger, *White House Years* (Boston, Massachusetts: Little, Brown & Co., 1979) pp. 137-138. Dr. Kissinger cites a classic example of how the State Department bureaucracy, convinced of the correctness of its desire to initiate the SALT talks in a hurry, chipped away at an explicit presidential decision not to set a date for the talks with a series of leaks, comments, and statements that eventually forced the President to change his position. The former national security advisor concludes, however that "the bureaucracy's victory was Pyrrhic," since the President then moved the conduct of the negotiations from the State Department to the White House.

[5] The Board of Foreign Service is established by law, Section 210 of P.L. 96-465, the Foreign Service Act, and includes representatives of State, USIA, AID, Agriculture, Commerce, Labor, OPM, OMB and the EEOC. The chairman must be a career FSO and many of the members are senior FSOs. The chairman exercises total control of the Board's actions and decisions. Thus, instead of being an oversight body, it operates to protect the interests of the foreign service.

[6] John Krizay, "Clientitis, Corpulence and Cloning at State—the Symptomatology of a Sick Department," Policy Review, Spring 1978. The second of Mr. Krizay's three C's, Corpulence, referred to the problem of overstaffing in general, which was serious at State when he wrote his article nearly six years ago. As with most problems afflicting the foreign service, corpulence is still around, especially at the senior grades. The foreign service has a much higher ratio of senior officers than any other personnel system. More than 20 percent of State Department FSO's are in the Senior Foreign Service. By comparison, only 1.5 percent of all civil service personnel in grades GS-11 and above are in the comparable Senior Executive Service. The comparison with the military, with which the foreign service often likes to compare itself, is even more striking. Only one-third of one percent of all officers are serving as generals or admirals and those ranks are tied to the incumbency of flag rank billets. The lack of a similar requirement for the foreign service means that many senior officers are unassigned and "walking the halls" as they say at State, while receiving salaries of $69,600 per year.

CONTROL OF NONCAREER APPOINTMENTS

The quality and commitment of people can make or break a presidency. A basic criterion for non-career appointees, therefore, should be agreement with the President's philosophy and objectives. Many agency heads, however, prefer to appoint to their senior staffs people they know and in whom they have confidence or to advance career officers who demonstrate efficiency. But candidates chosen by these criteria often are not strong supporters of the President and have little or no commitment to the political philosophy of his party.

Ambassadors deserve special attention.[7] The 148 ambassadors serving as chiefs of mission represent the largest single group of prestigious appointments available to the President. They serve, at least theoretically, as personal representatives of the President. In any normal government operation the vast majority of such appointees would be selected by the White House on the basis of a combination of high personal qualifications and support for the President's policies and programs. However, career FSO's argue that ambassadors should be chosen from FSO ranks on the grounds that they train throughout their careers for such appointments and are the best qualified. Yet personal qualifications may not be as relevant to the achievement of U.S. policy objectives as the dedicated pursuit of presidential policies by someone who fully understands and supports those policies.

Still, the pressures applied by the foreign service bureaucracy for the appointment of career FSOs as ambassadors, usually with the support of the Secretary of State and friends on Capitol Hill, can be enormous. The percentage of ambassadors selected from the career service has ranged from 56 percent under Franklin Roosevelt to 73 percent under Jimmy Carter. In 1982 the percentage of career ambassadors was 65 percent, but under continuing foreign service pressure, the White House has let that figure inch back up to 69 percent. That means that only 31 percent of all ambassadors have been selected for their support of the President and his programs.

This extreme interest in getting FSOs appointed as ambassadors is a characteristic only of State Department FSOs. USIA, with about 170 senior foreign service officers, has only two career FSO ambassadors—to the small countries of Malta and Sierra Leone—a number unchanged for years. By contrast, the State Department has about 100 senior officers serving as ambassadors, about 13 percent of the 775 in the Department's Senior Foreign Service. Last year, Congress went on record in support of greater equity between State and USIA FSOs in career ambassadorial appointments, but State has done nothing to revise its ambassador selection process, which overwhelmingly favors State Department FSOs.

The authority to nominate career officers as ambassadors should be removed from the careerist network. One solution would be for the White House and the National Security Council to select nominees for ambassadorships after considering candidates for each vacancy from the various foreign affairs agencies, other parts of the government, and outside the government. The most important criteria would be background and qualifications appropriate to the position plus known support of the President's policies. Another approach would be to have the selection process handled by a reconstituted Board of the Foreign Service, chaired by an impartial presidential appointee who reports to the White House and is not on the payroll of any of the foreign affairs agencies.

A CONFUSION BETWEEN MANAGEMENT AND LABOR

One of the unique aspects of the Foreign Service Act is that it blurs the normal distinction between management and labor. This legislation and the concept it encompasses make it possible for the FSOs to control and direct the foreign service system, excluding the President's appointees from exercising normal management functions. There is no comparable situation in the civil service, where management and labor are clearly delineated. The Civil Service Act of 1978 defines all members of the Senior Executive Service as management officials, automatically excluding them from membership in or activity on behalf of employee labor unions.

In contrast, the Foreign Service Act does not define members of the Senior Foreign Service as management officials. The result is that most FSOs, including many in the highest positions in the State Department, are union members. In the foreign service, a senior officer exercising high-level responsibilities could be representing management one day and the union the next. The foreign service considers this a wonderful arrangement, and State Department management, much of which is part of the foreign service, agrees.

There is a quick fix for this bizarre situation. The Foreign Service Act lists categories of "management officials," and excludes the incumbents of positions in those categories from the union bargaining unit. If all senior FSOs were classified as management officials, as are all of their civil service counterparts in the Senior Executive Service, it would solve the problem. As management officials, they would be excluded from activity on behalf of the union and would be required to represent management's interests. But when this proposal was raised last year in the Board of the Foreign Service, the surprising position taken by then Undersecretary of State for Management Jerome Van Gorkom was that management in the State Department is different from that in the rest of the government and that most of the Department's 775 senior officers are not part of management, despite their impressive ranks, titles, and high salaries.

HOW TO MANAGE THE FOREIGN SERVICE

It is time to stop treating the foreign service as a government within a government, a bureaucracy independent of the will of the American people. To carry out its electoral mandate, an Administration must be able to manage the permanent bureaucracy. While some may interpret this as "political control" it is, in fact, responsiveness to democracy.

The main problem with the foreign service system is the lack of effective management or oversight. In a recent study of the system, the State Department's principal in-house expert, Dr. William I. Bacchus, raises the question of who is exercising overall management of the foreign service, and replies "the honest answer is, no one." Commenting further no managerial shortcomings, Dr. Bacchus states, "Another source of inadequacy in foreign affairs personnel systems is that their management is ill suited to the tasks at hand, and poorly equipped to force necessary changes." [8]

What is needed is continuing oversight and review of the system by a professional organization equipped to do the job. The best existing oversight authority is the Office of Personnel Management. Most of the government works under the oversight of OPM, and there is no reason why the foreign service should not be included in its jurisdiction. OPM now oversees the entire civil service, including the civil service employees of the five foreign affairs agencies. It would be logical to extend the same management review to the small group of foreign service employees now exempt from OPM oversight.

The separate foreign service system could be retained, including special benefits appropriate to a worldwide operation with conditions of employment greatly at variance with those of the civil service. But giving OPM oversight of the foreign service would at least assure reasonable and consistent supervision of activities such as personnel, appointments, management, labor relations, inspections, and cost control, which need outside review. No matter how well-intentioned, no agency can adequately police itself in these areas, particularly when there is a built-in conflict of interest. With oversight control, OPM could force some of the tough management decisions the State Department has not been able to make because so many of its senior management officials have a vested interest in the system.

Establishing suitable oversight might be difficult and time consuming, but that is no reason to defer the effort. The outcome would be a significant management achievement with lasting benefits to American foreign policy.

CONCLUSION

State Department problems can be addressed through administrative action by the Executive Branch and legislative proposals to Congress. A good start would be for the White House to:

1. Direct the Office of Personnel Management to assume oversight review of the foreign service personnel system, as it now does for the civil service system.

2. Direct the White House Office of Presidential Personnel, the Department of State, and OPM to work together to ensure the appointment of a reasonable number of well-qualified, non-career candidates, who support the policies and philosophy of the President, to managerial and policy-making positions in the Department. Such appointments should include the Undersecretary for Management and the Inspector General, and after the law is changed, the Director General of the Foreign Service and the Chairman of the Board of the Foreign Service.

3. Submit to Congress an amendment to the Foreign Service Act, adding "members of the Senior Foreign Service" to the categories of management officials listed in Section 100a(12). This could be added to the package of amendments to the Act now pending.

4. Ask Congress to amend sections 208 and 210 of the Foreign Service Act to remove the requirements that the Director General of the Foreign Service and the Chairman of

[7] While many individuals are accorded the rank of ambassador to attend an international conference or to represent the President abroad on a trip or mission, the title ambassador as used here is limited to those serving as chief of a diplomatic mission, currently numbering 148.

[8] William I. Bacchus, Staffing for Foreign Affairs (New Jersey: Princeton University Press, 1983), pp. 80, 83.

the Board of the Foreign Service be selected from the career service. For the Board of the Foreign Service to provide proper oversight and guidance, the chairman should be a presidential appointee, who reports directly to the President, and should not be on the payroll of any of the foreign affairs agencies under his oversight.

TOWARD PRESIDENTIAL CONTROL OF THE STATE DEPARTMENT

(By Laurence H. Silberman)

This article challenges the notion that it is appropriate for Foreign Service officers to routinely occupy senior policymaking positions in the State Department. As a recent "political" ambassador who has also served at a senior level in domestic departments of our government, I confess that I ended my ambassadorial stint with less than friendly feelings toward the Foreign Service as a whole. Since then, reflecting as dispassionately as possible on my own observations and looking with some care into past history, I have concluded that the frictions that have arisen almost continuously between the Service and successive Presidents (and their political appointees) have their roots deep in the system of appointments itself—and that they lend themselves to constructive remedies.

The practice of having Foreign Service officers in senior State Department positions goes back a long way; in the minds of many it has attained the status of an accepted convention. I believe it is time to reject that convention, not only because it is fundamentally inconsistent with American democratic theory, but also because—perhaps more directly relevant to those interested in the substance of foreign policy—for the last 50 years the Foreign Service's quite natural desire to preserve and expand these job opportunities has caused or exacerbated unfortunate clashes with presidential authority over the conduct of foreign policy. As Professor James Q. Wilson of Harvard has recently observed, indispensable to a full understanding of any government department's policy-formulating process is an appreciation of that department's formal and informal incentive system.[1] So long as the Foreign Service sees itself in competition with political appointees for senior positions, it will instinctively resist presidential direction of the substance of foreign policy. In resisting the legitimacy of political appointments essential to presidential control, it inevitably rejects as well the legitimacy of political direction.

Indisputably, the Foreign Service has much to offer in the fashioning and implementation of foreign policy, but the troublesome friction to which I refer has often led Presidents and their appointees to reject the Service's views out of hand. It is time, I submit, to call a halt to this long struggle. Accordingly, in my conclusion I suggest a legislative modus vivendi, one which takes account of the need to maintain, indeed improve, the Foreign Service's morale.

II

Perhaps it is because Foreign Service officers (and many of their journalistic champions) have relatively little experience with the American government as a whole that they are unaware of how anomalous is their claim to policymaking positions.

Senior political posts in the executive branch of the U.S. government, those presumed to carry policymaking functions, are almost invariably presidential appointments requiring Senate confirmation. For the most part, they are designated as executive appointments at levels from one through four: level one is reserved to the Cabinet (and the Special Trade Representative); level two is typically a deputy secretary (but also includes the Directors of the CIA and FBI); level three embraces the under secretaries and level four the assistant secretaries. Men and women who fill these jobs are normally thought of as part of the President's team; indeed, they are extensions of the presidency.

Among the world democracies, the United States uniquely functions with so many political appointments at senior levels of government. But the United States' tripartite governmental structure is also unique. The parliamentary democracies fuse legislative and executive powers; the civil service in those countries, therefore, looks only to one political authority. By contrast, in the United States both a presidential sun and a congressional moon exert a gravitational pull on the Civil Service. Since our chief executive must compete with legislative authority for the allegiance, or even the attention, of the Civil Service, it follows that he needs a considerable number of senior executives in the departments who are closely tied to his political fortunes. Even these ties do not guarantee him bureaucratic support, but they ensure an irreducible minimum of influence.

In all the executive departments save State, these executive-level appointments almost invariably go to supporters of the President—persons who share his political goals, or at least are drawn from the President's political party. To be sure, occasionally a civil servant will be selected for political appointment but, in that event, he or she is assumed to have abandoned the neutrality of the career service and does not return to career status when the administration leaves office.

The State Department is structured like other executive departments with a secretary, deputy secretary, four under secretaries, and over a dozen assistant-secretary-level positions. In addition, however, there are more than 150 ambassadorships, all presidential appointments requiring Senate confirmation and carrying an executive-level ranking—depending on the importance and size of the embassy—from two through five. The more important ambassadorships, then, have equivalent rank to the deputy or under secretary posts since an ambassador, in theory, personally represents the President of the United States in his assigned country. According to strict protocol, the American ambassador outranks even the Secretary of State at his embassy (a protocol nicety that few ambassadors have dared assert). As in direct representative of the President, an ambassador is not restricted to communications with the State Department. Some have even advanced personal views of positions espoused by other departments that ran counter to State's wishes—unless instructed otherwise by the President. It is not unknown, for that matter, for Presidents to direct ambassadors or certain sensitive matters without even informing the State Department.

Over the years, however, the majority of these embassies and a goodly proportion of the senior posts in Washington have been occupied by career Foreign Service officers who maintain their career status while in these positions. Accepted Washington wisdom, as disseminated by the diplomatic press corps, holds that these appointments should normally go to Foreign Service officers. Career status has, in the State Department, been deemed synonymous with merit. Political appointments are implicitly regarded as non-meritorious. During the presidential campaign of 1976, for example, C. L. Sulzberger, the venerable if predictably conventional foreign correspondent of the The New York Times, paused in a little town outside of Plains, Georgia to write a column in which he described the importance of a presidential candidate committing himself to appoint Foreign Service officers to ambassadorships. After his subsequent meeting with Jimmy Carter, he breathlessly reported that, sure enough, the Democratic candidate was determined to make "merit" appointments to foreign policy positions. After the election, as we all saw, Jimmy Carter did not completely accept the congruence of career status and merit. He did appoint fewer political ambassadors but, in contrast to the Ford-Kissinger Administration, President Carter took more care to ensure that his assistant and under secretaries were drawn from political circles that shared the President's foreign policy philosophy.

III

The Foreign Service has persistently argued for a congressionally imposed limit on the number or percentage of non-career appointments to ambassadorships and has grumbled at what it regards as excessive appointments of non-careerists to comparable positions in Washington. A necessary corollary to the Service's position has been its explicit assumption that foreign policy—unlike all other responsibilities of government—is not appropriately a subject for political difference. As Fred Ikle recently put it, the Foreign Service has a direct career interest in defending the cliche that "politics stops at the water's edge."[2]

George Kennan, perhaps the leading apostle of foreign policy careerism (some say elitism), argues that our political parties play no important role in the long-term formulation of foreign policy because in the United States, unlike Europe, they are not ideological. He sees them as purely pragmatic groupings of various constituencies without ideological content. When politicians challenge the Foreign Service's conduct of policy, they are, according to Kennan, responding merely to "highly organized lobbies and interest groups."[3]

The ultra-careerist must thus denigrate the impact of politics on foreign policy, for if it were to be conceded that our political parties do represent alternative philosophies of foreign policy, it would also have to be conceded, consistent with democratic theory, that the successful party is entitled to place its adherents in senior State Department positions to carry out its philosophy.

Kennan and his supporters, I submit, fundamentally misunderstand our political system. American political parties can indeed be seen as competitive constituency groupings, but these have always been bound together in significant degree by an ideological glue of varying viscosity—using "ideology" simply to mean a reasonably coherent set of ideas about the relationship between government and its citizens. Our great geographical and cultural diversity, as virtually every first-year college student is taught, has caused a certain degree of ideological overlapping. Still, for almost 50 years the Republican Party, or at least its central core, has differed with the Democrats over

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Footnotes at end of article.

the fundamental issue of the desirability, equity, even morality of coercive redistribution of wealth and income, and the corollary question of the growth of governmental power.

Moreover—and this point is crucial—domestic ideological differences have always been, in part, reflected in the differing foreign policy approaches of the Democratic and Republican Parties. Surely the restrained enthusiasm with which conservative Republicans view delegations of authority to the United Nations is ideologically connected to Republican distrust of domestic governmental growth, and the greater receptiveness with which most liberal Democrats examine the developing nations' demand for a New International Economic Order is related to their espousal of domestic economic redistribution. For most liberal Democrats, "narrowing the gap" in world income by direct transfers of wealth follows ineluctably from their domestic political objective of similarly "narrowing the income gap" among Americans. Domestic liberals—and most are Democrats—are almost as prone to believe that world order can be achieved through supranational planning as they are to believe that we should move toward greater governmental planning domestically. Conservatives, by contrast, in both domestic and foreign policy, tend to distrust rationalistic schemes and give greater deference to the natural growth of domestic and international structures. These differences, between liberal and conservative, go back to Rousseau and Burke.

True, domestic ethnic, religious and racial lobbies have always exerted political influence on American foreign policy. In recent years U.S. policy toward disputes in the Aegean, the Middle East and southern Africa has been so shaped. Still, these issues are not without ideological content. Most American blacks, for instance, are aligned with the Democratic Party, which party, particularly President Carter's wing, has seemed much less troubled by black African nationalism with a Marxist flavor than have Republicans. This, in turn, is clearly related to the present Administration's overall effort to reduce the anti-communist character of American foreign policy.

Although both parties share a strong distaste for totalitarianism, Republicans are naturally, on the whole, more distrustful and fearful of totalitarianism on the Left and Democrats more apprehensive of its rightist counterpart. That is surely why Roosevelt's foreign policy in the 1930's was more aggressively anti-fascist than many Republicans thought prudent. And why Republican views for years have been, on the whole, more aggressively anti-communist.

Admittedly, there are important foreign policy differences within both parties. The 1976 Reagan challenge to President Ford was most successfully rooted in foreign policy disagreements centered on the Ford-Kissinger policy of détente. In that respect there are similarities between conservative Republicans and the Jackson-Moynihan-Nunn wing of the Democratic Party. That these kinds of issues are often disputed intra-party as well as inter-party does not at all detract from the proposition that our political process properly accommodates foreign policy debates or that they normally have an ideological content. Senator Jackson, like Governor Reagan, lost his primary fight for nomination and, therefore, as much as some of us might regret it, President Carter was certainly on sound democratic (note the small "d") grounds in rigorously excluding Jackson Democrats, as well as orthodox Republicans, from significant foreign policy positions. They manifestly would not fit.

I do not mean to suggest that American foreign policy will or should shift 180 degrees as administrations change. In the first place, the great strength of American democracy is the relatively narrow degree of ideological differences between our political parties with respect to either domestic or foreign issues. What we virtually all agree upon—our shared premises—is greater than that which divides us. Therefore, philosophic changes in foreign policy orientations, while significant, will not be fundamental—not sea changes.

Second, the United States does have relatively permanent economic and strategic interests that no administration, regardless of ideology, can ignore. To be sure, which of those interests are vital is very much a political question because vital interests are those a nation is willing to take substantial risks to preserve or advance. Thus, different administrations may well be willing to assume greater political, economic and even military costs, on the margin, to protect different objectives. Put another way, the political process sets priorities on national interests; Vietnam was in that manner continually downgraded from vital to borderline to irrelevant. No computer or group of wise men can objectively divine the outer boundaries of vital interests, because in a democracy the people as a whole must determine the acceptable cost-benefit ratio of actions that preserve or advance foreign policy goals. Still, the central core of our policy, or any nation's policy, will always be shaped by objective factors. Not surprisingly, then, as time passes, we see that at least certain of President Carter's policies have begun to conform to those of the preceding Administration. Take, for example, the abandonment of the Turkish arms embargo or the President's "Camp David" change in Middle East policy.

Some scholars argue that ideology should play little or no role in the conduct of foreign policy, but it is hard to take that position seriously. Can one imagine American policy in this century uninfluenced by antipathy to or a healthy fear of fascism and communism? Nonetheless, how much weight ideology should be given when fashioning policy toward other nations is surely questionable. As Bayless Manning put it, since the beginning of the Republic pragmatism and ideology, held in uneasy balance, have been twin themes of our foreign policy.[4] Sometimes an administration has emphasized ideological factors over pragmatic ones, for example, Woodrow Wilson's self-determination, John Foster Dulles' anti-communism, and Jimmy Carter's human rights. At other times, as most recently with Kissinger's Realpolitik, pragmatism seems to dominate.

I suggest that a long-term aim of our policy is to keep these considerations, ideology and pragmatism, in appropriate balance. No magic formula, however, will permanently achieve that equation. The best means to keep these factors in balance, and the one most appropriate to our system of government, is partisan public debate. Inevitably, the administration in power will emphasize one or the other factor and the party out of power will duly criticize the administration for overemphasis—just as the Democrats attacked Dulles for excessive moralizing and Kissinger for too little attention to moral concerns. The political process ensures that the balance can never be tipped too far in one direction.

In that fashion, I would argue, partisan political debate over foreign policy serves long-run stability rather than instability. The democratic process is often thought to jeopardize professionally devised foreign policy continuity; in fact, it ensures a deeper continuity which eludes totalitarian states. The key theoretical proposition, then, of the careerists' argument for their own dominance of senior foreign policy positions—that domestic politics is the appropriate process for the resolution of domestic economic and social issues, but *not* for foreign policy questions—is plainly and demonstrably wrong.

IV

Still, political theory aside, the question of expertise remains. Foreign Service spokesmen maintain that the conduct (and fashioning) of foreign policy is inherently subtler and more sophisticated than other facets of governmental responsibility. The stakes, moreover, are much higher—particularly in a thermonuclear world. American democracy, it is argued, has no practical choice but to delegate to its Foreign Service greater responsibility than is granted to the domestic Civil Service. George Kennan assumes this delegation when he describes the Foreign Service officer as an anomaly not belonging to "that great body of *lower-level* servicing personnel known as the civil service" but rather somewhere between the ordinary civil servant and the political appointee.[5]

The grade, rank and pay of Foreign Service officers, however, is comparable to that of Civil Service officers—except when the former are serving in those executive-level presidential appointments described earlier—so Congress has not explicitly made the delegation Kennan assumes.[6] In fact, the Foreign Service was created through executive orders of Presidents Roosevelt and Taft and the Rogers Act of 1924 to bring our diplomatic personnel up to the professional standards of the Civil Service.

But should the Foreign Service be regarded as superior to the Civil Service? Is the substance of foreign policy so uniquely challenging as to compel acceptance of a Foreign Service policy-making role?

To answer No, to reject this claim, it is not necessary to denigrate the complexities of foreign affairs. It is only necessary to observe that other aspects of governmental responsibilities are not less complex. I would go further, however. The average American has a sounder instinctive grasp of the basic dynamics of foreign policy than he does of domestic macroeconomics (the management of which is, after all, the most important domestic responsibility of the government). Common sense—the sum of personal experiences—will take one farther in the realm of foreign policy than in macroeconomics. Even children playing together begin to learn lessons about the balance of power—to prevent one from dominating others—but they manifestly do not learn the way people behave economically in the aggregate. As George Will laments, much of domestic democratic government consists of futile efforts to reverse economic laws—laws, I would add, that are rooted in human nature.

The Foreign Service contends that the actual conduct of day-to-day relations between countries—as opposed to the administration of domestic departments—requires of those who do this business special exper-

tise that *only* professionals with a lifetime of training gain; expertise both in the process of diplomacy itself and in profound knowledge of the nature of other societies. The military is a favorite analogy used to buttress this argument. We do not appoint politicians to senior military commands because we recognize the need for that special expertise which only the careerist can provide; the same reasoning, it is argued, should govern appointments to the senior foreign policy commands. On close examination, this analogy disintegrates. Civilian or political control of the military is well established in the United States. Consequently, the Assistant Secretaries of the Defense Department and of the services are invariably drawn from the ranks of civilians, and the military are almost never given political authority (the exception would be temporary wartime or postwar occupation of enemy territory).[7]

To be sure, the Joint Chiefs of Staff report directly to the President in his role as Commander in Chief. This is obviously of more practical significance in war than in peace. But war and planning for war are a good deal more specialized and outside the experience of most politicians than the conduct of diplomacy. (For that matter, it is equally outside the experience of the Foreign Service, which surely is one of the reasons why, when George Kennan recently called for a special conclave of experts to redefine Soviet capabilities and intentions, he excluded any consideration of the Soviet military buildup.)

Drawing once again upon James Q. Wilson, if one wishes to determine whether political appointees bring any desired attitudes or skills to the conduct of foreign policy, one should look carefully at the actual tasks performed both abroad and at home. What is it that diplomats actually do? Are there comparative advantages and disadvantages as between typical careerists and non-careerists with respect to requisite skills and experiences?

The Foreign Service is divided into four categories or "cones": political, economic, consular, and administrative. Political officers—from whose ranks the lion's share of ambassadors is drawn—are responsible, when abroad, for analyzing and reporting political trends and events in their assigned country. Economic officers, similarly, report on economic affairs, but when serving as commercial attachés or when supervising them, they are also responsible for searching out business opportunities for American firms, then helping these firms take advantage of those opportunities. Consular officers are charged with aiding Americans who run afoul of host country laws and also are responsible for the often vexing administration abroad of U.S. immigration laws. Administrative officers provide support services for the embassy, much as do administrative officers in the Civil Service.

All four groups must also represent American interests to the host country in their respective spheres. The job of an embassy, then, including the various attachés who work for other governmental departments (agricultural, military, legal, etc.) is partly to report to our own government on events in that country and partly to represent the American government and American interests there.

To do this job, officers need background and knowledge of the host country—including usually the host country's language as well as broad training in political theory, economics and history. They also, however, need an even more profound understanding of our own country, its governmental and political processes, and the nature of national objectives and interests. One who represents the United States obviously must understand it but in addition—and this is insufficiently appreciated—to report well on events in an assigned country, one must have an analytical framework which assigns relevance, and relevance depends on American interests. that assuredly does not mean that reporting should be filtered through an ideological prism which would distort the truth, but it does mean that there are all sorts of truths, and some are of more compelling interest than others.

The Foreign Service ambassador will often (but by no means always) have a deeper knowledge of the country to which he or she is assigned than a non-careerist, but the non-careerist often has a comparative advantage in understanding the United States, particularly if he or she comes to a post with a broad background in government, economics or scholarship.

Career officers typically complain that politicians and political appointees do not sufficiently appreciate "the world as it is." In a sense that is true. The Foreign Service will more accurately reflect trends and values prevailing outside the United States than the non-careerists. But, I believe, the converse is also true: the Service will less accurately reflect counterpart trends and values dominant within the United States. The Foreign Service in the 1920s, 1930s and 1940s was significantly more sympathetic to dominant trends in Western Europe during that time, including what we have come to see as misguided ideas of accommodation with fascism, than was the Roosevelt Administration.[8] Today, I would argue that the Foreign Service is more willing to accommodate Marxist trends around the world than are many politicians or the American people as a whole. Essentially that is why Daniel Patrick Moynihan as U.N. Ambassador was so popular with the American public but so repugnant to our professionals.

To some extent the world, to the Foreign Service, is divided up into the sum total of ambassadorial posts. The resulting distortion is analogous to the political distortion at the United Nations (one dictator-one vote). Thus, Foreign Service partiality to the Arab side of the Arab-Israeli dispute over the last 30 years does not have its roots (as some critics have suggested) in undue deference to Arab oil power, nearly so much as in the fact that there are over a score of Arab capitals—which means there are that many embassies and that many ambassadorial slots in Arab nations.

Foreign Service officers necessarily tend to specialize in certain areas of the world; the burdens of language training alone ensure this. For self-advancement, an officer must be hospitably received in the country or countries in which he specializes. Moreover, once posted in a country, good reporting requires sources of information, particularly among influential or governing elites. Inevitably, therefore, a Foreign Service officer has a tendency toward what is referred to in the State Department as "clientism," a term which suggests overemphasizing the interests of a foreign country (as defined by the governing elite) vis-á-vis the broader interests of the United States. "Good relations" between the host country and the United States (often at our expense) become an end in themselves without sufficient regard to U.S. geopolitical and geostrategic interests.[9] Some political appointees, admittedly, are subject to the same tendency, but since political appointees have other career options they are likely to be less susceptible to the germ.

The Foreign Service officer has a natural tendency toward caution; one advances in the Foreign Service by not making mistakes. It follows, then, that risk is to be avoided. One kind of avoidable risk involves too sharp a presentation of options. Just as a diplomat must often seek to paper over disputes between his own country and his assigned country, he learns to blur American foreign policy options for presentation to policymakers. Thus the State Department's nickname, "the Fudge Factory."

The other kind of risk typically eschewed by career officers is too vigorous a defense of American interests because such behavior can lead to relative unpopularity with the nation or group of nations in which the officer specializes—particularly if that group of nations shares a common ideology. For instance, two political appointees of Roosevelt in the 1930s, Claude G. Bowers to Spain and William E. Dodd to Germany, were far more outspoken in defending American values and ideology in the face of fascist attacks than the prevailing views within the career service or, in the case of Dodd, his career-service successor.[10]

At bottom, a good diplomat, like a good politician, domestic bureaucrat, businessman, lawyer or administrator, is one who exercises good judgment. The Foreign Service does attract, on the whole, the ablest men and women who enter government. But I would contend that it is relatively rare for Foreign Service officers in their first ten or 15 years to exercise responsibility equivalent to that available to a talented young person in the domestic Civil Service or, even more pronouncedly, outside government. Good judgment comes from the opportunity to exercise responsibility—even the opportunity to make mistakes. The Foreign Service is one of America's most rigidly hierarchical organizations. The most insignificant question must be passed up through the apparat, layer after layer. This is particularly so in Washington but true also in most embassies. Such an operational climate does not produce sufficient opportunities for junior officers to assume responsibility and, therefore, to develop seasoned judgment.

All of these considerations lead me to believe we would have a far better Foreign Service if we could provide incentives for Foreign Service officers to spend significant periods in domestic agencies where real responsibility can be offered earlier. The present personnel practice of the State Department discourages this. One-year stints on the Hill or with domestic agencies are not uncommon. But three or four years at the Treasury Department or Interior will actually injure the Foreign Service officer's career chances. By comparison, great newspapers will often assign journalists, whose function closely parallels certain tasks of the diplomat, alternately to domestic and foreign assignments. Indeed, the best foreign correspondents and columnists are those whose interests and experience include domestic affairs.

West European countries, in the main, rigorously segregate their foreign services from their domestic departments—and from political appointees as well. That should hardly be a persuasive precedent, however, since many of those countries are still burdened with an ancient tradition that demands aristocratic pedigrees (or reasonable contempo-

rary facsimiles in the form of university degrees) from career diplomats. The communist states and many developing countries, on the other hand, often transfer diplomats back to responsible jobs in domestic affairs. This practice ensures that ambassadors are more well rounded and, not incidentally in my view, more aggressive in pursuit of national interests when serving abroad. That Japan, for instance, draws heavily upon its economic ministries for diplomats may be related to its persistent and successful pursuit of foreign markets.

It is sometimes observed—Harold Nicolson, the British counterpart to George Kennan, said it patronizing—that career diplomats are trained to patience, whereas amateurs often blunder by seeking to accomplish too much during their relatively short tenure. There is a good deal of truth to that, but the other side of the coin is that the Foreign Service officer is often slow to see the importance of change, and "the essence of good foreign policy is constant reexamination."[11] For this reason, I believe we need both careerists and non-careerists among our diplomats.

v

What, it may be asked, does all of this have to do with the stuff of foreign policy? Does it really make much difference whether our ambassadors and assistant secretaries are drawn from the career Foreign Service or from outside those ranks—and in what proportion? Is this just an unseemly squabble between two classes of jobseekers without relevance to the broad compelling issues of foreign policy? On the contrary, in my view the tension between political authority and careerists has had, and continues to have, an unfortunate impact on the shaping and articulation of these issues.

Consider the recurring frustration American Presidents express concerning their relative inability to control and direct the State Department. One need not agree with Daniel Yergin's revisionist theory of the cold war set forth in his recent A Shattered Peace to recognize that he chronicles a sad story of guerrilla warfare between the professional Foreign Service and the Roosevelt Administration. The story is amplified by Martin Weil's more recent A Pretty Good Club. Since the 1920s, the constant theme of the Foreign Service has been resistance to political appointees and that, in turn, has led to presidential hostility and various techniques to circumvent the Foreign Service. President Nixon's use of the National Security Council to fashion and implement his Soviet and China initiatives—because he distrusted the Foreign Service—parallels Roosevelt's efforts to conduct foreing policy, as Weil and Yergin recount, using various confidants outside the State Department. The Foreign Service did its best to sabotage Roosevelt's efforts to negotiate terms for diplomatic relations with the Soviet Union in 1933; thereafter, he wisely did not trust his State Department.[12] Nixon, it seems, distrusted State even more than the domestic bureaucracies. Truman, Eisenhower, Kennedy and Johnson all, at one point or another, expressed the same exasperation with the State Department and sought to circumvent its institutional hostility.[13]

Now, of course, Presidents have been known to complain about unresponsiveness in other executive branch bureaucracies as well, but the State Department has been in a class by itself. If one thinks hard about this, it seems extraordinary. Other bureaucracies present difficulties for presidential direction because of their symbiotic relationship with domestic constituencies and congressional committees and staffs—often referred to as "iron triangles." But as the Foreign Service so often complains, it has no supporting domestic constituency and, therefore, less of an institutional ally within the Congress. One would expect that the State Department would be the department most responsive to presidential will rather than the least. The answer to this paradox lies, I believe, in the resentment, unique in our government, that Foreign Service officers feel for political appointees in the State Department. This resentment inevitably leads Foreign Service officers toward resistance to any political direction of foreign policy—even presidential.

Of course, disputes between the Foreign Service and political authority are always couched in policy terms, but the root cause, I believe, is often found in the Foreign Service's natural fear of diminishing job opportunities and a concomitant wish to expand these. It is impossible to exaggerate the fierce attention career officers pay to the number of political appointments (like the unemployment rate, the absolute number is less "politically" significant than the rate and direction of change), or the resistance new political appointees encounter. I dare say this is less a reflection on the Foreign Service than it is an observation on human nature; any group of people would surely behave the same. One should keep in mind that promotion in the Foreign Service is more difficult then in the Civil Service; the personnel structure is more like a pyramid. So long as every political appointment is seen as a direct threat to the Foreign Service officer's career advancement, his or her attitude vis-a-vis both the appointee and the authority represented is inevitably negatively affected.

The most troublesome aspect of this phenomenon is that the bureaucratic struggle it causes takes on a life of its own. Since the career Foreign Service officer rejects the legitimacy of politically appointed ambassadors or assistant secretaries, it necessarily tends to reject whatever new ideas or perspectives those men or women bring to their posts. For instance, the previously mentioned Ambassadors Dodd and Bowers saw the dangers of European Fascism and Nazism with a good deal more clarity than the professional Foreign Service. But the views of both men were rejected and both were criticized for their efforts to defend American values under fascist attack. In turn, the President's appointees, if they are not beaten into submission by the obdurate hostility of the Foreign Service, tend to reject its expertise. A whole administration can thereby turn a deaf ear to legitimate concerns of conscientious Foreign Service officers.

Patrick Hurley's experience is, in this respect, instructive. As our Ambassador to China during the crucial period of the Chinese civil war, he is often accused of ignoring—indeed, of persecuting—the old China hands, that corps of excellent Foreign Service China experts who consistently warned U.S. policymakers of the likely communist triumph in China. But what is not often noted is that Hurley, by the time he arrived in China as Special Envoy in 1944, had experienced several years of Foreign Service coolness or even hostility. He had undertaken several wartime missions for President Roosevelt and, in particular, after a sojourn in Iran as Roosevelt's Special Envoy, his recommendation for postwar U.S. policy toward that country—of which Roosevelt approved—had been buried by the State Department's hierarchy. To be sure, Hurley was a man of severe limitations, but the persistent hostility of the Foreign Service surely contributed to his inability to draw upon its expertise.[14]

Perhaps no one in recent years has more directly confronted the Foreign Service than Daniel Patrick Moynihan, whose views expressed both in his famous *Commentary* article, "The United States In Opposition" and during his term as Ambassador to the United Nations so fundamentally challenged conventional wisdom as to the appropriate tactics the United States should employ vis-á-vis the Third World (as well as the "socialist" bloc). The implacable hostility he aroused in our own Foreign Service against a "politician" obscured the validity of Moynihan's analysis even for some officers who privately conceded much of his thesis. Andrew Young's more recent performance has generated similar if more muted disdain among the professionals. Moynihan and Young represent virtually philosophic extremes with respect to most foreign policy issues facing the United States; both have been, concerning the appropriate strategy and tactics the United States should employ vis-á-vis dictatorial Marxism, marginally further to their end of the pole than the administrations they have served. But both were appointed Ambassadors to the United Nations because of their views and not despite them, by administrations that wished these articulate men to help fashion the indispensable ideological component to foreign policy. Both, therefore, were entitled to the Foreign Service's full support rather than the back-alley muggings which have characterized their respective tenures.[15]

Ostensibly it is their style to which the Foreign Service has most objected; neither man was sufficiently discreet to satisfy the requirements of career diplomacy (admittedly both made gaffes)—but the truth of the matter is that sharply articulated fundamental policy issues so that the American people could see them. That is terribly threatening to the Foreign Service officer because it allows for political resolution of these issues.

The career Foreign Service officer will, and indeed should, exercise a cautious drag on political swings in foreign policy direction. Any government bureaucracy will do the same, since it has an intellectual and psychological investment in past policy. Particularly is this important in foreign affairs, since other nations, too, have investments in these policies. Capricious turns of the foreign policy wheel will inevitably undermine U.S. credibility. But the Foreign Service's challenge to the legitimacy of senior political appointees in the State Department does not serve a policy interest because it does not actually focus on policy. More, it extends beyond advice regarding fashioning of policy to constitute obstruction of the implementation of policy. And this, in a vicious circle, tends to generate within political authority a disposition to disregard completely whatever the Foreign Service has to contribute.

No one seems to have understood the difficulties in dealing with the Foreign Service better than Henry Kissinger. As National Security Adviser he deftly outmaneuvered the whole State Department including the senior political appointees, and as Secretary of State he exercised astonishingly successful control over most issues of foreign

policy. He did so not by "managing" the State Department; middle- and lower level officials often were blissfully uninformed concerning Kissinger's strategy and tactics even in their areas of substantive responsibility. And when informed or partially informed, they were frequently shockingly open in their opposition, particularly in the early stages of his tenure as Secretary.[16] But Kissinger so centralized decisionmaking and personally so dominated the important cable traffic as to ensure his own direction of key policy movements. Naturally some matters, like the Cyprus crisis of 1974, fell between the cracks, but Kissinger's energy and range were absolutely astonishing. To aid him—for not even Kissinger could do everything alone—he promoted into senior presidential appointments relatively young and capable Foreign Service officers who because of their junior status could be unusually loyal to the Secretary.

Most of these young men, however, had little attachment or loyalty to the Republican Administration or to the President. In fact, the majority were at least nominal Democrats, which of course accentuated their calculated dependence on Kissinger personally. As a result, the foreign policy of the United States appeared—and indeed was—the child of the Secretary of State without structural links to the Administration or the Republican Party. When, as was inevitable, foreign policy came under attack in the presidential campaign of 1976, both Reagan first, and Carter second, effectively denigrated President Ford's leadership by pointing to Henry Kissinger's dominant role. The senior appointees in the State Department were not then conspicuous, even in private, in their defense of the President. They may, as some have noted, have been busy with transition plans, but even if they had been willing to respond vigorously to the political attacks, as careerists they would not have been credible or effective.[17]

So even though Kissinger dominated the State Department's product to a degree not seen before, and probably not to be seen again, his technique did not lead to political—that is to say, presidential—control over foreign policy. Unless a President can command the political loyalty of all of his senior department appointees, political control is impossible.

VI

Three competing interests, then, are involved here. First, democratic control of foreign policy requires political presidential appointments in the State Department just as is the case with all other government departments. Second, the debilitating friction between administrations and the Foreign Service must be reduced. Third, spokesmen for the Foreign Service are right to concern us all with maintaining the morale of the Service. If a career officer cannot look forward to the day he or she is appointed an ambassador, we will not continue to attract top-grade talent into the Foreign Service. That consideration has led Service spokesmen to urge Congress to limit by statute the number or percentage of non-career ambassadorial appointments. The Constitution, in my view, however, will not tolerate such legislative limitations on the presidential appointment power.[18]

These three conflicting policy interests—to encourage political control, to reduce competitive friction and to ensure a fixed percentage of ambassadorships for Foreign Service officers—can be accommodated. I propose a law that would convert all but a set number of ambassadorships, say 15 or 20, into appointments of the Secretary of State.[19] Incumbents would be limited to career officers and would carry their Foreign Service grade (normally at the top or close to it), but not an executive-level rank commensurate with senior presidential appointments. Of course, this would change the ostensible nature of these ambassadorships; they would no longer be seen as policymaking positions. But the truth of the matter is that few ambassadorships today are in practice real policymaking positions. As has been remarked too often, advances in transportation and communications have erased much discretion that ambassadors were once called upon to exercise. For the same reason, it is more a fiction than fact to describe most ambassadors as personal representatives of the President—they usually take directions drafted by an assistant secretary or below. No purpose is served in perpetuating the fiction.

To be sure, some ambassadorships to countries whose relationships with the United States are of overriding importance are of a different order. Usually in those cases, a web of political, cultural, economic and military connections makes appropriate an American envoy who actually is the personal representative of the President rather than merely of the State Department. Fifteen or 20 ambassadorships would, therefore, be reserved for presidential appointments confirmed by the Senate, and could be used by the President as he wishes for those countries he and the Secretary regard as falling within that category. These need not be assigned to the largest nations; one can visualize a particularly sensitive negotiation, like that over the Panama Canal, which could require an ambassador-at-large or an ambassador to a small country drawn from this pool.

Some may contend that those nations to which a political appointment is not sent will object to an implied downgrading of their importance. The United States and all other nations, it will be recalled, were, for similar reasons, driven to convert all legations into embassies (ministers to ambassadors). But my proposal treats all titles the same; it is only grades and political status that vary among embassies. Grades already vary among ambassadors today, depending on the size and importance of embassies, and as to political status, the Foreign Service claims that most nations prefer a career officer (which is not necessarily true) so the issue cannot be argued both ways.

A careful examination of presidential appointments in the Department should also be made with an eye to converting any that should not be regarded as truly policy-level positions into career appointments of the Secretary. The rest, particularly assistant secretaries and above, like the small group of political ambassadors, will be the President's men and women.[20] This doesn't mean that Foreign Service officers would be ineligible for appointment to these positions; that, too, might be an unconstitutional abridgement of the President's appointment power. But—and it is a very big but—the law should require any Foreign Service officer who accepts such an appointment immediately to resign from the Service with no right of return. On those rare occasions in the past when a civil servant accepted a presidential appointment, that has been the practice in other departments[21] and it should be the rule in the State Department. Once having accepted a presidential appointment, a career officer should have committed his or her fortunes and loyalty to that President's administration. If the appointee has the right to return subsequently to the Service, either that commitment and the resulting presidential confidence will be undermined, or else subsequent administrations would be disadvantaged.

Some will certainly argue that it will be too difficult for either party to recruit able non-careerists for all senior posts—particular toward the end of an administration. For that matter it is never easy to attract the very best political appointees into government in any department, but it can be done with sufficient effort. Surely the talent pool of those interested and experienced in foreign affairs throughout the nation is no smaller than that from which presidential appointees are drawn for other departments. It may not always be possible to find appointees with actual diplomatic experience any more than those coming into other departments have experience in the actual tasks performed by those departments. But it is not undesirable, in my view, that some political appointees bring different perspectives formed through varying experiences.

Others will contend that the conditions I would impose on Foreign Service officers who wish to accept a presidential appointment are draconian and will therefore effectively prevent careerists from serving in such positions. Admittedly, I do not mean to make it easy for ex-careerists to dominate policymaking positions; I would rather see the pool of other experienced political appointees in both parties expand. Nonetheless, a careerist who accepts a presidential appointment and is thereby forced to resign from the Foreign Service will hardly be unemployable when the appointing administration leaves office. We are, after all, discussing very senior appointments and the private market for such people is strong and will get even stronger. Moreover, depending on one's age, there is no reason to believe that such a person's diplomatic career would be finished upon the expiration of the appointing administration. Some, like the late David Bruce, might be appointed in successive administrations; others would surely reappear when their party returned to office. In any event, it is probably advisable to consider some modification of the Foreign Service retirement scheme to ensure a greater measure of financial security for persons in this category.

If this proposal were made law, what benefits would flow from its implementation? Foreign policy formulation would thereafter be generally recognized as the responsibility of political authority and, at least conceptually, would be distinguished from foreign policy execution. The latter responsibility, clearly subordinated to the former, would be the task of the careerist. A clear line of demarcation between political appointments and career jobs would, both at home and abroad, substantially lessen that institutional friction between the Foreign Service and the presidency which has negatively affected the conduct of American foreign policy.

The Foreign Service would have gained a great deal, however: a fixed number or percentage of ambassadorships—the vast majority, at that—would be reserved to the careerist. What is crucial here is not so much the particular number, but that there be a fixed number. Certainly as to the number of political appointments would substantially relieve the quite natural career anxieties of Foreign Service officers; future political appointments would not thereafter be seen as the institutional threat they presently con-

stitute. Furthermore, with only a relatively few ambassadorships to appoint—at senior levels—any President would be a good deal less likely to give those appointments to men and women whose primary qualification is financial campaign contributions.

Most important, as Presidents gained greater confidence in their ability to control the Foreign Service, they would have less incentive to circumvent the State Department. The undoubted expertise in that Department, therefore, would be more effectively employed.

FOOTNOTES

[1] James Q. Wilson, *"The Investigators,"* New York: Basic Books, 1978, *passim.*

[2] "Beyond the Water's Edge: Responsible Partisanship in Foreign Policy," *Common Sense,* Summer 1978.

[3] "Foreign Policy and the Professional Diplomat," *Wilson Quarterly,* Winter 1977, pp. 148-57.

[4] Bayless Manning, "Goals, Ideology and Foreign Policy," *Foreign Affairs,* January 1976 pp. 271-284.

[5] Kennan, *op. cit.,* p. 151 (emphasis added). Surely, this unwarranted assumption of the superiority of the Foreign Service over the Civil Service owes much to the "aristocratic" social origins of Foreign Service officers of the 1920s and 1930s (and the pretensions of some others whose backgrounds were more modest). See Martin Weil, *"A Pretty Good Club,"* New York: W. W. Norton, 1978. That is not to say that today's Foreign Service is drawn primarily from the same social circles, but the sense of superiority remains—in search of a justifying rationale.

[6] The last step of an FSO-1's pay schedule is equivalent to a GS-18. There is a handful of career ministers who carry the grade of executive level five; there are also, however, a number of executive level five positions in the domestic departments filled by civil servants.

[7] Ironically, the State Department argues, usually successfully, that military serving in foreign countries should be subordinate to ambassadors, for the latter carry *political* authority as the direct representatives of the President.

[8] See Weil, *op. cit.,* especially pp. 94-102 and 119-28.

[9] See "Clientitis, Corpulence and Cloning at State—The Symptomatology of a Sick Department," John Krizay, *Policy Review,* Spring 1978, pp. 39-55.

[10] Both Dodd and Bowers are discussed in the anecdotal but useful gallery of ambassadorial portraits by E. Wilder Spaulding, *Ambassadors Ordinary and Extraordinary,* Washington, D.C.: Public Affairs Press, 1961, pp. 170-77. For a more considered comparison of Dodd and his successor, Hugh Wilson, see Arnold A. Offner, *American Appeasement,* Cambridge: Harvard University Press, 1969, pp. 206-16. How much of Hitler's well-known view of the weakness of Western democracies arose from his perception of Western professional diplomats?

[11] David Halberstam, "The Best and The Brightest," New York: Random House, 1972, p. 121.

[12] Weil, op. cit., pp. 69-71.

[13] Dulles seems to have largely ignored the great bulk of the Foreign Service during Eisenhower's presidency, without too great a resistance since the Service was still terrorized by its searing experience with McCarthyism. See Townsend Hoopes, "The Devil and John Foster Dulles," Boston and Toronto: Atlantic Little, Brown, 1973, passim. By President Kennedy's time, the Service seems to have regained its urge to resist. See Arthur M. Schlesinger, Jr., "Robert Kennedy and His Times," Boston: Houghton Mifflin, 1978, pp. 451-61.

[14] For a dispassionate view of Hurley's encounters with the Foreign Service concerning Iran and later in China, see Russell D. Buhite, "Patrick J. Hurley and American Foreign Policy", Ithaca: Cornell University Press, 1973, pp. 124-33, and Chapters VI-XI. A sharply critical view of Hurley in China will be found in Theodore H. White, "In Search of History," New York: Harper & Row, 1978, pp. 197-205.

[15] For Moynihan's story see "A Dangerous Place," Boston: Little, Brown, 1978. His "Commentary" article appeared in March 1975, pp. 31-44.

[16] Foreign Service morale at any point seems always to be worse than it was in the past but, as is true of any department, a strong Secretary with a coherent strategic view improves career morale in due course even when there is widespread disagreement with that Secretary's views. This appears to have been true in Mr. Kissinger's case.

[17] The tradition precluding State, Defense and Justice appointees from political campaigning does not and should not prevent their response to political criticism directed at policies or activities of their departments.

[18] Congress has, over the years, sought to fashion legislative limits on the President's appointive discretion by specifying characteristics of those to be apointed to particular posts. When applied to executive branch appointments, this practice is constitutionally dubious; the more discretion is restricted, the more dubious the practice. Cf. Meyers v. U.S., 272 US 52: "We see no conflict between [congressional power to prescribe qualifications for office] and [presidental power] of appointment and removal provided, of course, that the qualifications do not so limit selection and so trench upon executive choice as to be in effect legislative designation." The Senate could, as has been suggested, resolve or otherwise declare that it would not confirm more than a fixed number of percentage of political ambassadors. That approach strikes me as an unseemly circumvention of the Constitution.

[19] Under the Foreign Service Act of 1946, all Foreign Service officers like military officers are presidentially appointed with the advice and consent of the Senate—to a class or grade, rather than to a specific post (22 USC 906). The Constitution, Article II, Section 2, Clause 2 specifies that "ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States" shall be appointed by the President with the advice and consent of the Senate. It also provides, however, that "Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments." "Inferior officers," as used here, is not a pejorative, but simply means officers who can be appointed by constitutionally recognized officers. Although the issue has never been squarely decided, and occasionally courts have referred to inferior officers as those not specifically mentioned in that clause (see U.S. v. Germaine, 99 US 508, 510) it seems more likely that ambassadors, public ministers and consuls would be regarded as inferior to the Secretary of State if appointed by the Secretary. Attorney General Cushing implied just that in an opinion (7 OP AG 186, at p. 217). He pointed out that "the term ambassadors and other public ministers comprehends all officers having diplomatic, functions whatever their title or designation" (page 211). It is therefore quite unlikely that the Constitution intended that no diplomatic officer could be considered an "inferior officer." In any event, because Foreign Service officers are presidentially appointed and confirmed for all promotions, it is clearly not constitutionally required that they be nominated and confirmed to each ambassadorial job assignment, as is statutorily required today (22 USC 901).

[20] A limited number of political appointments below the rank of presidential appointment would be necessary as immediate staff to presidential appointees, corresponding to the "Schedule C" or NEA appointments in other departments. These are now generally treated as Foreign Service Reserve appointments, but I would suggest a separate category to avoid needless friction. Perhaps one top administrative post could be reserved for a careerist who would then be recognized as the senior serving Foreign Service officer, but I do not see this post as carrying a line policy role like the Under Secretary for Political Affairs.

[21] Unfortunately, the Civil Service Reform Act of 1978, effective this July, provides otherwise. Mr. Campbell of the Civil Service Commission believes, contrary to the thrust of this article, that civil servants should have the opportunity to serve in political appointments and still maintain Civil Service reemployment rights. I strongly doubt, however, given the tradition in the domestic departments, that many civil servants will be offered presidential appointments (other than such posts as Assistant Secretary for Administration), or that after receiving them, they would invoke the new right to return to Civil Service status. If they do, succeeding administrations would surely bury them.●

SUPPORTING THE INTERNATIONAL RED CROSS ON PROTECTION OF PRISONERS OF WAR

Mr. KENNEDY. Mr. President, I had intended to offer an amendment to add a small amount to the Department of State's "Migration and Refugee Assistance" account to give the Department some greater flexibility in responding to the growing number of appeals of the International Committee of the Red Cross [ICRC] for their work in behalf of prisoners of war and political prisoners around the world.

However, I understand that it may not be necessary to add new funding to achieve our objective. But I did want to take this opportunity to express my concerns to the distinguished managers of the bill and to review for the record some issues I believe we must address if we are to fully support the work of the International Red Cross.

First, I want to commend the distinguished chairman of the Foreign Relations Committee [Mr. LUGAR], and the ranking minority member [Mr. PELL], for the outstanding support they have already given to the work of the ICRC in the pending bill. As reported from the Foreign Relations Committee, this bill substantially strengthens our Nation's commitment to the International Red Cross and its important humanitarian work.

I commend them for clearly stating in the bill that it is "the policy of the United States to contribute to the International Red Cross . . . not less than 20 percent of the regular budget" and "to support generously the special appeals made by the International Committee of the Red Cross."

Mr. President, this is an enormously important initiative and I commend my colleagues for taking it. The United States has always been a strong supporter of the ICRC, but now that support is clearly stated for the record and firmly written in the statute.

However, I believe it is also important that we use available funds to support the special appeal issued by the ICRC for their work with prisoners of war—particularly in the tragic Iraqi-Iranian War—to which the United States has not yet responded, although the appeal has been outstanding for well over a year.

Mr. President, I think it is important that we respond, and that we offer some tangible support for ICRC's work with Iraqi and Iranian prisoners of war—both as a matter of principle, and as an issue of genuine humanitarian concern.

The principle is certainly critical, Mr. President, for what is at stake is nothing less than the international community's commitment to the Geneva conventions on the protection of prisoners of war. If we fail to express our alarm over their breach in one instance—if we fail to respond to appeals to support their implementation in one conflict and not another—we will only weaken their force in all conflicts, including those in which our citizens are involved.

It was not too many years ago that we appealed to the ICRC to intervene in behalf of American prisoners of war held in North Vietnam. The International Red Cross immediately responded, as is their mandate under the Geneva conventions, and launched a decade-long effort to gain international support for the application of the conventions in North Vietnam.

Although their diplomatic initiatives and appeals were rejected by the North Vietnamese, the ICRC went the extra mile in behalf of American prisoners of war, and spent enormous energy around the world in focusing international attention on their plight.

Today they are attempting to do the same in another war in another part of the world and in a war that is as unpopular in many quarters of the international community as the Vietnam war was. And they are finding once again that many governments would just as soon look the other way—of saying a "pox" on both houses of Iraq and Iran.

But I don't believe, Mr. President, that America can look the other way. No matter how critical we may be of the combatants, or how distasteful we view this bloody conflict, or how ruptured our relations are with Iran—we cannot fail to support the application of the Geneva conventions to the Iraqi-Iranian conflict. And we should not fail to offer our support to the tireless work of the Red Cross delegates in protecting all prisoners of war—including those from Iraq and Iran.

Mr. President, I know there has been some hesitancy in some quarters of Congress and the administration to take a public stand on this issue—but I believe it is a matter of principle that we cannot, and must not, be silent on.

Mr. President, at this point in the record I ask unanimous consent that the text of the International Committee of the Red Cross appeal be printed, along with a statement by the ICRC President, Mr. Alexandre Hay.

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

[Comité International De La Croix-Rouge]

PRESIDENT HAY'S ALLOCUTION ON 23 NOVEMBER 1984 TO ALL PERMANENT REPRESENTATIVES IN GENEVA

LADIES AND GENTLEMEN: Once again, I must approach you and your governments on the question of the respect of the Geneva Conventions in the conflict between Iraq and Iran.

As you all know, following the serious incidents which took place in the prisoner-of-war camp in Gorgan, the Islamic Republic of Iran made numerous statements on the subject of these incidents and on ICRC's humanitarian activities in Iran and in Gorgan: the highest officials of the Iranian government, their diplomatic representatives abroad, the press, television and radio in Iran have accused the ICRC of spying for Iraq, of provoking violence in the prisoner-of-war camps, of raising obstacles to the return to their families of seriously wounded Iraqis, of carrying out a propaganda campaign hostile to Iran, of refusing to make a serious effort to search for the numerous people who have disappeared in the war.

If I have asked to speak to you today, it is not only because the ICRC, which has been direct witness to Iran's inadmissible treatment of Iraqi prisoners of war, can today no longer stay silent in the face of such attempts to mislead public opinion; it is much more because some 50,000 Iraqi prisoners of war being held in the Islamic Republic of Iran and the ICRC once again urgently need your Governments' help.

I am convinced that their help will be forthcoming. We must all hope that it will have a positive effect.

In three years, the ICRC, by itself, has not been able to obtain respect of humanitarian law in the conflict between Iraq and Iran and especially to bring Iran to respect the third Geneva Convention relative to the treatment of prisoners of war. It was obliged to send two memoranda on 7 May 1983 and on 10 February 1984, to your Governments, explaining the difficulties it had encountered in discharging its humanitarian mandate in that conflict. The ICRC received valuable help from many governments which were determined to see the international humanitarian law to prevail and which wanted to guarantee the survival of the victims whom that law should protect.

In the spring of 1984, your Governments' response and the ICRC's exceptional patience seemed to have borne fruit in Iran.

At that time, the ICRC received renewed oral and written guarantees from the Iranian authorities that they wished to apply the Third Convention and so resumed its visits to the Iraqi prisoners, starting on 19 May 1984. For the third time, after the interruptions of 1982 and 1983, the ICRC hoped that it would finally be able to work in Iran under normal conditions.

From May to October 1984, ICRC delegates were able to visit nine camps and see some 29,000 Iraqi prisoners of war, or about half the total number of prisoners of war being held in Iran.

These visits did not go as smoothly as had been expected. Some prisoners were removed from the camps before the delegates arrived; others were prevented from seeing the delegates during the visits. These visits, although incomplete, enabled the ICRC to get a clear picture of the conditions of captivity of the Iraqi prisoners of war and to bring to the attention of the Iranian authorities, in numerous confidential representations, the points causing it concern.

On 10 October 1984, in the camp at Gorgan, the ICRC delegates were witness to an incident which resulted in the death of prisoners of war. As it is customary, the ICRC submitted a report on the incident to the authorities of Iraq and of the Islamic Republic of Iran, in which it reminded the Islamic Republic of Iran of its obligation under the Convention to conduct an inquiry into the events. From that day, Iran suspended all ICRC activities on its territory and undertook a campaign of slander against the ICRC of unprecedented virulence in the 120-year history of the ICRC and of the Red Cross and Red Crescent movement.

Unfortunately, what happened in Gorgan is not an isolated incident—that, ICRC has ascertained in a manner leaving no room for doubt. Other violent confrontations have taken place in other camps, causing numerous deaths and injuries. Such violence—as we have repeatedly told the Iranian authorities—is the inevitable result of Iran's policy throughout the past three years, a policy the ICRC has already described and denounced in its memorandum of 10 February 1984, I quote: "Ideological and political pressure, intimidation, systematic 're-education' and attacks on the honour and dignity of the prisoners have remained a constant feature of life in the camps, and even seem to increase as a result of the activities of certain persons having no connection with the normal running of the camps. Representatives of a "department of political and ideological education", members of Iraqi opposition groups who have fled to the Islamic Republic of Iran, and the official press all attempts to incite the prisoners against their government".

The Gorgan tragedy is but one more proof of the fact that these deliberate violations of the Third Convention continue in spite of the appeals of the ICRC and the States parties to the Conventions.

Today, and for the third time in three years, Iran has, with no valid justification whatsoever, denied the ICRC its right to have access to the Iraqi prisoners.

At stake is the physical and moral survival of thousands of men and future respect for the Geneva Conventions: such a policy forces in fact prisoners of war to choose between treason or death. This policy must cease, but we fear that the Islamic Republic of Iran will not consent to stopping it unless it is convinced that the international community demands this of it as it would of any State signatory to the Conventions.

In making this appeal, the ICRC is well aware that in other serious situations in the past it has not had recourse to such an exceptional measure. It is also aware that the situation of captivity of prisoners of war in Iraq is not satisfactory and wishes to emphasize that it is taking on their behalf all the measures which circumstances dictate.

But the repeated and systematic nature of the Iranian violations of the Third Geneva Convention is so serious that the ICRC feels that if it did not have recourse to this exceptional measure, it would jeopardize by its silence not only the lives of tens of thousands of men, but also the very future of humanitarian law. It places the fate of these men and the future of humanitarian law in your hands and those of your governments. Under article 1 of the Geneva Conventions, it is the legal duty of States Parties to ensure that governments engaged in an armed conflict respect these Conventions: the efforts of the ICRC to ensure protection of prisoners of war in Iran will fail unless the Iranian authorities are brought to realize that it is the political will of the Community of States to see humanitarian law observed.

Ladies and Gentlemen, I thank you for your attention and your help.

[Comité International De La Croix-Rouge]

[Original: French]

SECOND MEMORANDUM FROM THE INTERNATIONAL COMMITTEE OF THE RED CROSS TO THE STATES PARTIES TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949 CONCERNING THE CONFLICT BETWEEN ISLAMIC REPUBLIC OF IRAN AND REPUBLIC OF IRAQ

Geneva, 10 February 1984

On 7 May 1983, the International Committee of the Red Cross was compelled to address an appeal to all the State Parties to the Geneva Conventions. With reference to the solemn undertaking of these States to

respect and ensure respect for the Conventions at all times, the ICRC asked them to make every effort to ensure the rigorous application of International Humanitarian Law by the two belligerent states i.e. the Islamic Republic of Iran on the one hand and the Republic of Iraq on the other, and to enable the ICRC to effectively perform its humanitarian task of helping the great number of civilian and military victims of this conflict.

Nine months after making its first Appeal, the ICRC notes that the results hoped for have been achieved only to a very limited degree, and it feels that the States Parties to the Conventions should be informed of the lack of respect for the principles of Humanitarian Law in the Islamic Republic of Iran and the Republic of Iraq.

The ICRC wishes to stress that its two memoranda concern serious infringements of International Humanitarian Law which are known to have occurred and which endanger the lives and liberty of the tens of thousands of people caught up in this conflict, and which flout the very spirit and principles of that law. These infringements, if unchecked, may, in time, bring into discredit those rules of law and universal principles which the States Parties to the Conventions laid down to provide human beings with a better defence against the evils of war.

From its experience the ICRC is conscious that increasingly numerous violations of International Humanitarian Law have invariably placed insurmountable obstacles in the way of peace negotiations, even when all belligerents wished to end the conflict. For example, recent conflicts have been needlessly prolonged because no agreement was reached on arrangements concerning prisoners of war. The ICRC thus calls upon States working towards the restoration of peace in the region to consider most carefully the problems which will inevitably arise because of the infringements of the Geneva Conventions by the belligerents.

In particular, the ICRC would ask States, in the course of their dealings with each of the two parties to the conflict, to broach the humanitarian questions which are hereby submitted to them. The States are also urged to lend their active support to the ICRC's efforts to help the victims of the conflict which is strictly within the terms of the humanitarian mandate assigned to the ICRC through the Geneva Conventions. Finally, the ICRC hopes that discussions will be held to designate Protecting Powers willing to undertake the tasks encumbent on such states by the Geneva Conventions. Naturally, the ICRC would wish to work closely with the Protecting Powers.

The ICRC is convinced that the States Parties to the Conventions are aware of what is truly at stake in the steps proposed, and that it will be their desire and intention to translate into action the commitment which they undertook in adopting Article 1 common to the Four Geneva Conventions of 12 August 1949.

ISLAMIC REPUBLIC OF IRAN

A. Iraqi Prisoners of War Interned in the Islamic Republic of Iran

1. The activities of the International Committee of the Red Cross in favour of the Iraqi prisoners were again suspended on 27 July 1983. The ICRC considers that, in general terms, it has not been able to discharge its mandate as prescribed by the Third Geneva Convention relative to the treatment of prisoners of war for almost two years.

At present, some 50,000 prisoners are without the international protection to which they are entitled by virtue of their status.

In this connection, the ICRC is no longer able to perfom the following tasks:

To ascertain the precise number of prisoners of war and to ascertain how they are distributed among various places of interment.

To obtain information on the identity and state of health of each prisoner of war in order to notify this family and the Iraqi Government.

To monitor the material, psychological and disciplinary conditions of internment by means of regular visits to the camps and interviews without witness with the prisoners.

To draw up lists of prisoners of war who should quickly be repatriated because of severe wounds or illness.

To maintain effective surveillance of the flow of Red Cross messages between the prisoners and their families.

These tasks of surveillance are all categorically stipulated in the Convention and constitute indispensable requirements for the effective protection of prisoners by ICRC delegates.

2. Numerous facts and indications, when considered together, arouse great concern on the part of the ICRC with regard to the fate of the prisoners and the authorities' real reasons for preventing the ICRC from carrying out its activities. The ICRC has noted the following specific points:

The ICRC has constantly been denied access to certain categories of prisoners such as high-ranking officers.

Severe sentences have been passed on a number of prisoners. Despite repeated demands, the ICRC has received neither notifications nor explanations which should, by law, have been submitted to it.

Serious incidents have occurred in certain camps. Further-more, among the death certificates issued by the Iranian authorities for members of the enemy armed forces "killed in action", the ICRC has received a number which were despatched very tardily and without any comment in relations to persons who were known to have been interned in the Islamic Republic of Iran for many years, since they had been registered and visited on several occasions by ICRC delegates.

Ideological and political pressure, intimidation, systematic "re-education" and attacks on the honour and dignity of the prisoners have remained a constant feature of life in the camps, and even seem to increase as a result of the activities of certain persons having no connection with the normal running of the camps. Representatives of a "department of political and ideological education", members of Iraqi opposition groups who have fled to the Islamic Republic of Iran, and the official press all attempt to incite the prisoners against their government. On many occasions, the ICRC has submitted to the highest authorities of the Islamic Republic of Iran detailed and clearly reasoned requests that a stop should be put to these practices which States, in drawing up the Third Geneva Convention, agreed to ban. The ICRC has made the abolition of these practices a condition for the resumption of its activities, since the discharge of its mandate is incompatible and irreconcilable with attempts at political and ideological conditioning of prisoners. To date, the ICRC has received no satisfactory reply to the written and oral representations which it has made on the subject to the Government of the Islamic Republic of Iran.

B. Iraqi Civilians Refugees in the Islamic Republic of Iran

The ICRC has failed in its attempts to bring aid to these groups, consisting mainly of Iraqi Kurds who have fled from their home territory and are now living in camps in the Islamic Republic of Iran. The ICRC knows that these groups are in great need of food and medicine. By virtue of their status as refugees from an enemy power, these people come under the aegis of the Fourth Geneva Convention relative to the protection of civilians in time of war. They should therefore be allowed to receive the aid which an organization such as the ICRC could provide.

REPUBLIC OF IRAQ

A. Iranian Prisoners of War Held in the Republic of Iraq

1. Every month without fail since October 1980, ICRC delegates have visited Iranian prisoners of war, who currently number 7,300 and are held in six internment camps. The visits take place in accordance with the conditions laid down in Article 126 of the Third Geneva Convention, a main stipulation of which is that the delegates should be able to talk freely and without witnesses with prisoners of their choice.

As a rule, prisoners of war are registered by the ICRC within a reasonably short time of being captured.

On the whole, the exchange of Red Cross messages between the prisoners and their families works well, though delays which may sometimes be quite long are still caused by the Iraqi censorship procedure.

2. In the camps themselves, the ICRC has observed a number of significant improvements in the material conditions of interment. Moreover, the authorities have taken steps to put an end to the random acts of brutality to which the ICRC drew their attention on many previous occasions. Furthermore, an improvement in disciplinary measures has been apparent since autumn 1983.

3. On 29 January 1984, 190 Iranian prisoners, 87 of whom were severely wounded or sick, were handed over by the Iraqi authorities to the ICRC in Ankara for repatriation.

4. The ICRC is concerned by the fact that a large number of members of the enemy armed forces, both officers and other ranks, some of whom were taken prisoner by the Iraqi armed forces at the beginning of the conflict, are still being held in detention centers to which the ICRC is denied access. The ICRC has regularly submitted to the government and military authorities of Iraq lists of names showing that several hundred such prisoners of war exist. The ICRC mentions with satisfaction that at the end of 1983 it was allowed to register several dozens of these prisoners, who had been captured at the start of the conflict and have now been placed in camps visited by the ICRC.

The ICRC has good grounds to be concerned about the prisoners held in places to which it does not have access. These prisoners are deprived of their most basic rights and, according to many mutually corroborating sources of information, are held in conditions which do not meet the requirements of humanitarian law.

B. Iranian Civilians Who Have Been Deported To Or Taken Refuge in the Republic of Iraq

1. During the conflict, several tens of thousands of Iranian civilians have been displaced from their homes in the frontier areas of Khuzestan and Kurdistan to Iraqi territory.

The Iraqi authorities have accepted that in principle the ICRC should be present from now on among these civilians, and considerable efforts have recently been made to improve the living conditions of these civilians when it was necessary.

2. Since the start of the conflict, the ICRC has registered more than a thousand civilians in the prisoner-of-war camps, including women and elderly men arrested in the territories occupied by the Iraqi armed forces. Although it has been possible to repatriate several hundred of these people, an overall solution to the problem still has to be found.

C. Bombing of civilian areas by the Iraqi armed forces

The Iraqi air force has continued to carry out regular indiscriminate bombing of Iranian built-up areas, sometimes more than 200 km from the front. The result has been loss of life, sometimes on a large scale, and considerable destruction of purely civilian property. These deliberate attacks on civilians and civilian property are sometimes designated as reprisals; they contravene the laws and customs of war, in particular with regard to the basic principle that a distinction must be made between military objectives and civilian persons and property.

[Original: French]

APPEAL

Since the outbreak of the conflict between the Islamic Republic of Iran and the Republic of Iraq, the highest authorities of both these States parties to the Geneva Conventions have several times confirmed their intention to honour their international obligations deriving from those treaties.

Despite these assurances, the International Committee of the Red Cross, which has had a delegation in the Islamic Republic of Iran and in the Republic of Iraq from the very start of the hostilities in 1980, has encountered all kinds of obstacles in the exercise of the mandate devolving on it under the Geneva Conventions, despite its repeated representations and the considerable resources which it has deployed in the field.

Faced with grave and repeated breaches of international humanitarian law which it has itself witnessed or of which it has established the existence through reliable and verifiable sources, and having found it impossible to induce the parties to put a stop to such violations, the ICRC feels in duty bound to make these violations public in this present Appeal to States and its attached memorandum.

The ICRC wishes to stress that, pursuant to its invariable and published policy, it undertakes such overt steps only in very exceptional circumstances, when the breaches involved are major and repeated, when confidential representations have not succeeded in putting an end to such violations, when its delegates have witnessed the violations with their own eyes (or when the existence and the extent of those breaches have been established by reliable and verifiable sources) and, finally, when such a step is in the interest of the victims who must as a matter of urgency be protected by the Conventions.

The ICRC makes this solemn Appeal to all States parties to the Geneva Conventions to ask them—pursuant to the commitment they have undertaken according to Article 1 of the Conventions to ensure respect of the Conventions—to make every effort so that:

International humanitarian law is respected, with the cessation of these violations which affect the lives, the physical and mental well-being and the treatment of tens of thousands of prisoners of war and civilian victims of the conflict; the ICRC may fully discharge the humanitarian task of providing protection and assistance which has been entrusted to it by the States; all the means provided for in the Conventions to ensure their respect are used to effect, especially the designation of Protecting Powers to represent the belligerents' interests in their enemy's territory.

The ICRC fervently hopes that its voice will be heeded and that the vital importance of its mission and of the rule of international humanitarian law will be apparent to all and fully recognized, in the transcending interest of humanity and as a first step towards the restoration of peace.

MEMORANDUM

SITUATION OF PRISONERS OF WAR HELD IN THE ISLAMIC REPUBLIC OF IRAN

According to the Iranian authorities they today hold 45,000 to 50,000 prisoners of war. The Third Geneva Convention confers on those prisoners a legal status entitling them to specific rights and guarantees.

Registration and capture cards

One of the essential provisions of the Conventions demands that each prisoner of war be enabled, immediately upon his capture or at the latest one week after his arrival in a camp, to send his family and the Central Prisoners-of-War Agency a card informing them of his captivity and his state of health.

This operation proceeded normally at the beginning. However, the obstacles which the Iranian authorities constantly put in the way of the ICRC delegates' work led to a progressive decline in that activity from May 1982 onwards.

At present the ICRC has registered only 30,000 prisoners of war, leaving 15,000 to 20,000 families in the agony of uncertainty, which is precisely what the imperative provisions of the Conventions are designed to avoid.

Correspondence between prisoners of war and their families

The considerable delay and the holding up of mail, every aspect of which is regulated by the Convention, aggravate the families' worries and the prisoners' distress.

Although thousands of messages are sent each month by Iraqi families through the ICRC and thence to the Iranian military authorities for censorship and distribution, a great many prisoners of war complain they have received no mail for many months. The ICRC is no longer able to exercise any supervision of the distribution and collection of family messages.

ICRC visits to prisoner-of-war camps

The Third Geneva Convention stipulates that ICRC delegates shall be allowed, with no limitation of time or frequency, to visit all places where prisoners of war are held and to interview the prisoners without witnesses. In the Islamic Republic of Iran this essential provision is being violated.

The ICRC has lost track of the interned population since May 1982: only 7,000 prisoners of war have benefited from regular visits by the ICRC.

Many places of internment have been opened since then but the ICRC has never had access to them and has not even been notified of their existence.

Consequently the ICRC can no longer monitor the material living conditions and treatment of the Iraqi prisoners of war interned in Iran.

Although there did occur at the end of 1982 one truncated visit during which the delegates were not permitted to interview prisoners without witnesses, and two spot visits in March 1983, the latest complete visit to a prisoner-of-war camp consistent with treaty rules dates back to May 1982.

The fact that it has not had access to the great majority of prisoners of war for more than a year, and the systematic concealment of some categories of prisoners of war—high ranking officers, foreigners enlisted in the Iraqi army—gives the ICRC cause to be profoundly concerned about the plight of those prisoners.

Treatment of prisoners of war

In a general way, the Iraqi prisoners of war, right from the time of their capture, are subjected to various forms of ideological political pressure—intimidation, outrages against their honour, forced participation in mass demonstrations decrying the Iraqi Government and authorities—which constitute a serious attack on their moral integrity and dignity. Such treatment, which runs counter to the spirit and the letter of the Convention, has gone from bad to worse since September 1981.

Last but not least, concordant information from various sources and witnesses confirm the ICRC's certainty that some camps have been the scene of tragic events leading to the death or injury of prisoners of war.

Severely wounded and sick prisoners of war

The Third Geneva Convention states that "parties to the conflict are bound to send back to their own country, regardless of numbers or rank, seriously wounded and seriously sick prisoners of war, after having cared for them until they are fit to travel . . .". Although there have been three repatriation operations—on 16 June, 25 August 1981 and 30 April 1983—and despite the constitution of a mixed medical commission, most of the severely wounded and sick prisoners of war have not been repatriated, as required by the Convention.

SITUATION OF IRANIAN PRISONERS OF WAR AND IRANIAN CIVILIANS IN THE POWER OF THE REPUBLIC OF IRAQ

1. Prisoners of war: So far the ICRC has registered and visited at regular intervals some 6,800 prisoners.

Registration and capture cards

In general, these prisoners of war are registered by the ICRC within the time limit specified by the Convention.

Correspondence between prisoners of war and their families

After some initial difficulties, the exchange of messages between prisoners and their families has been satisfactory for the last several months.

ICRC visits to prisoner-of-war camps

Every single month since October 1980, ICRC delegates have visited prisoners of war in a manner consistent with Article 126 of the Third Geneva Convention, which specifies inter alia that the delegates shall be enabled freely to interview prisoners of their choice without witnesses.

However, in the course of its activities in the Republic of Iraq, the ICRC realized that the Iraqi authorities have never fully respected the Third Geneva Convention.

The ICRC has established with certainty that many Iranian prisoners of war have been concealed from it since the beginning of the conflict. The ICRC has drawn up lists containing several hundred names of Iranian prisoners of war incarcerated in places of detention to which the ICRC has never had access. Although several dozen such prisoners have been returned to the camps and registered by the ICRC no acceptable answer has been found to the problem of concealed prisoners.

Treatment of prisoners of war

In the prisoner-of-war camps the ICRC has noted some appreciable improvement in material conditions. On the other hand, ill-treatment has frequently been observed and on at least three occasions disorders have been brutally quelled, causing the death of two prisoners of war and injury to many others.

Severely injured and sick prisoners of war

The Third Geneva Convention states that "parties to the conflict are bound to send back to their own country, regardless of numbers or rank, seriously wounded and seriously sick prisoners of war, after having cared for them until they are fit to travel . . .". Although there have been four repatriation operations—on 16 June, 25 August and 15 December 1981 and on 1 May 1983—and despite the constitution of a mixed medical commission, most of the severely wounded and sick prisoners of war have not been repatriated, as required by the Convention.

2. Iranian civilians: Tens of thousands of Iranian civilians from the Khuzistan and the Kurdistan border regions, residing in areas under Iraqi army control, have been deported to the Republic of Iraq, in grave breach of the Fourth Geneva Convention.

The ICRC delegates have had only restricted access to a few of these people.

In the prisoner-of-war camps the ICRC has registered more than a thousand civilians, including women and old men arrested in the occupied territories by the Iraqi army, deported into the Republic of Iraq and unjustifiably deprived of their freedom since the beginning of the conflict.

GRAVES BREACHES COMMITTED BY BOTH PARTIES TO THE CONFLICT

Both in Iran and Iraq captured soldiers have been summarily executed. These executions were sometimes the act of individuals involving a few soldiers fallen into enemy hands; they have sometimes been systematic action against entire enemy units, on orders to give no quarter.

Wounded enemies have been slain or simply abandoned on the field of battle. In this respect the ICRC must point out that the number of enemy wounded to which it has had access and whom it has registered in hospitals in the territory of both belligerents is disproportionate to the number of registered able-bodied prisoners in the camps or to even the most conservative estimates of the extent of the losses suffered by both parties.

The Iraqi forces have indiscriminately and systematically bombarded towns and villages, causing casualties among the civilian inhabitants and considerable destruction of civilian property. Such acts are inadmissible, the more so that some were declared to be reprisals before being perpetrated.

Iraqi towns also have been the targets of indiscriminate shelling by Iranian armed forces.

Such acts are in total disregard of the very essence of international humanitarian law applicable in armed conflicts, which is founded on the distinction between civilians and military forces.

Mr. KENNEDY. Mr. President, I would like to ask the distinguished managers of the bill whether they believe there are available funds for the United States to respond to the ICRC appeals in support of their work in Iraq and Iran?

I do, as I say, believe it is worthy of our support, simply as a matter of principle.

If it is a question of fully appropriating funds to the Department of State account, I am prepared to offer amendments during the forthcoming supplemental appropriations bill or the regular appropriations bill.

Mr. PELL. Mr. President, as the Senator from Massachusetts knows, I fully share his high regard for the important humanitarian work of the International Committee of the Red Cross—particularly their work in behalf of prisoners of war and political prisoners.

And I share his concern that if we do not respond to the problems the ICRC encounters in implementing the Geneva Conventions in one part of the globe, we will only see greater difficulties in other parts later on. It is critically important—as well as in our own national interest—to support the ICRC in its efforts to protect prisoners of war and secure adherence to the Geneva Conventions.

So I share the Senator's concern and join him in urging the Department to use available funds to respond to the ICRC appeal in behalf of their program in Iraq and Iran.

Mr. LUGAR. Mr. President, I ask unanimous consent that a letter dealing with $14 million of aid to the Contras in Nicaragua be printed in the RECORD (to appear before the vote on passage).

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

THE WHITE HOUSE,
Washington, June 11, 1985.

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

DEAR SENATOR DOLE: In response to your query, I want to address the rationale for supporting a $14M level of aid to the Nicaraguan democratic resistance during FY-85 even though the fiscal year is more than half over.

The President's initial request for $14M was a bare bones funding level based upon a resistance force of between 9,000-10,000. Although a substantial portion of the fiscal year has passed, the infrastructure necessary for the resistance force has deteriorated significantly since the original request. Because the need remains unmet and because the size of the resistance has nearly doubled and continues to grow at a rapid rate, these funds are needed now.

Even for a period of four months the figure of $14M is not an unreasonable level of support especially when compared to the Nicaraguan announcement that Mr. Ortega's recent trip to the Soviet Union and the eastern bloc countries has yielded more than $200M in new support for the Sandinista government.

Sincerely,

BUD MCFARLANE.

Mr. KENNEDY. Mr. President, I will vote against final passage of the Department of State Authorization Act for fiscal year 1986 for two reasons. This legislation will take the United States closer to war in Nicaragua, and it will seriously hamper the efforts to achieve peace and freedom for Namibia in southern Africa.

My reasons for opposing further assistance to the Contra forces fighting to overthrow the Government of Nicaragua are well known. This legislation authorizes the expenditure of an additional $38 million for assistance to those forces. I believe that this policy has failed in the past and has no hope of success in the future. It can only lead to wider war inside Nicaragua and expanding war throughout the region.

I have also stated my reasons for opposing the repeal of the Clark amendment. This legislation, as amended by the full Senate on the floor, contains such a repeal. In my view, this aligns the United States with the Government of South Africa and prevents our Government from playing an effective role as an honest broker in the effort to achieve independence for Namibia.

If the bill had come to the vote for final passage as it was reported out of the Foreign Relations Committee, I would have supported it. But it has been changed radically by amendments added during the course of this debate. And in this new form, I cannot support it.

Mr. LUGAR. I know of no other amendments to come before the Senate.

Mr. President, I believe we are prepared to proceed to third reading of the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

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

Mr. LUGAR. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2068, Calendar Order No. 124.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2068) to authorize appropriations for fiscal years 1986 and 1987 for the

Department of State, the United States Information Agency and the Board of International Broadcasting, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Indiana?

There being no objection, the Senate proceeded to consider the bill.

Mr. LUGAR. Mr. President, I move to strike out all after the enacting clause of the House bill and insert the language of S. 1003, as amended, therefore.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

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

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Hawaii [Mr. INOUYE] are necessarily absent.

I further announce that the Senator from Georgia [Mr. NUNN] is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 80, nays 17, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—80

Abdnor	Ford	Moynihan
Andrews	Glenn	Murkowski
Armstrong	Goldwater	Nickles
Baucus	Gore	Packwood
Bentsen	Gorton	Pressler
Biden	Gramm	Pryor
Bingaman	Grassley	Quayle
Boren	Hatch	Riegle
Boschwitz	Hawkins	Rockefeller
Bradley	Hecht	Roth
Bumpers	Heinz	Rudman
Byrd	Helms	Sarbanes
Chafee	Hollings	Sasser
Chiles	Humphrey	Simon
Cochran	Johnston	Simpson
Cohen	Kassebaum	Specter
D'Amato	Kasten	Stafford
Danforth	Lautenberg	Stennis
DeConcini	Laxalt	Stevens
Denton	Leahy	Symms
Dixon	Long	Thurmond
Dole	Lugar	Trible
Domenici	Mathias	Wallop
Durenberger	Mattingly	Warner
Eagleton	McConnell	Weicker
East	Metzenbaum	Wilson
Evans	Mitchell	

NAYS—17

Burdick	Hatfield	McClure
Cranston	Heflin	Melcher
Dodd	Kennedy	Pell
Exon	Kerry	Proxmire
Garn	Levin	Zorinsky
Hart	Matsunaga	

NOT VOTING—3

Harkin	Inouye	Nunn

So the bill (H.R. 2068), as amended was passed.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. EVANS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments.

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

Mr. LUGAR. Mr. President, I move that the Senate insist on its amendments to H.R. 2068, that it request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Chair appointed Mr. LUGAR, Mr. HELMS, Mr. MATHIAS, Mr. PELL, Mr. BIDEN, and, for that portion of the conference dealing with Iran claims legislation, Mr. EVANS, conferees on the part of the Senate.

Mr. President, I move to indefinitely postpone consideration of S. 1003.

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

Mr. LUGAR. Mr. President, I take this opportunity to thank the distinguished ranking member [Mr. PELL] and all members of the committee and of the Senate who participated in a vigorous debate on this legislation. I am especially appreciative of the majority leader [Mr. DOLE] and the minority leader [Mr. BYRD] for their great assistance in getting Members to the floor and expediting the completion of our work.

I am appreciative of the majority and minority staff, who helped us in refining the job we have done.

Mr. PELL. Mr. President, I join the Senator in his encomiums to the leadership and to the Senate as a whole on this legislation.

I strongly supported this bill when it was presented to the Foreign Relations Committee and I strongly congratulate Senator LUGAR for his leadership in this regard. I would have continued to support this bill if it were basically the same one we had reported, but it is a sad fact that it is not. We have adopted a provision providing for a continuation of a war in Nicaragua that violates our commitment under the charter of the Organization of American States. Whether we call it humanitarian aid or military aid, the bottom line is that we have voted to sustain the Contras, whose military command structure is dominated by former Somoza people. The Contras are a terrorist force, and we should not dignify them by calling them freedom fighters or the democratic resistance.

I am also deeply troubled by the provision, added not in the committee, but on the floor that would repeal the Clark amendment relating to Angola. One Nicaragua is enough, and I don't believe that we advance our country's interests by generating a perception that we are about to intervene once again in Angola—a perception that, in my judgment, will jeopardize our effort to secure the removal of Cuban forces from Angola.

There is an old saying that goes: "If it isn't broken, don't fix it." Angola has not been causing trouble in the region, it has been moving toward the West, and its cooperation is vital if U.S. efforts to achieve a negotiated settlement in Namibia are to succeed. Why do something that could drive Angola away from the path of peace in southern Africa?

For these reasons, I reluctantly must oppose S. 1003 in its amended form. I shall, however, be doing my best in conference to make the necessary changes that would enable me to vote for the conference report.

Mr. DOLE. Mr. President, I thank the managers of the bill. I think it is another indication that the Senate Foreign Relations Committee is pretty much on schedule with all the legislation it has. I know there are still a couple of minor items hanging out there, like the genocide treaty and apartheid legislation. We can probably pass those on a voice vote. In any event, I commend both managers of the bill.

I have been keeping the box score here. We considered this for 4 days, consumed 24 hours and 30 minutes, had 16 rollcall votes, considered 63 amendments, agreed to 50, rejected 8, tabled 2, withdrew 1, and there are two still pending, one of mine and one of the distinguished minority leader's in the completed action.

Again, I thank the distinguished chairman and the distinguished ranking member of the committee for their efforts and thank the many colleagues who were willing to accommodate the managers. I think the spirit in which it was done made it much easier for myself and the distinguished minority leader. We never really had any problem and were able to dispose of 30 amendments yesterday in rather rapid fashion. Members were present, they had a chance to discuss their amend-

ments, and they were accepted. Even today, when we had some rather serious differences, Members permitted us to vote. So the Senate has worked its will. I commend the managers for their work and obviously, their staffs deserve a great deal of credit on each side.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. BYRD. Mr. President, I congratulate the distinguished majority leader for the deftness with which he is handling the schedule. The action on this bill is another indicator of his skill.

I also compliment the distinguished manager of the bill [Mr. LUGAR], the chairman of the committee, and Mr. PELL, the ranking member. I compliment them on their professionalism, their ability, their patience, their reasonableness at all times.

I think that in the work that has been done and the bill that has been produced, while there are some areas not every Member will be exactly in accord with, their legislative craftsmanship has shone through. I thank them on behalf of myself personally and also, on behalf of the Senate, I congratulate them. I say that the expertness that they have demonstrated is something that we all should try to emulate from time to time, with great pride.

THE CALENDAR

Mr. DOLE. I inquire of the minority leader if he is in a position to pass Calendar No. 168, Senate Concurrent Resolution 47.

Mr. BYRD. Mr. President, the minority is ready to proceed.

ANNIVERSARY OF THE ENACTMENT OF THE OLDER AMERICANS ACT

Mr. DOLE. I call up Calendar No. 168, Senate Concurrent Resolution 47.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 47) observing the 20th anniversary of the enactment of the Older Americans Act of 1965.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. GRASSLEY. Mr. President, I am a cosponsor of this concurrent resolution and rise to urge that my colleagues give it their support. This resolution was passed unanimously out of the Subcommittee on Aging, of which I am chairman, and out of the Committee on Labor and Human Resources. As I said when this resolution was introduced by Senator HEINZ on May 7, the Older Americans Act is one of the most important pieces of legislation designed to assist older Americans. As such, it enjoys broad and deep support among our citizenry. The last 20 years for the Older Americans Act network and programs have been years of constructive growth and change. The programs authorized by the act have grown from around $6 million in 1965 to approximately $1 billion today. The decentralized nature of the Older Americans Act structure and administration of its programs has allowed State and local needs and interests to be well accommodated during this period. Now the Older Americans Act network and programs are in a period during which it seems clear that there is, and will continue to be, considerable ferment and change in their environment. Cost containment efforts in the Federal health programs seem to be increasing the need for the kinds of services the Older Americans Act programs offer. Tight Federal budgets for the foreseeable future, make expansion of the existing programs an unlikely prospect. In these circumstances, questions may be raised about the appropriate priorities as between and among the several programs authorized by the act. Indeed, questions may even be raised about the appropriate role of the Older Americans Act network: Should it be direct service provision; should it be planning, coordinating and stimulating the provision of services on the part of others; should it be case management designed to help older people make their way though the confusing array of community services? Whatever the answer to this set of questions as we go forward with the Older Americans Act, the last 20 years indicates that the Older Americans Act network will adapt and change in ways which will enable it to continue to serve the varied needs of our older citizens.

Mr. QUAYLE. Mr. President, I rise in support of Senate Concurrent Resolution 47, of which I am a cosponsor, to commemorate the enactment of the Older Americans Act and 20 years of support and service to our older Americans.

Mr. President, the Older Americans Act [OAA] has been one of the most significant pieces of legislation ever passed by Congress. Since its enactment, the programs under the Older Americans Act have grown from a few small social service grants and research projects to a network of over 1,500 individual community service projects and over 13,500 congregate nutrition sites throughout the country. The programs are administered by 57 State and territorial units on aging, with the assistance of over 665 locally based area agencies on aging. The budget for the OAA in 1966 was $5.7 million. Today, it is over $1 billion, showing the commitment of Congress to the programs, in addition to the needs that exist at the local level.

The Older Americans Act authorizes a number of very important programs, including the provision of congregate and home-delivered meals, transportation within the community, support for families with a member suffering from Alzheimer's disease, provision of legal services, and the prevention of elder abuse.

In Indiana, over $14 million was spent under the OAA to provide meals and support services. This money helped pay for close to 3 million meals going to 60,000 of the State's most economically needy senior citizens. It also paid for an additional 1.8 million meals that were delivered to more than 52,000 home-bound seniors.

The Older Americans Act also provides funds for the community service employment for older Americans, which is a very popular and worthwhile program. The community service employment programs provide jobs to seniors, who would have difficulty in obtaining employment, in areas of service to the community such as health, welfare, educational, legal or counseling services, library and recreational services, conservation, maintenance or restoration of natural resources, and weatherization activities. My home State of Indiana has received $8.3 million, providing jobs for 1,627 elderly workers.

Perhaps most importantly, the programs and services authorized by the Older Americans Act provide a vital link for many elderly people to their communities, from which they might otherwise be cut off. For many older citizens, the senior centers provide them with personal contacts and friendships, social activities, dances, cookouts, day trips, lectures, and other types of intellectual and personal stimulation. The activities and the meals offered at the senior center are often the reason for seniors to get out of bed each day, to get dressed each day. They know they have something to look forward to, they have friends to see and they will have activities to keep them busy and feeling productive. Sometimes the sense of belonging and of self-worth is missing in an elder person's life. Many times I have heard from these elderly citizens that the senior centers funded by OAA give them a reason to live and a joy to look forward to each day.

For these and so many other reasons, I have always been a strong supporter of the Older Americans Act and will continue my support of the act. I urge my colleagues to support Senate Concurrent Resolution 47, which commemorates the 20th anniversary of the enactment of a truly historic and

incredibly successful law, the Older Americans Act.

The concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 47

Whereas 1985 marks the 20th anniversary of the enactment of the Older Americans Act of 1965;

Whereas over its 20-year history, the Older Americans Act of 1965 has provided important social and human services to tens of millions of older individuals in their communities helping to promote greater independence for them and maintaining their dignity;

Whereas one of the key elements contributing to the successful implementation of the Older Americans Act of 1965 during this 20-year period was the establishment of the "aging network" which consists of State and area agencies on aging, as well as congregate and home delivered nutrition providers and other supportive service providers;

Whereas the Administration on Aging, created by the Act, has served as a purposeful advocate for the concerns and needs of older individuals;

Whereas the Act has provided important funds for research, training, and demonstration programs to improve, expand and enhance services to older individuals;

Whereas the Act has provided important part-time community service employment opportunities for low-income older individuals, many of whom work in providing services to other older individuals;

Whereas the Act has sought to address the special needs of older American Indians through grants to Indian tribes;

Whereas the programs and services provided under the Act have been more successful because of the contributing role of volunteers;

Whereas the Act has periodically been amended by Congress in recognition of the changing needs of our rapidly aging society; and

Whereas the Older Americans Act of 1965 serves as a model for the development of community-based services which provide alternatives to institutionalization of older individuals: Now, therefore, be it

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

(1) recognizes the 20th anniversary of the enactment of the Older Americans Act of 1965 and the successful implementation of such Act;

(2) acknowledges the many and varied contributions by all levels of the aging network and recognizes that the Act has achieved its mandate to the extent that it has because of the day-to-day work performed by the aging network; and

(3) reaffirms its support for the Older Americans Act of 1965 and its primary goal of providing services to maintain the dignity and promote the independence of older individuals in the United States.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REFERRAL OF H.R. 1460

Mr. DOLE. Mr. President, on behalf of the distinguished chairman of the Committee on Banking, Housing, and Urban Affairs, Senator GARN, I propound a parliamentary inquiry:

Will the Chair state to which committee the bill H.R. 1460, recently received from the other body, would be referred under rule XXV, if a referral were made?

The PRESIDING OFFICER. To the Committee on Banking, Housing, and Urban Affairs.

Mr. DOLE. I thank the Chair.

ROUTINE MORNING BUSINESS

(During the day routine morning business was transacted and additional statements were submitted, as follows:)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 6:05 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that pursuant to section 104 of Public Law 98-501, the Speaker appoints from private life, Mr. Peter C. Goldmark, Jr., of New York, NY, as a member of the National Council on Public Works Improvement.

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-1268. A communication from the President and Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, the annual report on the operations of the Export-Import Bank for fiscal year 1984; to the Committee on Banking, Housing, and Urban Affairs.

EC-1269. A communication from the Special Counsel, Merit Systems Protection Board transmitting, pursuant to law, a report on findings and conclusions of the investigation into allegations of improprieties by an attorney employed by the FAA, Oklahoma City, OK.; to the Committee on Commerce, Science, and Transportation.

EC-1270. A communication from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, the annual report on oil and gas royalty management and collection; to the Committee on Energy and Natural Resources.

EC-1271. A communication from the Secretary of Labor transmitting, pursuant to law, the Inspector General's report for October 1984 through March 1985; to the Committee on Governmental Affairs.

EC-1272. A communication from the Chairman of the National Mediation Board transmitting, pursuant to law, the 49th annual report of the Board; to the Committee on Labor and Human Resources.

EC-1273. A communication from the President of the United States, transmitting, pursuant to law, requests for supplemental appropriations for fiscal year 1985; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DURENBERGER, from the Select Committee on Intelligence, without amendment:

S. 1271. An original bill to authorize appropriations for fiscal year 1986 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes; pursuant to the order of June 6, 1985, referred jointly to the Committee on Armed Services, the Committee on the Judiciary, the Committee on Governmental Affairs, and the Committee on Foreign Relations for the 30-day period provided in section 3(b) of Senate Resolution 400, 94th Congress, provided that the Committee on the Judiciary be restricted to the consideration of Title V, Governmental Affairs be restricted to consideration of section 603, and the Committee on Foreign Relations be restricted to the consideration of section 604 and title VII; provided that of any of said committees fails to report said bill within the 30-day time limit, such committee shall be automatically discharged from further consideration of said bill in accordance with section 3(b) of Senate Resolution 400, 94th Congress (Rept. No. 99-79).

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 374: A bill to provide authorization of appropriations for the U.S. Travel and Tourism Administration (Rept. No. 99-80).

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 1078: A bill to amend the Federal Trade Commission Act to provide authorizations of appropriations, and for other purposes (Rept. No. 99-81).

EXECUTIVE REPORTS OF COMMITTEES

By Mr. HATCH, from the Committee on Labor and Human Resources:

J. Floyd Hall, of South Carolina, to be a Member of the National Council on Educational Research for a term expiring September 30, 1986;

Donna Hellene Hearne, of Missouri, to be a Member of the National Council on Edu-

cational Research for a term expiring September 30, 1986; and

Carl W. Salser, of Oregon, to be a Member of the National Council on Educational Research for a term expiring September 30, 1986.

(The above nominations were reported from the Committee on Labor and Human Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. GOLDWATER, from the Committee on Armed Services:

Mr. GOLDWATER. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of May 22, May 23, June 3, June 5, June 7, and June 10, 1985, at the end of the Senate proceedings.)

SENATE ARMED SERVICES COMMITTEE ROUTINE MILITARY NOMINATIONS

JUNE 11, 1985

*1. Maj. Gen. Vaughan O. Lang, U.S. Army, to be lieutenant general. (Ref. No. 300)

*2. Lt. Gen. Bennett L. Lewis, U.S. Army, (age 58) to be placed on the retired list. (Ref. No. 301)

*3. Maj. Gen. John F. Wall, U.S. Army, to be lieutenant general. (Ref. No. 302)

*4. Col. Shirley M. Carpenter, U.S. Air Force Reserve, to be brigadier general. (Ref. No. 307)

*5. Maj. Gen. Robert H. Forman, U.S. Army, to be lieutenant general. (Ref. No. 308)

*6. Lt. Gen. James M. Lee, U.S. Army, (age 58) to be placed on the retired list; and Lt. Gen. Charles W. Bagnal, U.S. Army, to be reassigned. (Ref. No. 309)

**7. In the Air Force there are 9 appointments to the grade of colonel and below (list begins with Edward S. Bocian, Jr.) (Ref. No. 310)

**8. In the Air Force there are 11 promotions to the grade of lieutenant colonel and below (list begins with Jon K. Plummer). (Ref. No. 311)

**9. In the Air Force there are 117 promotions to the grade of colonel (list begins with Bruce R. Altschuler). (Ref. No. 312)

**10. In the Air Force there are 155 promotions to the grade of lieutenant colonel (list begins with John A. Anderson). (Ref. No. 313)

**11. In the Air Force there are 490 promotions to the grade of major (list begins with Richard D. Alston). (Ref. No. 314)

**12. In the Army there are 216 appointments to the grade of colonel and below (list begins with Gerald P. Stelter). (Ref. No. 315)

**12-1. In the Navy Reserve there are 41 appointments to permanent ensign (list begins with Joseph M. Muhitch). (Ref. No. 316)

*13. Vice Adm. William H. Rowden, U.S. Navy, to be reassigned. (Ref. No. 325)

**14. Maj. Arthur D. Nicholson, Jr., U.S. Army, for posthumous promotion to lieutenant colonel. (Ref. No. 326)

*15. Gen. James E. Dalton, U.S. Air Force, (age 54) to be placed on the retired list. (Ref. No. 341)

**16. In the Air Force there are 19 permanent promotions to the grade of lieutenant colonel and below (list begins with John H. Cain). (Ref. No. 342)

**17. In the Air Force there are 41 appointments to the grade of colonel and below (list begins with Robert Calderon). (Ref. No. 343)

**18. In the Air Force there are 3 appointments to the grade of major and below (list begins with Dennis P. McEneany). (Ref. No. 344)

**19. In the Navy there are 2 appointments to the grade of permanent ensign (list begins with William C. Brown). (Ref. No. 345)

*20. Lt Gen. Monroe W. Hatch, Jr., U.S. Air Force, to be reassigned. (Ref. No. 348)

*21. Lt. Gen. William J. Campbell, U.S. Air Force, (age 54) to be placed on the retired list. (Ref. No. 349)

*22. Maj. Gen. Sidney T. Weinstein, U.S. Army, to be lieutenant general. (Ref. No. 350)

*23. Admiral William N. Small, U.S. Navy, (age 58) to be placed on the retired list. (Ref. No. 351)

*24. Rear Adm. Glenwood Clark, Jr., U.S. Navy, to be vice admiral. (Ref. No. 352)

**26. In the Army there are 8 permanent promotions to the grade of colonel and below (list begins with Edward J. Burke, Jr.). (Ref. No. 355)

**27. In the Army there are 14 permanent promotions to the grade of lieutenant colonel and below (list begins with Samuel L. Cunningham). (Ref. No. 356)

Total, 1,141.

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. DURENBERGER:

S. 1271. An original bill to authorize appropriations for fiscal year 1986 for intelligence activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes; from the Select Committee on Intelligence; to the Committee on the Judiciary, the Committee on Armed Services, the Committee on Foreign Relations and the Committee on Governmental Affairs, jointly, pursuant to the order of June 6, 1985, for a 30-day time period, provided that the Committee on the Judiciary be restricted to consideration of title V, Governmental Affairs be restricted to consideration of section 603, and Foreign Relations be restricted to consideration of section 604 and title VII.

By Mr. KASTEN:

S. 1272. A bill for the relief of Tsun-lit Poon; to the Committee on the Judiciary.

By Mr. McCLURE:

S. 1273. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Minidoka powerplant rehabilitation and enlargement, Minidoka project, Idaho-Wyoming; to the Committee on Energy and Natural Resources.

By Mr. DOLE:

S. 1274. A bill to implement the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials, and for other purposes; to the Committee on Finance.

By Mr. LUGAR (for himself and Mr. QUAYLE):

S. 1275. A bill to permit free entry into the United States of the personal effects, equipment, and other related articles of foreign participants, officials/and other accredited members of delegations involved in the games of the Tenth Pan American Games to be held in Indianapolis in 1987; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. DODD, Mr. KENNEDY, Mr. BYRD, Mr. MOYNIHAN, Mr. SARBANES, Mr. BURDICK, and Mr. BRADLEY):

S. 1276. A bill to provide financial assistance to the States for computer education programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BRADLEY (for himself, Mr. CHILES and Mr. GLENN):

S. 1277. A bill to amend title XIX of the Social Security Act to provide that States may provide home or community-based services under the Medicaid program without the necessity of obtaining a waiver; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLURE:

S. 1273. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Minidoka powerplant rehabilitation and enlargement, Minidoka project, Idaho-Wyoming; to the Committee on Energy and Natural Resources.

MINIDOKA POWERPLANT REHABILITATION AND ENLARGEMENT

● Mr. McCLURE. Mr. President, I am introducing legislation today to authorize the Secretary of the Interior to construct, operate, and maintain the Minidoka powerplant rehabilitation and enlargement, Minidoka project, Idaho-Wyoming.

As my colleagues will recall, similar authority was included in S. 268 when passed by the Senate on August 4, 1983, but, unfortunately, the Minidoka authorization was not included in the final version of the measure as enacted into law.

Subsequent to consideration of S. 268, Assistant Secretary for Water and Science of the Department of the Interior, Robert N. Broadbent, transmitted to the Congress, on August 31, a feasibility study and environmental statement on the proposed project.

Mr. President, I ask unanimous consent that the letter of transmittal signed by Assistant Secretary Broadbent be included in the RECORD at the conclusion of my remarks.

Mr. President, for almost 80 years, the Minidoka project has served the

people of southern Idaho and the Pacific Northwest. Originally authorized for construction in 1904 as the first Federal reclamation development in Idaho, irrigation water was first delivered by the project in 1906. Construction started in 1908 on the first hydroelectric powerplant in the Northwest at the newly completed Minidoka Dam to provide irrigation pumping power to the project. The five original generating units have been joined by two additional units, one installed in 1926 and the other 1942. The existing powerplant with seven units has an installed capacity of 13.4 megawatts and average annual generation is 95,900,000 kilowatts-hours. Power generated at the plant, in excess of local irrigation pumping power contracts, is marketed by the Bonneville Power Administration as a part of the Federal Columbia River Power System.

The powerplant, placed on the National Register of Historic Places in 1974, is operating today much as it did in the early 1900's except that units one through six are nearing the end of their useful life and are extremely difficult and expensive to maintain. This situation together with the fact that a substantial amount of water now passes the dam in excess of the plant hydraulic capacity led the Congress to authorize a feasibility study of the possibility of rehabilitation or enlargement of the existing powerplant.

Mr. President, the Minidoka powerplant has been in continuous operation for almost 80 years. This remarkable record of service is a tribute to the original builders and also to the current personnel of the Bureau of Reclamation who are responsible for maintenance of the facility. As I mentioned, the powerplant is on the National Register of Historic Places and it is truly a fine example of early power development. To me, one of the most exciting features of the plan recommended by the Department of the Interior is to preserve much of the existing plant and machinery as a public museum. I have been to the plant and I can say that what will be preserved would merit display here at the Smithsonian in Washington, DC.

In addition to the historic aspect, the authorization will provide the opportunity to address recreational and fish and wildlife needs in the project area with particular care devoted to the preservation of the outstanding trout fishery located below the spillway of the existing dam.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD at the conclusion of my remarks.

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

S. 1273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Acts of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplementary thereto), is authorized to construct, operate, and maintain a rehabilitation and enlargement of the existing Minidoka powerplant, Minidoka project, Idaho-Wyoming, consisting of two turbine generator units of fifteen thousand kilowatts each in replacement of existing units one through six, and features for purposes of recreation and fish and wildlife. In carrying out the purposes of this Act, the Secretary of the Interior is authorized to modify the capacity of the powerplant as determined necessary or desireable during preconstruction study and design and after consultation with the Secretary of Energy.

SEC. 2. Hydroelectric power generated by the powerplant rehabilitation and enlargement authorized by this Act shall be delivered to the Secretary of Energy for distribution and marketing through the Federal Columbia River Power System. The Secretary of Energy is authorized to construct, operate, and maintain transmission facilities as required physically to connect the hydroelectric powerplant authorized in section 1 of this Act to existing power transmission systems and as he determines necessary to accomplish distribution and marketing of power generated by the hydroelectric powerplant.

SEC. 3. During Federal construction of the powerplant rehabilitation and enlargement authorized by this Act, the Secretary of the Interior and the Secretary of Energy shall seek to minimize the loss of capacity, energy, or both to power customers due to unit outages which result from such construction. The Secretary of Energy shall seek to maintain, through purchase if required, contractual deliveries of capacity, energy, or both at contract prices to customers affected by unit outages resulting from such Federal construction.

SEC. 4. The powerplant rehabilitation and enlargement shall be designed, constructed, and operated in such a manner as to be compatible with valid existing water rights or water delivery to the holder of any valid water service contract.

SEC. 5. The provision of lands, facilities, and any project modifications which furnish fish and wildlife or recreation benefits in connection with the project shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended.

SEC. 6. The interest rate used for computing interest during construction and interest on the unpaid balance of the Federal reimbursable cost of the powerplant shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the powerplant commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from the date of issue.

SEC. 7. There is hereby authorized to be appropriated, beginning October 1, 1985, for construction of the Minidoka powerplant rehabilitation and enlargement and related works the sum of $66,200,000 (October 1984 price levels), plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as indicated by engineering cost indexes. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of the powerplant rehabilitation and enlargement and related works. There are also authorized to be appropriated such sums as may be required by the Secretary of Energy to accomplish the purposes of sections 2 and 3 of this Act.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, August 31, 1984.

Hon. GEORGE BUSH,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: As provided by Section 9(a) of the Reclamation Project Act of 1939 (53 Stat. 1187), transmitted herewith is my report/final environmental statement (report/FES) on the Minidoka Powerplant Rehabilitation and Enlargement, Minidoka Project, Idaho-Wyoming. The report/FES is in compliance with the requirements of the National Environmental Policy Act and was filed with the Environmental Protection Agency on June 3, 1982.

The key feature of the project would be a 35-megawatt plant, which would include construction of a new 30-megawatt plant and continued operation of an existing 5-megawatt unit. The proposed plan includes features and measures to (1) increase electrical energy production at the site by nearly 48 million kilowatt hours annually; (2) preserve the existing powerplant as a public museum; (3) expand and improve recreational facilities in and near Walcott Park; and (4) conserve and enhance fish and wildlife in the general proximity of Minidoka Dam, Lake Walcott and the Snake River.

The proposed report on the project was transmitted to the Columbia River Basin States and interested Federal agencies for review on September 18, 1981, as required by law. The comments received as a result of that review, none of which opposed the project, are addressed in the report/FES.

Also enclosed as part of the report/FES is the Reports of Cooperating Agencies Appendix which contains the full Fish and Wildlife Coordination Act report. Recommendations of the Fish and Wildlife Service and our adoption, deletion, or modification of those recommendations and the rationale therefor are included in the reports.

The report/FES was transmitted to the President through the Office of Management and Budget (OMB) on January 3, 1983. Enclosed is a copy of the June 13, 1984, response from OMB advising that it has no objection to our submitting the report/FES to the Congress for consideration for authorization. However, OMB supports authorization for non-Federal development unless such development is determined to be impractical.

Federal development and operation of the Minidoka Powerplant Rehabilitation and Enlargement would be preferable to development by a non-Federal entity since (1) power is an authorized function at the site; (2) the site has an existing Federal powerplant; (3) power generated at the facility is being marketed by Bonneville Power Administration: (4) complex river and reservoir system operations to meet multiple water needs are involved at the dam making an additional power operating entity a complicating factor, and (5) public acceptance of the powerplant enlargement was gained only after lengthy and careful consultation with affected interest groups and agencies leading to commitments by Reclamation regarding river and reservoir operations and fishery enhancements that normally would be outside the scope of a strictly non-Federal development.

The Office of Management and Budget also advises that should Federal development be necessary, arrangement should be made for up-front financing and/or revenue sharing by local sponsors, It is our intention to pursue those possibilities.

Therefore, I recommend that the Minidoka Powerplant Rehabilitarian and Enlargement, Minidoka Project, Idaho-Wyoming, be authorized for construction in accordance with the basic plan presented in the enclosed report/FES.

An identical letter is being sent to the Speaker of the House of Representatives.

ROBERT N. BROADBENT,
Assistant Secretary for Water and Science.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC. June 13, 1984.

Hon. WILLIAM P. CLARK,
Secretary of the Interior, Washington, DC.

DEAR MR. SECRETARY: On January 19, 1983, the Commissioner of Reclamation transmitted to us reports to the Congress on the Anderson Ranch Powerplant Third Unit, Boise Project, Idaho, and Minidoka Powerplant Rehabilitation and Enlargement, Idaho and Wyoming, as required by E.O. 12322. We have reviewed these reports, together with the Interior Department's recommendations concerning them.

The Office of Management and Budget concurs with the recommendations to authorize construction of these projects. However, we support authorization of the projects for non-Federal development unless you find such development to be impractical. Should Federal development be necessary, up-front financing and arrangements for sharing of power or revenues from the projects should be sought from local sponsors.

We note that acquisition of private land for environmental enhancement purposes is no longer included in the proposed plan for Anderson Ranch.

The Office of Management and Budget has no objection to your submitting these reports to the Congress in accordance with the conditions stated above.

Sincerely,

FREDERICK N. KHEDOURI,
Associate Director for Natural Resources, Energy and Science.●

By Mr. DOLE:

S. 1274. A bill to implement the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials, and for other purposes; to the Committee on Finance.

EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS IMPORTATION ACT

Mr. DOLE. Mr. President, I am pleased to introduce today a bill to reauthorize the President to implement the Nairobi Protocol to the Florence agreement, a trade agreement that provides for duty-free trade in certain scientific, educational, and cultural materials, and articles for the blind and the handicapped. I first sponsored a bill for this purpose 3 years ago, and it subsequently was enacted as part of the 1982 omnibus tariff legislation. That bill authorized the President to implement the protocol on a provisional basis, and only until August of this year. Because I support the goals of the procotol, I believe it is important now to renew the President's authority to implement it.

THE FLORENCE AGREEMENT

The Florence agreement provides for duty-free trade among its approximately 90 adherents in specified categories of articles. These categories are: First, books, publications, and documents; second, works of art and collector's pieces; third, visual and auditory materials; fourth, scientific instruments and apparatus; and fifth, articles for the blind. Some limitations are applicable. For example, some of the covered materials must first be approved by the importing country's authorities, or must be imported for the benefit of specific institutions.

The United Nations educational, scientific, and cultural organization [UNESCO] opened the Florence Agreement for signature in 1950. Following passage of the Educational, Scientific, and Cultural Material Importation Act of 1966, the United States adopted the agreement. We have apparently enjoyed a favorable balance of trade in the covered items since that time.

THE NAIROBI PROTOCOL

The Nairobi Protocol, open for signature since 1977, broadened the scope of the Florence Agreement by removing some of its restrictions, and by expanding it to cover technologically new articles and previously uncovered works of art, films, and so forth. For example, audiovisual material was placed on the same footing as books. Scientific maps and charts and wood mosaics were among the new items covered.

Most importantly, the protocol embraced one major new category of items: "All materials specifically designed for the education, employment and social advancement of physically or mentally handicapped persons * * *." The Florence Agreement is limited to articles for the blind insofar as it specifically addresses the needs of handicapped persons. Thus, not only does the protocol liberalize coverage of materials for the blind that are provided duty-free treatment, it benefits all handicapped persons, without regard to the source of their affliction.

Like the Florence Agreement, the protocol allows, but does not require, signatories to accord duty-free treatment only to covered articles imported by specific institutions, for example, universities, and to articles that are not equivalent to domestically produced ones. By authorizing the President to proclaim duty-free treatment without these restrictions, the 1982 implementing legislation sought to encourage other nations—particularly the European Community [EC]—also to adopt the more encompassing commitment to provide duty-free treatment. I believe the 1982 bill was an appropriate compromise satisfying two domestic concerns: Those of some U.S. producers worried about new duty-free competition at home without significant new export opportunities, and, on the other hand, consumer beneficiaries of the protocol who preferred to see immediate implementation of the tariff cuts.

EXPERIENCE UNDER THE 1982 LAW

For the past 2½ years, the United States has applied the protocol without the restrictions that the 17 other signatory nations adopted. I regret that our actions did not encourage the EC and others to follow our lead, for the benefit of their own citizens. Despite the advantages of broader coverage for U.S. consumers, this lack of reciprocity by other signatories requires that the United States revert to implementing the more restrictive form of the agreement. The bill I introduce today, as proposed by the administration, authorizes the President to do so. However, in the event other nations agree in the future to accept the broader obligations, the President would be authorized to apply those broader obligations once again.

Nevertheless, one of the most important features of the 1982 law will be retained. The United States has accorded duty-free treatment to a somewhat broader range of articles for the handicapped than required by the protocol. This treatment facilitates access by our handicapped citizens to a broad range of materials available abroad to assist them with their daily activities. This step by the Government is justified without regard to the actions of our trading partners, and I am therefore pleased that the restrictions to be applied now, under the bill, to other covered material will not extend to these articles.

Finally, I wish to note that a limited safeguards provision included in the 1982 law is also retained in the new bill. Under that provision, the President may, on a most-favored-nation basis, restore existing tariff rates for articles, the import of which he determines has a significant adverse impact on a domestic industry producing a like or competitive article, and which are not covered by either the Florence Agreement or Nairobi Protocol. This special is limited to articles not covered by commitments in those agreements. Because this country is offering somewhat broader coverage than those agreements require, the additional streamlined safeguard protection is appropriate. Of course, normal safeguard relief available under section 201 of the Trade Act of 1974 will remain unaffected by this bill or protocol, as recognized by paragraph 18 of the protocol.

CONCLUSION

Mr. President, I regret that U.S. leadership has failed to induce the

freest flow of ideas that would be encouraged through the acceptance by other nations of the broadest obligations of the Nairobi Protocol. Yet, it is important to continue U.S. participation in this important endeavor by renewing the President's authority as I have outlined it. Because the Nairobi Protocol first, expands the Florence Agreement in an important way—to include articles specifically designed to benefit the handicapped, second, will-contribute to increased U.S. exports, and third, will contribute to greater international understanding by facilitating increased exchanges of ideas, I urge my fellow Members to join me in supporting the bill.

I ask unanimous consent that the bill and an explanatory statement be printed in the RECORD.

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

S. 1274

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

TITLE I. SHORT TITLE, ETC.

Sec. 101. SHORT TITLE.

This Act may be cited as the "Educational, Scientific, and Cultural Materials Importation Act of 1985".

Sec. 102. AMENDMENT OF TARIFF SCHEDULES.

Whenever an amendment or repeal is expressed in terms of an amendment to, or repeal of, an item, headnote, or other provision, the reference shall be considered to be made to an item, headnote, or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202; hereinafter referred to as the "TSUS").

Sec. 103. PURPOSE.

The purpose of this Act includes (1) to provide for the implementation by the United States of the Protocol (S. Treaty Doc. 97-2, 9; hereinafter referred to as the "Nairobi Protocol") to the Agreement on the Importation of Educational, Scientific, and Cultural Materials (17 UST (pt. 2) 1835; hereinafter referred to as the "Florence Agreement"), (2) to clarify or modify the duty-free treatment accorded under the Educational, Scientific, and Cultural Materials Importation Act of 1982 (96 Stat. 2346; hereinafter referred to as the "1982 Act"), under the Educational, Scientific, and Cultural Materials Importation Act of 1966 (80 Stat. 897), and under P.L. 89-634 (80 Stat. 879), and (3) to continue the safeguard provisions concerning certain imported articles provided for in the 1982 Act.

Sec. 104. REPEAL OF 1982 ACT.

The 1982 Act (subtitle B of title I of Public Law 97-446) is repealed.

TITLE II. TARIFF PROVISIONS.

SEC. 201. TREATMENT OF PRINTED MATTER AND CERTAIN OTHER ARTICLES.

(a) Items 270.45 and 270.50 are redesignated as 270.46 and 270.48, respectively.

(b) Part 5 of schedule 2 is amended as follows:

(1) The following new item is inserted in numerical sequence:

"270.90	Catalogs of films, recordings, or other visual and auditory material of an educational, scientific, or cultural character	Free	Free",

(2) Items 273.45 through 273.55 and the superior heading thereto are stricken and the following new item is inserted in lieu thereof:

"273.52	Architectural, engineering, industrial, or commercial drawings and plans, whether originals or reproductions	Free	Free",

(3)(A) The superior heading to items 274.50 through 274.70, inclusive, is amended by inserting after "Photographs" the phrase "(including developed photographic film; photographic slides; transparencies; holograms for laser projection; and microfilm, microfiches and similar articles except those provided for in item 737.52)".

(B) The following new items are inserted in numerical sequence under the superior heading "Printed not over 20 years at time of importation:", and above (and at the same hierarchical level as) "Lithographs on paper:":

"274.55	Loose illustrations, reproduction proofs or reproduction films used for the production of books	Free	Free
"274.56	Articles provided for in items 270.05, 270.10, 270.25, 270.55, 270.63, 270.70, and 273.60 in the form of microfilm, microfiches, and similar film media	Free	Free."

(C) Item 735.20, part 5D of schedule 7, is stricken and the following new items and superior heading are inserted in lieu thereof:

	"Puzzles; game, sport, gymnastic, athletic, or playground equipment; all the foregoing, and parts thereof, not specially		
735.21	Crossword puzzle books, whether or not in the form of microfilm, microfiches, or similar film media	Free	Free
735.24	Other	5.52% ad val..	40% ad val."

(D) Item 737.52, part 5E of schedule 7, is amended by inserting after "Toy books" the phrase "(whether or not in the form of microfilm, microfiches, or similar film media)".

(E) Item 830.00, part 3A of schedule 8, is amended by inserting at the end of the article description thereof "; official government publications in the form of microfilm, microfiches, or similar film media".

(F) Item 840.00, part 3B of schedule 8, is amended by inserting after "documents" the phrase ", whether or not in the form of microfilm, microfiches, or similar film media)".

SEC. 202. VISUAL AND AUDITORY MATERIAL.

(a) Headnote 1, part 7 of schedule 8 is amended to read as follows:

"1. (a) No article shall be exempted from duty under item 870.30 unless either:

(i) a Federal agency or agencies designated by the President determines that such article is visual or auditory material of an educational, scientific, or cultural character within the meaning of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, or Cultural Character (17 UST (pt. 2) 1578; Beirut Agreement), or

(ii)(A) such article is imported by, or certified by the importer to be for the use of, any public or private institution or association approved as educational, scientific, or cultural by a Federal agency or agencies designated by the President for the purpose of duty-free admission pursuant to the Nairobi Protocol to the Florence Agreement, and

(B) is certified by the importer to be visual or auditory material of an educational, scientific, or cultural character or to have been produced by the United Nations or any of its specialized agencies.

"For purposes of subparagraph (i), whenever the President determines that there is or may be profitmaking exhibition or use of articles described in item 870.30 which interferes significantly (or threatens to interfere significantly) with domestic production of similar articles, he may prescribe regulations imposing restrictions on the entry under that item of such foreign articles to insure that they will be exhibited or used only for nonprofitmaking purposes.

"(b) For purposes of items 870.32 through 870.35, inclusive, no article shall be exempted from duty unless it meets the criteria set forth in subparagraphs (a)(ii)(A) and (B) of this headnote."

(b) Item 870.30, part 7 of schedule 8, is amended by inserting after "models" the phrase "(except toy models)", and by striking out "headnote 1" and inserting in lieu thereof "headnote 1(a)".

(c) The following new items and superior heading are inserted in numerical sequence in part 7 of schedule 8:

	"Articles determined to be visual or auditory materials in accordance with headnote 1 of this part:		
870.32	Holograms for laser projection; microfilm, microfiches, and similar articles	Free	Free
870.33	Motion-picture films in any form on which pictures, or sound and pictures, have been recorded, whether or not developed	Free	Free
870.34	Sound recordings, combination sound and visual recordings, and magnetic recordings; video discs, video tapes, and similar articles	Free	Free
870.35	Patterns and wall charts; globes; mock-ups or visualizations of abstract concepts such as molecular structures or mathematical formulae; materials for programmed instruction; and kits containing printed materials and audio materials and visual materials or any combination of two or more of the foregoing	Free	Free."

SEC. 203. TOOLS FOR SCIENTIFIC INSTRUMENTS OR APPARATUS.

Part 4 of schedule 8 is amended by adding in numerical sequence the following new item:

"851.67	Tools specially designed to be used for the maintenance, checking, gauging or repair of scientific instruments or apparatus admitted under item 851.60	Free	Free."

SEC. 204. ARTICLES FOR THE BLIND AND FOR OTHER HANDICAPPED PERSONS.

(a) REPEAL OF CERTAIN TSUS ITEMS.—Subpart D of part 2 of schedule 8 is amended by striking out items 825.00, 826.10, and 826.20.

(b) SPECIALLY DESIGNED ARTICLES.—Part 7 of schedule 8 is amended as follows:

(1) by inserting, in numerical sequence, the following new items:

	"Articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons:		
870.65	Articles for the blind: Books, music, and pamphlets, in raised print, used exclusively by or for them.	Free	Free
870.66	Braille tablets, cubarithms, and special apparatus, machines, presses, and types for their use or benefit exclusively	Free	Free
870.67	Other	Free	Free,"

(2) by adding the following new headnote:

"3. For the purposes of items 870.65, 870.60, and 870.67—

"(a) The term 'blind or other physically or mentally handicapped persons' includes any person suffering from a permanent or chronic physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"(b) These items do not cover—

(i) articles for acute or transient disability;

(ii) spectacles, dentures, and cosmetic articles for individuals not substantially disabled;

(iii) therapeutic and diagnostic articles; or

(iv) medicine or drugs."

TITLE III. AUTHORITY TO MODIFY CERTAIN DUTY-FREE TREATMENT ACCORDED UNDER THIS ACT.

SEC. 301. AUTHORITY TO LIMIT CERTAIN DUTY-FREE TREATMENT.

(a) AUTHORITY TO LIMIT.—

(1) IN GENERAL.—In addition to his authority under section 201 of the Trade Act of 1974 (19 U.S.C. 2251), the President may proclaim changes in the TSUS to narrow the scope of, place conditions upon, or otherwise eliminate the duty-free treatment accorded under sections 203 or 204 with respect to any type of article the duty-free treatment of which has significant adverse impact on a domestic industry (or portion thereof) manufacturing or producing a like or directly competitive article, and provided the effect of such change is not inconsistent with the provisions of the relevant annexes of the Florence Agreement or the Nairobi Protocol.

(2) RATES WHICH ARE TO TAKE EFFECT IF DUTY-FREE TREATMENT ELIMINATED.—If the President proclaims changes to the TSUS under paragraph (1), the rate of duty thereafter applicable to any article which is:

(A) affected by such action, and

(B) imported from any source,

shall be the rate determined and proclaimed by the President as the rate which would then be applicable to such article from such source if this Act had not been enacted.

(b) RESTORATION OF TREATMENT.—If the President determines that any duty-free treatment which is no longer in effect because of action taken under subsection (a) could be restored in whole or in part without a resumption of significant adverse impact on a domestic industry or portion thereof, the President may proclaim changes to the TSUS to resume such duty-free treatment.

(c) OPPORTUNITY TO PRESENT VIEWS.—Before taking an action authorized by subsection (a) or (b), the President shall afford an opportunity for interested Government agencies and private persons to present their views concerning the proposed action.

(d) Any action in effect or any proceeding in course under Section 166 of the 1982 Act on the date of entry into force of this Act shall be considered as an action or proceeding under this section.

SEC. 302. AUTHORITY TO EXPAND CERTAIN DUTY-FREE TREATMENT ACCORDED UNDER SECTION 202.

(a) EXPANSION OF DUTY-FREE TREATMENT.—If the President determines such action to be in the interest of the United States, he may proclaim changes to the TSUS in order to remove or modify any conditions and restrictions imposed by section 202 of this Act on the importation of articles provided for in items 870.30 through 870.35, inclusive (except as to articles entered under the terms of headnote 1(a)(i), part 7 of schedule 8), in order to implement the provisions of Annex C-1 of the Nairobi Protocol.

(b) Effective Date of Changes.—Any changes to the TSUS proclaimed pursuant to paragraph (a) shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day following the date on which the President proclaims duty-free treatment under subsection (a) of this section.

SEC. 303. CHANGES TO TSUS TO IMPLEMENT FLORENCE AGREEMENT PROVISION.

(a) AMENDMENT OF ITEM 851.60.—Item 851.60, part 4 of schedule 8 is amended by deleting from the article description thereof the word "Instruments" and inserting in lieu thereof the words "Scientific instruments".

(b) HEADNOTE CHANGE.—(1) Paragraphs (a) and (b) of headnote 6, part 4 of schedule 8 are amended to read as follows:

"3. For purposes of item 851.60—

(a) The term "Scientific instruments and apparatus" shall mean scientific instruments and apparatus for deriving information from, or generating data necessary to, scientific experimentation by means of sensing, analyzing, measuring, classifying, recording, or similar operations; the term "Scientific" means pertaining to the physical or life sciences and, under certain circumstances, to applied sciences. Such instruments and apparatus do not include materials or supplies, or ordinary equipment for use in building construction or maintenance or in supporting activities (such as administration or operating residential or dining facilities) of the institution seeking their entry under this item.

(b) An institution desiring to enter an article under this item shall make an application therefor to the Secretary of Commerce, including therein (in addition to such other information as may be prescribed by regulation) a description of the article, the purposes for which the instrument or apparatus is intended to be used, the basis for the institution's belief that no instrument or apparatus of equivalent scientific value for such purposes is being manufactured in the United States (as to which the applicant shall have the burden of proof), and a statement that the institution either has already placed a bona fide order for such instrument or apparatus or has a firm intention to place an order therefor on or before the final day specified in paragraph (d) of this headnote. If the Secretary finds that the application is in accordance with pertinent regulations, he shall promptly forward copies thereof to the Secretary of Health and Human Services. If, at any time while its application is under consideration by the Secretary of Commerce or on appeal from a finding by him before the United States Court of Appeals for the Federal Circuit, the institution cancels an order for the instrument or apparatus covered by its application, or if it no longer has a firm intention to order such article, it shall promptly so notify the Secretary of Commerce or the Court, as the case may be."

(2) Paragraph (c) of headnote 6 is amended:

(i) by striking out the words "Health, Education and Welfare" and inserting in lieu thereof the words "Health and Human Services"; and

(ii) by striking out, from the third sentence, the words "the Secretary of the Treasury and"; and by striking out words "the Treasury" from the last sentence of such paragraph and inserting in lieu thereof "Commerce".

(3) Paragraph (e) of headnote 6 is amended by striking out "Court of Customs and Patent Appeals" and inserting in lieu thereof "Court of Appeals for the Federal Circuit".

(4) Paragraph (f) of headnote 6 is amended to read as follows:

"(f) The Secretary of Commerce may prescribe regulations to carry out his functions under this headnote."

SEC. 304. STATISTICAL INFORMATION.

In order to implement effectively the provisions of Section 301, the Secretary of the Treasury, in conjunction with the Secretary of Commerce, shall take such actions as are necessary to obtain adequate statistical information with respect to articles to which amendments made by Section 204 apply, in such detail and for such period as the Secretaries consider necessary.

TITLE IV. EFFECTIVE DATE OF AMENDMENTS, ETC.

SEC. 401. EFFECTIVE DATE.

This Act shall be effective on, and the amendments to the TSUS made by it shall be effective with respect to articles entered, or withdrawn from warehouse for consumption on or after, the latest of: (1) August 12, 1985, (2) the 15th day following the date of the enactment of this Act, or (3) the 15th day following the deposit of the U.S. ratification of the Nairobi Protocol.

SEC. 402. RETROACTIVE APPLICATION

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, in the application of the relevant provisions of this Act to the entry of any article:

(1) which was made on or after August 12, 1985, and before the effective date of this Act, and

(2) with respect to which there would have been no duty if the relevant provisions of this Act applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on or after the effective date of this Act.

SECTION-BY-SECTION ANALYSIS

This act may be cited as the "Educational, Scientific, and Cultural Materials Importation Act of 1985."

Title I describes the purpose of the act and repeals the Educational, Scientific, and Cultural Materials Importation Act of 1982, in order that the new bill may be substituted for the earlier law.

Title II repeats the tariff provisions of the 1982 act with certain modifications. The earlier act provided for duty-free importation of a range of printed, visual and auditory materials, tools for scientific instruments or apparatus, and articles for the blind and other handicapped persons. These items constituted a somewhat enhanced version of the new categories of imported educational, scientific, and cultural materials covered by those annexes of the Nairobi Protocol which it was anticipated that the United States would accept. The Protocol is an extension of the coverage of the Florence Agreement on the Duty-free Importation of Educational, Scientific, and Cultural Materials, already in force between the United States and numerous other countries.

The bill would include certain printed and related materials inadvertently not specified by the 1982 act. More importantly, the bill would limit the duty-free treatment of visual and auditory materials to materials

either: 1) certified by the designated Federal Agency as educational, scientific, or cultural in character, or 2) imported by or for the use of public or private institutions or associations approved by the designated Federal agency and certified by the importer as educational, scientific, or cultural in character. The 1982 act granted duty-free entry to visual and auditory materials regardless of subject or end use. The proposed narrowing or the scope of the provisions permitting duty-free importation is intended to implement the U.S. acceptance of an annex to the Protocol containing lesser obligations at a level which more closely resembles the treatment of these materials accorded by our major trading partners. Both the 1982 Act and the 1985 bill contain provisions, principally relating to goods for the handicapped, for duty-free treatment somewhat broader than those in the Protocol.

Title III renews the safeguard provisions of the previous act, provisions which allow the President to narrow the scope of, place restrictions on, or otherwise eliminate duty-free treatment of articles not provided for by the relevant annexes to the Florence Agreement or the Nairobi Protocol, and the importation of which is determined by the president to have a significant adverse impact on domestic competitors.

Title III also includes authority to expand duty-free treatment of visual and auditory materials to the extent provided for under the 1982 act, if the President deems such action to be in the interest of the United States. This Subtitle also includes an amendment to an existing headnote in the TSUS to clarify the provisions allowing duty-free importation of scientific instruments. The amendment is intended to insure that such duty-free treatment is limited to instruments and apparatus that are scientific in nature. Finally, this Subtitle also provides for the collection of statistical information.

Title IV provides the effective date of the amendments made by the bill, as well as a provision allowing its retroactive application, which is intended to cover goods entered after the expiration of the 1982 act and before the effective date of the proposed legislation.

By Mr. LUGAR (for himself and Mr. QUAYLE):

S. 1275. A bill to permit free entry into the United States of the personal effects, equipment, and other related articles of foreign participants, officials, and other accredited members of delegations involved in the games of the Tenth Pan American Games to be held in Indianapolis in 1987; to the Committee on Finance.

PERMITTING THE DUTY-FREE ENTRY OF PAN AMERICAN GAMES EQUIPMENT

Mr. LUGAR. Mr. President, today I am introducing legislation to permit the participants in the 1987 Pan American Games to bring their equipment into the United States without paying duty or posting bond.

This legislation is cosponsored by every Member of the Indiana delegation, and supported by the Commissioner of the U.S. Customs Service, William von Rabb. It will substantially reduce the regulatory burden, both on the Customs Service and on the participants in the Pan American Games. It will not have any effect on the Treasury.

The 1987 Pan-American Games will be the 10th Quadrennial Pan Am Games. They will be held in Indianapolis in August 1987. All 37 nations of the Western Hemisphere are expected to participate in the competitions, which will include all of the Olympic events plus a few others such as baseball that are not yet official Olympic sports.

The games are coming to the United States for the first time in 30 years. The city of Indianapolis was a natural site to host the Pan Am Games since it is one of the few cities in the hemisphere with the needed sports facilities. The people of Indianapolis are not only prepared to host the games, but they are also excited at the prospect of bringing this tremendous competiton to Indiana and the United States.

Within weeks of the announcement that the United States would host the games, an organizing committee had been formed and the planning had begun. Now, 6 months later a small staff and hundreds of talented and dedicated volunteers are putting together all of the details that are required when conducting a large, complex, international competition.

The city of Indianapolis and the State of Indiana have been electrified. No longer are the 1987 games the single focus of planning. Now the community is planning a hemispheric celebration that will last for months. There will be trade fairs, cultural events, community programs, and educational programs. More events are being added each week.

We are proud to have the opportunity to host the games on behalf of the United States. The games will be a splendid sports event, and they will also be an opportunity to demonstrate our partnership with our friends in the Western Hemisphere.

I ask unanimous consent that a copy 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. 1275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"915.10	Personal effects of aliens who are participants in or officials of the Tenth Pan American Games, or who are accredited members of delegations thereto, or who are members of the immediate families of any of the foregoing persons, or who are their servants; equipment for use in connection with such games; and other related articles as prescribed in regulations issued by the Secretary of the Treasury.	Free	Free	On or before 9-30-87".

SEC. 2. The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date that is 15 days after the date of the enactment of this Act.

By Mr. LAUTENBERG (for himself, Mr. DODD, Mr. KENNEDY, Mr. BYRD, Mr. MOYNIHAN, Mr. SARBANES, Mr. BURDICK, and Mr. BRADLEY):

S. 1276. A bill to provide financial assistance to the States for computer education programs, and for other purposes; to the Committee on Labor and Human Resources.

COMPUTER EDUCATION ASSISTANCE ACT

● Mr. LAUTENBERG. Mr. President, computers are fast becoming a fact of everyday life for all Americans. They are changing the way we work, the way we live, and the way we learn. We are in the midst of the coming of the information age. As the flood of innovation and change surges forward, this country must assure that the benefits associated with this change are widely shared. Just as flood waters bring both rich new soil and harmful destruction, so information technology can be beneficial for those who are trained to use it and potentially limiting for those who are not.

The competitive position of this Nation in the world economy is dependent upon our ability to be innovative and adaptable, and to demonstrate technical prowess. We can continue to be competitive and meet the challenge of the future, but to do so we must continue to produce well-educated, skilled and creative workers, workers who understand the uses of the new information technology. This will require adequate resources to support top notch education for our children.

The last few years have seen much criticism of American education, and important beginnings in its revitalization. But concern remains. The chairman of the National Association of Manufacturers recently wrote about his concerns. He said:

For the first time in our history, we may produce a generation less educated than its predecessor. More alarmingly, it may possess the wrong skills—or simply inadequate ones—for the jobs of the future.

I share this concern and believe that we must make greater strides toward strengthening American education. Computer education will be part of that process. Last year I introduced legislation to establish a program of Federal assistance for schools to develop and improve computer education programs. The bill that I am introducing today, along with my colleagues, Senators DODD, KENNEDY, BYRD, MOYNIHAN, SARBANES, BURDICK, and BRADLEY, is an improved version of that bill, with the same goals and concepts.

The Computer Education Assistance Act of 1985 continues to provide for a program of competitive grants for the purchase of computer hardware and software and inservice teacher training. It strengthens the emphasis on careful planning for computer education in the school curriculum. The bill authorizes assistance for teacher-training institutes for elementary and secondary school teachers. It also provides for evaluation of computer hardware and software and the development of model instructional programs.

At a time when new Federal expenditures are viewed with great skepticism, the kind of investment I am proposing will pay for itself many times over in a more productive citizenry. This investment is particularly important in schools with concentrations of poverty-level children who should not be deprived of the benefits of a modernized curriculum.

Mr. President, computer education is no substitute for the three R's. Putting computers into the classroom is not a cure-all for the problems of American education. But, carefully designed computer education programs can clearly help.

Planning for the appropriate role of computer education is as important as the purchase of hardware and software. Thoughtful consideration must be given to the integration of computers into the curriculum. Computer education planners must first consider the overall goals for their schools. Then, they must decide how computers can help them meet those goals. For some purposes, existing methods will continue to be best. For other purposes, computers offer exciting possibilities for transforming the curriculum and the way it is taught.

Computers can be crucial in the transition from traditional education, with its relative emphasis on rote learning, to a new emphasis on assimilating information and solving problems. Computers can be used by students in every subject in every grade. Students can use word processing programs to improve their writing by editing and revising more easily than they do now. They can learn to simulate "what if" situations in history classes so that they can understand more clearly the factors that affect human behavior and events. They can learn to use graphics to present data in a clear and meaningful way. Some scientific experiments can be carried out through simulations.

These uses of the computer in schools would go far beyond the teaching of computer awareness or programming. A basic understanding of the working and operation of a computer should be a beginning for computer education, not an end. Computers are more like pencils than books. As educators come to view computers in this way, as tools, they will begin using them to expand their students' horizons and improve their analytical and critical thinking skills.

Thinking of computer education in broader terms will require coordination with curriculum planning. It is more than drill and practice exercises. Computer education involves the use of application software in word processing, spread sheet analysis, and data base analysis, all of which can be used more generally than highly specialized instructional courseware.

Use of computers in schools is growing, but the need for Federal assistance is convincing. From 1983 to 1984 the number of microcomputers in public schools increased by 75 percent. By last fall, 85 percent of the public schools had at least one microcomputer. This widespread penetration of computers represents a tremendous growth since 1981 when only 18 percent of the schools had an instructional computer.

However, many of these schools have only the one computer. The average number of computers per school is 8.2 and average number of students per computer is 63.5. The penetration of computers is wide, but not deep. The machines are frequently spread too thin to be used in optimum ways. Consider what it would mean if students had to share paper and pencil to the extent that they must share computers. Clearly the computer revolution in the schools is in its infancy.

Furthermore, the benefits of the growth in computers in schools are not evenly distributed among schools serving different socioeconomic groups. A study conducted in the fall of 1984 found that 92 percent of affluent schools had at least one computer, while only 74 percent of poor schools were so equipped.

Even more startling is the growth in the gap between rich and poor schools in the amount of computer equipment that each has. In 1983 the difference between the average number of computers in affluent and poor schools was just over two per school. One year later the difference had increased to nearly 4, with affluent schools averaging 10.6 computers per building and poor schools averaging only 6.8.

The exposure that students have to computers varies by economic class also. One study found that twice as many students in well-to-do urban areas said that they had never used a computer in school as students in disadvantaged urban areas. The number of computers in homes far exceeds the number in schools and the lion's share of these computers are in more affluent homes, including many with children. The additional exposure to computers in the home creates further disparity between rich and poor children.

Mr. President, the Computer Education Assistance Act of 1985 will establish a program to assist States and local school districts in developing the ambitious computer education program that is needed. The program will authorize $150 million for the first year and such sums as necessary for an additional 3 years for grants to schools for acquisition of hardware and software and teaching training. The funds will be allocated to the States, half on the basis of school age population and half on the basis of the chapter I formula, used for aid to disadvantaged schoolchildren. Each State will make grants to local school districts, which must assure that at least half the funds are used to serve chapter I eligible children and that funds are targeted on schools with the greatest need for computers.

School districts will be required to do some fairly extensive planning. This will include:

Setting goals for computer education in the schools and relating these goals to the overall educational objectives of the district.

Instructional priorities for the use of computers.

Schedules for placing computers in the elementary and secondary schools.

Criteria for selection of the hardware and software.

Planned revisions in the basic curriculums of the schools designed to incorporate the use of computers.

Afterschool availability of the computers for use by parents and students.

The Federal grants are to be matched, with the Federal share set at 75 percent and the non-Federal at 25 percent. The non-Federal share can come from public or private sources, and may be in cash or kind. Local districts that can make arrangements with businesses and industries to donate equipment, personnel, or cash will not have to use their own funds for the matching share. Private school students would be eligible for assistance.

The bill provides $20 million a year for 4 years to the National Science Foundation for the establishment of teacher-training institutes. These in-

stitutes would provide more indepth training for teachers than the title I grants will support. Proper preparation of teachers is essential to the success of a computer education program. These institutes will offer teachers an opportunity to learn about computers and the best methods for using them in the schools.

Evaluations of existing hardware and software and research and development on new software and instructional models will provide much of the underpinning for the new programs of computer education. Title III of this bill authorizes the National Science Foundation and the Department of Education through the National Institute of Education to provide assistance to organizations that have expertise to carry out this research.

The planning requirement in this legislation is extremely important. Education planners need to take a careful look at the role of computers in the total curriculum. They also need to consider such questions as whether to institute saturation programs at a few schools or to provide computers in every classroom in a particular grade throughout the district. The bill does not set a goal for a specific ratio of students to computers or daily access time per student.

Plans are to include afterschool availability of computers for parents and children. This would permit parents and children to spend additional time working on the computers and gaining familiarity with them. Such afterschool programs would be especially helpful to those without access to computers at home. The children who do not have computers at home are very likely also to be attending schools which are least likely to have many computers. In such areas, special outreach programs to encourage parental participation may be necessary.

The funds from the Computer Education Assistance Act of 1985 will be used in all schools, but at least half the funds will be targeted on schools with poverty-level children. Priority also is to be given to schools with the greatest need for computers. By establishing the targeting requirement and the priority for underserved schools the bill aims to concentrate its resources in a way that benefits schools and children that are falling behind in computer usage.

The grant funds can be used for acquisition of equipment and computer programs and inservice teacher training. Each district will decide the mix of uses to which they will put their funds. This provides school districts with a great deal of flexibility.

In addition, the non-Federal matching share can be in kind, such as donations of equipment or personnel services from private sources or from public agencies. This provides additional flexibility and incentive for local school districts to involve the business community in their planning.

Mr. President, the program of planning and grant assistance for the purchase of equipment, training, and research authorized by this bill will provide Federal seed money for computer education programs. A great deal of flexibilty is allowed and the result should be a better education for all children. This result is important for the growth and success of our children and our country.

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. 1276

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 "Computer Education Assistance Act of 1985".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to improve and strengthen computer education instruction in elementary and secondary schools and thereby to improve student's academic performance in both technical and other fields by—

(1) encouraging orderly planning for the use of computers and for the application of computers to the instructional program of elementary and secondary schools;

(2) encouraging the acquisition of computer hardware for elementary and secondary schools having the greatest need;

(3) improvement of teacher training in computer education; and

(4) assisting in the development and acquisition of appropriate computer software.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "elementary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965;

(2) the term "institution of higher education" has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

(3) the term "local educational agency" has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;

(4) the term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965;

(5) the term "Secretary" means the Secretary of Education;

(6) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands;

(7) the term "State educational agency" has the meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965;

(8) the term "computer hardware" means—

(A) a data processor which—

(i) has a combined random access and read only memory of at least 64,000 bytes; and

(ii) is or can be connected with devices for interaction with users and for visual display;

(B) in connection with such a data processor (i) a display screen, (ii) one or more disk or tape drives, (iii) peripheral equipment such as printers and communications devices; and

(C) any equipment necessary for the installation of equipment described in subparagraphs (A) and (B); and

(9) the term "computer software" means computer programs including programs of general applicability and programs of instructional courseware suitable for use in the education program of the elementary and secondary schools within the State, including programs and program materials necessary for the operation and maintenance of the computers.

TITLE I—ACQUISITION OF COMPUTER RESOURCES

PROGRAM AUTHORIZED

SEC. 101. (a) The Secretary is authorized, in accordance with the provisions of this title, to make grants to States to pay the Federal share of the costs of strengthening and expanding computer education resources available in the elementary and secondary schools within the State.

(b) There are authorized to be appropriated $150,000,000 for fiscal year 1986 and such sums as may be necessary for the fiscal year 1987 and for each succeeding fiscal year ending prior to October 1, 1990, to carry out the provisions of this title.

ALLOTMENT TO STATES; WITHIN STATE ALLOCATION

SEC. 102. (a)(1) From the sums appropriated under section 101(b) for each fiscal year, the Secretary shall reserve 2 percent for payments to the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs.

(2) From the remainder of such sums, the Secretary shall, subject to the provisions of subsection (b), allot to each State—

(A) an amount which bears the same ratio to one-half of such remainder as the school-age population of the State bears to the school-age population of all States, plus

(B) an amount which bears the same ratio to one-half of such remainder as the amount the State is eligible to receive under subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (as modified by chapter 1 of the Education Consolidation and Improvement Act of 1981) in the fiscal year for which the determination is made bears to the amount available to all States under such subpart 1.

(3) For the purpose of this subsection—

(A) the term "school-age population" means the population aged 5 through 17; and

(B) the term "States" includes the fifty States, and the District of Columbia.

(b) For the purpose of this section—

(1) the provisions of section 111(a)(3)(D) of the Elementary and Secondary Education Act of 1965, relating to the use of the survey of income and education data, shall not apply to the allotment of funds under paragraph (2) of subsection (a); and

(2) the provision of the third sentence of section 193(a) of the Elementary and Secondary Education Act of 1965, relating to the 85 percent hold harmless, shall not apply to the allotment of funds under paragraph (2) of subsection (a).

(c) The State educational agency shall allocate the allotment of the State to local

educational agencies within the State having an application approved by the State in accordance with section 105 based on the factors described in clause (3) of section 106(a), relating to the local applications.

ELIGIBILITY FOR GRANTS

SEC. 103. No grant may be made to a State under this title unless the State educational agency, and local educational agencies within the State, carry out planning activities designed to facilitate the use of Federal financial assistance under this title for the expansion of computer resources in the elementary and secondary schools within the State. The planning activities shall include—

(1) the goals for computer education in the schools of such agency and how the goals relating to computer education in each subject relate to the education objectives of the local educational agency,

(2) planned revisions in the basic curricula of the elementary and secondary schools designed to integrate the use of computers,

(3) instructional priorities for the use of computers,

(4) schedules for placing computers in the elementary and secondary schools of such agency selected in accordance with the provisions of section 106(a)(2)(B),

(5) criteria for selecting computer hardware and software to be acquired,

(6) provisions for the security of the computers,

(7) after school availability of the computers for use by parents and students for instructional or educational purposes, and

(8) standards for the evaluation of the computer education program assisted under this Act.

USES OF FUNDS

SEC. 104. Grants under this title may be used for the payment of the Federal share of—

(1) the acquisition of computer hardware for use in the education program in the elementary and secondary schools in the State, including services necessary for the operation, installation, and maintenance of the computer hardware;

(2) the conduct of teacher training programs designed to improve the quality of instruction in computer education and to expand the use of computers in the education program in the elementary and secondary schools in the State, with particular emphasis upon the use of seminars and inservice training and the use of specially trained teachers to train other teachers in the targeted schools of the local educational agency; and

(3) the acquisition of computer software.

STATE APPLICATION

SEC. 105. (a) Each State which desires to receive grants under this Act, and has complied with section 103, shall file an application with the Secretary. Each such application shall—

(1) designate the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this Act;

(2) provide assurances that the planning activities required under section 103 are completed or will be completed promptly after filing an application under this section, except that any State may meet the requirement of this clause if the Secretary determines that computer education program planning activities conducted prior to the date of enactment of this Act substantially meet the requirements of section 103;

(3) provide assurances that the State—

(A) will use grants under this Act (i) so as to supplement the level of funds that would, in the absence of such funds, be made available from non-Federal sources for the purpose of the program for which assistance is sought; and (ii) in no case to supplant such funds from such non-Federal sources; and

(B) will not commingle funds made available under this Act with State funds;

(4) provide assurances that the State will not expend more than 5 percent of the funds available to it under this title for administration and oversight activities and for furnishing services to local educational agencies within the State necessary for the local educational agencies to carry out their responsibilities under this Act;

(5) provide assurances that the State, through the State educational agency, shall furnish services to local educational agencies within the State necessary for the local educational agencies to carry out their responsibilities under this title;

(6) provide assurances that the State educational agency will pay from non-Federal sources the non-Federal share of the cost to the State of the computer education program for which assistance is sought under this title, together with an identification of the sources of the non-Federal support;

(7) provide that the application of each local educational agency applying for funds under this title will not be denied without notice and opportunity for a hearing before the State educational agency; and

(8) provides such additional assurances as the Secretary deems necessary to assure compliance with the requirements of this Act.

(b)(1) An application filed by the State under subsection (a) shall be for a period not to exceed four fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application.

(2) The Secretary shall not disapprove an application submitted by the State educational agency without first affording notice and opportunity for a hearing.

LOCAL APPLICATIONS

SEC. 106. (a) A local educational agency may receive payments under this title for any fiscal year in which it has on file with the State educational agency an application which—

(1) identifies the computer hardware, computer software, and the teacher training programs available in the elementary and secondary schools in the local educational agency and sets forth the uses for which assistance is sought by the local educational agency;

(2) provide assurances that the planning activities required under section 103 are completed or will be completed promptly after filing an application under this section;

(3)(A) provides assurances that of the payments made to the local educational agency in each fiscal year at least half of such funds shall be used to serve educationally disadvantaged children served under title I of the Elementary and Secondary Education Act of 1965 (as modified by the Education Consolidation and Improvement Act of 1981); and

(B) provides assurances that the local educational agency will provide the funds made available to the agency under this title in each fiscal year first to elementary and secondary schools of such agency with the greatest need for computer hardware, computer software, and teacher training;

(4) provides assurances that the local educational agency will evaluate the computer education program assisted under this title;

(5) provides assurances that funds paid under this title (A) will be used to supplement the levels of funds that would in the absence of such funds be made available from non-Federal sources for the purpose of the program for which assistance is sought; and (B) in not case as to supplant such funds from non-Federal sources;

(6) provides assurances that the local educational agency will pay from non-Federal sources the non-Federal share of the cost of the computer education program for which assistance is sought under this title, together with an identification of the source of the non-Federal support;

(7) agrees to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation consistent with the responsibilities of the State educational agency under this title;

(8) describes the programs and procedures which the local educational agency has developed to ensure the participation of parents in the establishment of its computer hardware acquisition program and in the development and implementation of a curriculum for the use of such hardware; and

(9) provides assurances that the agency will comply with the other provisions of this Act.

(b) One or more local educational agencies may jointly file an application under subsection (a).

(c)(1) The State educational agency may approve applications submitted under subsection (a) based upon the factors described in clause (3) of subsection (a) and section 102(c).

(2) An application filed by a local educational agency under subsection (a) shall be for a period not to exceed four fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 107. (a) The provisions of section 557 of the Education Consolidation and Improvement Act of 1981 shall apply to the financial assistance made available under this title.

(b) Each private elementary and secondary school to which subsection (a) applies shall, to the extent practicable, furnish evidence that such school has substantially complied with the planning activities described in section 103.

PAYMENTS; FEDERAL SHARE

SEC. 108. (a) From the amount allotted to each State pursuant to section 102, the Secretary shall, in accordance with the provisions of this Act, pay to the State an amount equal to the Federal share of the cost of the program to be assisted under this Act.

(b)(1) The Federal share for each fiscal year shall be 75 percent.

(2) Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

TITLE II—TEACHER TRAINING INSTITUTES

NATIONAL SCIENCE FOUNDATION PROGRAM

SEC. 201. (a) From the amount appropriated pursuant to section 203 for any fiscal year, the National Science Foundation shall arrange, through grants and contracts with professional, scientific or engineering orga-

nizations, science museums, regional science education centers, consortia of local educational agencies, intrastate resource and service centers, and institutions of higher education (including community colleges), for the development and operation by such entities of short-term or regular session institutes for study to improve the qualifications of individuals who are engaged in or preparing to engage in the teaching, or supervising or training of teachers, in the use of computers for computer education instruction and other education programs in elementary and secondary schools.

(b) In making grants and contracts under subsection (a), the National Science Foundation shall give special consideration to applicants who will train teachers, or supervisors or trainers of teachers, serving or preparing to serve in elementary and secondary schools that enroll substantial numbers of culturally, economically, socially, and educationally disadvantaged youth or in programs for children of limited English language proficiency.

STIPENDS

SEC. 202. Each individual who attends an institute operated under the provisions of this title shall be eligible (after application therefor) to receive a stipend at the rate of $275 per week for the period of attendance at such institute.

AUTHORIZATION OF APPROPRIATIONS

SEC. 203. There are authorized to be appropriated to carry out this title $20,000,000 for the fiscal year 1986 and for each succeeding fiscal year ending prior to October 1, 1989.

TITLE III—INFORMATION DISSEMINATION AND EVALUATION

NATIONAL INSTITUTE OF EDUCATION

SEC. 301. (a) For the purpose of providing advice and technical assistance to State and local educational agencies on the expenditure of funds under title I of this Act and on the acquisition of suitable computer software, the Secretary of Education and the National Science Foundation, in accordance with an interagency agreement between the Secretary and the Foundation, shall—

(1) evaluate available computer hardware and software, in terms of its usefulness in the classroom;

(2) disseminate the results of such evaluation; and

(3) develop model computer educational software, and make such model software (and its design premises) available to computer software producers and distributors, teachers, and school administrators.

(b) The Secretary of Education shall carry out the functions required by this section through the National Institute of Education.

(c) The Secretary of Education and the Foundation are authorized to make grants and enter into contracts to carry out the functions described in clauses (1), (2), and (3) of subsection (a).

(d) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year 1986 and for each succeeding fiscal year ending prior to October 1, 1989.

PRIVATE EVALUATION AND DISSEMINATION CENTERS

SEC. 302. (a) The National Science Foundation shall, through grants to or contracts with professional scientific or engineering organizations, science museums, regional science education centers, public television, consortia fo local educational agencies, regional laboratories and university based research centers and institutions of higher education (including community colleges), conduct, assist, and foster research and experimentation on, and dissemination of, models of instruction in the operation and use of computers. Such models of instruction may include model training programs for adults. In carrying out the provisions of this section, the Foundation shall give priority to proposals prepared with active and broad community involvement of such groups as parents, teachers, school boards and administrators, and local business.

(b) Funds available under a grant or contract pursuant to this section may be used for the acquisition of computer hardware and software.

(c) The Director of the National Science Foundation shall report to the Congress annually on the results of research and experimentation performed with funds made available under this section. The Director, in conjunction with the National Institute of Education, shall take such steps as may be necessary to disseminate information concerning such results to local educational agencies.

(d) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year 1986 and for each succeeding fiscal year ending prior to October 1, 1989.●

● Mr. DODD. Mr. President, today I am cosponsoring, with several of my colleagues, the Computer Education Assistance Act of 1985.

This legislation will help equalize computer education opportunities and to upgrade education curricula to include adequate computer use in schools throughout the Nation.

Quality computer education programs, properly integrated into existing curricula, should complement and enhance traditional school subjects. They need not, and must not, be imposed upon existing curricula at the expense of such basics as English, writing, science, or mathematics. The proper inclusion of computers as a tool of education, however, should assist students in acquiring specific skills needed in today's high-tech information society.

The 1980's has been aptly called "The era of the high-tech revolution." One critically important, and rapidly expanding, component of this revolution is information technology.

John Naisbitt may not have exaggerated the importance of information technology in his book Megatrends, when he wrote:

Schools around the Nation are beginning to realize that in the information society, the two required languages will be English and computer.

Although no one can safely predict the full impact of this technological revolution on the Nation's school systems, some problems are already clearly identifiable.

For example, many students in the more affluent schools effectively are being taught to utilize computers as part of routine classwork. On the other hand, many students in less affluent or less progressive schools are being frustrated by the lack of computer access and computer-literate teachers. This division in educational opportunities may ultimately create a technological caste system within the Nation's schools which we can ill afford.

In addition, many school officials lack expertise in choosing the hardware and software most suitable for their school needs.

To remedy these emerging problems, provisions of the Computer Education Assistance Act of 1985 allocate funds for the purchase of computer hardware—with priority being given to schools with the greatest need—establish teacher training institutes, and authorize new appropriations for the National Science Foundation and the National Institute of Education to research, evaluate, and disseminate information regarding available computer hardware and software. In addition, this legislation includes provisions for the development of "appropriate" computer education programs for use in the classroom.

One of the more positive components of this bill, in my opinion, is the requirement of a local plan outlining ways to incorporate computer education into existing school curriculum. In addition, the planning requirements will help ensure thoughtful consideration of ways to encourage proper student computer participation as well as the purchase of the most suitable equipment.

Funds under this act would be allocated to States half on the basis of school-age population and half on the basis of the chapter 1 formula as outlined in the Education Consolidation and Improvement Act of 1981.

Mr. President, the value for students of computer skills recently has been shown in many reports and surveys. One survey regarding the use of computers in the classroom was conducted by the National Education Association [NEA]. The NEA survey showed approximately 70 percent of responding teachers favorably reported that students with a good grasp of computer knowledge showed more motivation, improved interest in classwork, increased attention span, and enhanced cognitive learning skills.

The advantages of computer skills are not limited to the classroom. One estimate is that by 1990, more than 30 million jobs, including such areas as health care services, publishing, telecommunications, business, and manufacturing will be computer-related.

In my opinion, Mr. President, the Federal Government can make a valuable contribution to the Nation's future by improving access to quality computer education. I urge my colleagues' support for this important legislation.●

● Mr. MOYNIHAN. Mr. President, I am pleased to join my friend, Senator LAUTENBERG, in reintroducing the Computer Education Assistance Act. No single technological innovation of the last half-century has the potential to so revolutionize America and American education as does the computer. This legislation would expand and improve computer instruction in American elementary and secondary schools.

Many of us completed our formal educations with the aid only of pencils, slide rules, and, for a lucky few, typewriters. Not so much different from students a century before. Such will not do for students today. The computer is not a technological curiosity, but an integral part of the office and, increasingly, the home. It must become a integral part of the classroom as well.

The need is particularly acute for children from disadvantaged backgrounds, who so often attend schools which lack adequate equipment and resources. In 1983, the National Commission on Excellence In Education concluded in its report, "A Nation at Risk," that every high school student should receive at least one-half year of computer science training. Millions of students will not do so if their school districts cannot afford the equipment, or lack a plan to put that equipment to good use. Computer training is one field in which children at all economic levels should receive training.

This legislation would provide $150 million in fiscal year 1986 to assist State and local education agencies in developing programs for computer instruction, and authorize funds through the end of the decade. The funds next year would support the purchase of computer hardware and software, and improvements in teacher training. Each education agency which receives a grant under this program would be required to develop a comprehensive plan outlining its specific goals for computer education, planned revisions in elementary and secondary school curricula to incorporate computers, timetables for purchasing computer equipment, and for the availability of this equipment to students and parents during nonschool hours. Such will ensure that the computer assistance provided under this program is implemented in a coherent, well-integrated way. This bill also addresses one of the most persistent problems plaguing American education—inadequate teacher training. Instructors as well as students would benefit from this support for computer training.

The most prosperous, most successful nations have always been those which seized and harnessed technological innovations first. All around us, the microchip is changing the world in which our children will live and work. Computer education is essential to their success in this new world. I urge all my colleagues to support this most important education legislation.●

● Mr. KENNEDY. Mr. President, I join my colleagues in supporting the Computer Education Assistance Act of 1985. This legislation is similar to that which was introduced last year and which I cosponsored. The computer education bill introduced in the last Congress was a composite of various bills introduced by myself, Senators DODD, LAUTENBERG and BYRD, along with Congressman WIRTH. The present bill is substantially similar to that effort with some minor modifications.

As we move toward a more technological, information-based society, computers will become an integral part of our daily lives. Computers are becoming an essential ingredient in the instructional process. The majority of schools in the country already own one of more microcomputers. Some observes predict that more than a million computers will be place in U.S. schools within the next 2 to 3 years.

Computer literacy is becoming a prerequisite for college performance. A recent article in the New York Times magazine declared that "the rush to create a 'computer intensive' academic environment is on." And, computer literacy is rapidly becoming a necessary skill for almost any occupation. In his book Megatrends, John Naisbitt cited one estimate that "75 percent of all jobs by 1985 will involve computers in some way—and people who don't know how to use them will be at a disadvantage." Naisbitt stated, "Although computer use in public education is still in its infancy, schools around the Nation are beginning to realize that in the information society the two required languages will be English and computer."

The Computer Education Assistance Act of 1985 is an attempt to address the present and future needs for computer education. The bill authorizes funds for the purchase of computer hardware and software, for teacher training and for important planning activities.

In spite of the increased availability of computers, this bill seeks to insure equal access to computers by authorizing the purchase of computer hardware and software. The bill also provides that 50 percent of the funds will be allocated to schools serving disadvantaged children. Insuring equal access to computers is one of the most important goals of this legislation. A recent study showed that while between two-thirds to three-quarters of the richest U.S. schools have at least one microcomputer, 60 percent of the poorest schools have none. Insuring equity of access has been the continuing commitment of the Federal Government. Insuring equity of access to computers and computer literacy is the challenge in the upcoming decades.

This bill authorizes the purchase of both computer hardware and software. Access to the appropriate computer software is as important as having access to the computer itself. Developments in computer software are making computers an important learning tool, not only for computer literacy, but for literacy in math, science, English and almost every other subject.

Another important element addressed in this legislation is teacher training. Computers in the classroom are useless if the teacher is unable to teach computer skills or to integrate them into the curriculum. A 1982 survey found that 58 percent of teachers were "not well informed" about how to operate a computer, only 21 percent had some computer training and only 7 percent were receiving some computer training. This bill establishes, in cooperation with the National Science Foundation, teacher training institutes to provide computer training.

Finally, the bill requires school districts to conduct extensive planning to insure that the computer hardware and software is appropriate to meet the needs of the students. Ernest Boyer, in his "High School: A Report on Secondary Education in America," stated, "the first obligation of the school is to put the technological revolution in perspective. Buying computers before this core educational program is solidly in place is to turn school priorities upside down."

The Computer Education Assistance Act of 1985 is an important investment in our national education agenda. It is an important step in our effort to promote excellence in our Nation's classrooms. This effort, however, does not replace the need to improve the quality of education for all children. As John Naisbitt said, "without basic skills, computer illiteracy is a foregone conclusion." We will continue to work to improve the quality of education for our children. In the meantime, we must address the need for computer access. This bill is an important step in that direction.●

Mr. BYRD. Mr. President, I am pleased to join my colleagues today in introducing the Computer Education Assistance Act of 1985. This bill is basically identical to the one we introduced last year in April. It is a composite of what we consider the best features of several bills that were introduced in the 98th Congress, and, as such, represents the most effective Federal response to the very critical needs our Nation's schools face in the area of computer education and computer-assisted education.

The report of the President's Commission on Industrial Competitiveness,

issued in January of this year, focused its recommendations for improving educational quality on just this subject. I quote from that report:

Education is central to enhancing the quality of human resources, for it supplies the tools for learning that are basic to the process of adapting to change. The changing workplace will require employees to utilize a broader mix of skills as work becomes increasingly knowledge-based. To adapt to these evolving skill requirements, workers will need a solid grounding in basic skills—particularly reading, writing, computation, and problem solving. Our public education system, which has primary responsibility for transmitting these skills, must be upgraded to instill renewed rigor and quality in the basic education of all citizens. Through curriculum reforms, improved teacher quality, and *the use of new teaching methods, such as education technology, this goal can become a reality.* (Emphasis added.)

Citing the work of the President's National Commission on Excellence in Education in making recommendations for general educational reform, the Industrial Competitiveness Commission then zeroes in on two particular needs in the area of education technology: The development of quality, comprehensive software, and improved teacher training in computer and computer-assisted education, two major sections of the bill we are introducing today.

This past year, it has become commonplace to pick up a national news magazine, newspaper, or education trade publication that contains an article on the computer revolution now taking place in our Nation's schools—in elementary and secondary schools and in colleges and universities. Newsweek magazine has observed that the use of computers "is not simply an educational innovation: (their) use is being forced on schools by society." In its 1983 report, the President's National Commission on Excellence in Education officially recognized this new educational requisite when it listed what it considers the "five new basics" in secondary education: English, math, science, social studies, and computer science.

Schools all around the country are rushing headlong to meet this revolutionary demand. The Department of Education's National Center for Education Statistics [NCES] reported that in the fall of 1980 there were 31,000 microcomputers—and an additional 22,000 terminals—being used for instructional purposes in public schools. A followup survey by NCES found 96,000 microcomputers, and 24,000 terminals, in schools by the spring of 1982. A separate survey by Market Data Retrieval, Inc. [MDR], found 325,000 microcomputers in the public schools by the fall of 1983. Preliminary data from MDR now show over 550,000 microcomputers in schools by the fall of 1984. The majority of schools in the country now own one or more microcomputers intended for educational purposes.

As this revolution has progressed, serious problems have emerged that are associated with this rush to "keep up with the Joneses" by trying to put an "apple" in every schoolroom. Our bill today addresses four of these serious problems.

The first and most critical problem directly relates to our historic commitment to ensuring access to education. It is the fact that access to this computer revolution is not equal between poor schools, poor children and rich schools, rich children. A 1983 University of Minnesota study found that the 12,000 wealthiest schools in the country are four times more likely to have microcomputers than the 12,000 poorest. The Johns Hopkins Center for Social Organization of Schools has found that in 1983 nearly 70 percent of the schools in more affluent areas had at least one microcomputer, while only 40 percent of the schools in poorer areas had such equipment. Market Data Retrieval, Inc., [MDR], found that in 1983, in districts with less than 5 percent of their student population below the poverty level, 83 percent of the schools were using microcomputers. In districts with student populations 25 percent or more from families with subpoverty level incomes, only 53 percent of the schools were using microcomputers. MDR's data for the year before—1982—show the corresponding percentages of schools using microcomputers in those two categories of school districts were 44 percent and 18 percent. Thus, although the proportion of schools having at least one microcomputer in the low-income districts has been growing more rapidly than in the high-income districts, the percentage gap between these two categories of school districts has also grown.

Clearly, there is an equity problem in computer education and computer-assisted education opportunities, and it stems from a very real disparity in the relative financial capacities of schools. Dr. Ronald E. Anderson, one of the directors of the 1983 University of Minnesota study, offers this ominous warning about the potential effects of this disparity:

The implications are not just ethical and social, but they are economic as well. If differential opportunities for computer literacy continue to grow, large segments of the labor force will be rendered increasingly less productive as a consequence of not being able to function effectively and comfortably with the computers around them.

My State of West Virginia is still suffering the profound effects of the Reagan recession. But because West Virginians recognize the imperative to improve educational excellence now, despite the severe strains on the State's resources, the State nevertheless has committed increased funding to education, including computer education. Last year, West Virginia embarked upon a very well-designed and impressive state-wide computer network to bring computer education capabilities to her schools. In its first year, the program was targeted to reach all of the 71 vocational schools and a dozen high schools in the State, providing computer access for high school seniors only. Obviously, many more resources will be needed before this outstanding program can reach all West Virginia schools and students in all grades.

The bill we offer today directly addresses this important access problem. It targets Federal money to those schools and students who, without such assistance, would be left behind in the computer revolution.

The second most critical problem that has arisen in this revolution is that many schools have rushed to purchase hardware and software, or have happily accepted donations of hardware, only to find in a short time that their computer systems are incapable of meeting their educational needs. These purchases or gift acceptances have been made before undertaking any sort of planning as to how the equipment will be used, by whom, for what, and toward what goals. Clearly, haste has made waste in these schools.

It is imperative that thorough planning be undertaken before purchasing computer hardware and software. Our bill, therefore, puts heavy emphasis on such planning. Before receiving grants under the bill, local education agencies will be required to undertake such a process.

A third problem in computer education today is a shortage of adequate teacher training programs. A 1982 survey conducted by the National Education Association found that 58 percent of their respondents were "not well informed" about how to operate a computer. Only 21 percent had received some computer training, only slightly more than 11 percent had used computers for instruction, and only 7 percent were currently doing so. Clearly, teacher training programs have not kept pace with the rush to install computer capabilities. We must rectify this.

The President's Industrial Competitiveness Commission recognizes this necessity and recommends "systematic efforts to provide inservice training in the use of computers for teachers of all fields, stressing the integration of computer-assisted instruction in the school curriculum and aiding teachers in adapting the technology to their own needs." Our bill addresses this need by providing funds for such inservice training. It also sets up a grant program, to be administered by the National Science Foundation, available to a wide variety of local, State, or regional agencies, including muse-

ums, community colleges, nonprofit scientific or engineering organizations, et cetera, for the development and operation of teacher training institutes.

The fourth problem our bill addresses is one that has received the most recognition in the magazines and newspapers I referred to earlier, and that is the inadequate state of software available to schools. According to P. Kenneth Komoski, executive director of the Educational Products Information Exchange Institute [EPIE] of Columbia University:

> The quality of educational computing in a school is going to depend on the quality of the software selected for use in that school and on the way in which the use of that software is integrated into the overall curriculum.

In an article dated December 1984, Mr. Komoski reported the results of a 2-year and ongoing study of available computer software. EPIE's study finds only 5 percent of the hundreds of programs available to be of truly high quality, while more than half are judged "not worth recommending." The President's Industrial Competitiveness Commission recommends strong Federal action in this area:

> By providing support for the costly research underlying software development and identifying those approaches that promise the most effective results, Government can remove a major barrier to the development of quality software by industry.

Our bill will increase the capabilities of the Department of Education and the National Science Foundation to develop this kind of research and will direct them to develop model software programs and programs for the dissemination of the software.

In closing, Mr. President, I would like to emphasize that this bill is a thoughtful response to the actual needs facing America's schools and students in this computer revolution. Because of the enormity of the budget deficits facing our Government, we intentionally have kept the proposed spending in this bill to a responsible level. It is our hope that the Computer Education Assistance Act of 1985 will become law before the end of the 99th Congress.

By Mr. BRADLEY (for himself, Mr. CHILES, and Mr. GLENN):

S. 1277. A bill to amend title XIX of the Social Security Act to provide that States may provide home or community-based services under the Medicaid program without the necessity of obtaining a waiver; to the Committee on Finance.

MEDICAID HOME AND COMMUNITY-BASED SERVICES IMPROVEMENT ACT

Mr. BRADLEY. Mr. President, I rise today to introduce the Medicaid Home and Community-based Services Improvement Act of 1985, which is designed to give States much more flexibility in providing home care services to persons at high risk of institutionalization. Joining me in introducing this legislation are the Senators from Florida [Mr. CHILES] and Ohio [Mr. GLENN].

Mr. President, in 1981, the Congress established a program that was designed to help Medicaid recipients stay out of nursing homes and hospitals by promoting an expansion of home-based care. Section 2176 of the 1981 Omnibus Budget Reconciliation Act was designed to allow States to apply to HCFA for waivers to allow a limited number of people to be treated at home rather than in institutions through the provision of a wide range of home-health and community services that Medicaid had not previously covered.

To be eligible to run a Home and Community-based Waiver Program, States had to meet several criteria. First, safeguards had to be established to ensure that the health and welfare of recipients be protected and that persons would be given a choice between home care and nursing home care. In addition, States had to show that the costs for home care would not be any higher than they would be for institutional care if the waiver had not been granted. Finally, by operating the program through the waiver approval process, it was believed that the Government would be able to adequately test the program and still keep control.

As of December 31, 1984, 47 States had submitted a total of 124 waiver requests. About two-thirds of the requests were approved, with the balance either rejected, withdrawn, or still awaiting final decision. My own State of New Jersey received approval for 1,800 slots for Medicaid eligible elderly and disabled persons and 700 slots for mentally retarded persons.

Why do we need this program, Mr. President? Yesterday, I visited with John Srozenski in his home in Elmwood Park, NJ. Mr. Srozenski, a victim of multiple sclerosis, is in need of extensive health care services. He has received home care services for the past 2 years from the Hackensack Medical Center under the auspices of the Medicaid Home and Community-Based Waiver Program.

These services have enabled Mr. Srozenski to remain at home with his loved ones. This program has improved the quality of his life. And I believe the quality of life in America is improved when we, as a Nation, help those in need, because our own well-being is tied in many respects to the well-being of our neighbors.

In a word, Mr. President, this program helps keep families together and enables people who otherwise would end up in a nursing home remain in their own homes.

This is a program that we need to support.

Mr. President, in March 1985, after nearly a 4-year delay, the Health Care Financing Administration issued final regulations on the Home and Community-based Waiver Program. It appears to me that OMB had a very heavy hand in drafting the regulations. The program has been tightened up in such a way as to subvert the congressional intent to expand home care services. The regulations put the States through so many hoops and reporting requirements that many States in the future will most likely not be able to get approval for new waivers or extensions for their current waivers.

Mr. President, the recent regulations are clearly trying to undermine the Home and Community-based Waiver Program. So long as this administration is in control of approving State waivers, congressional intent will be subverted. The administration will try to reduce rather than expand the current commitment to home care. Unless the administration is overruled, much of the good work that has been done developing this program over the past couple of years will be for naught.

Unless these actions are countermanded, I fear that the Mr. Srozenski's of the world will no longer be receiving services. To overture the HCFA actions, the bill that we are introducing today terminates the waiver-approval process and allows States, at their option, to provide these home care services to Medicaid eligible elderly and disabled persons to avoid institutionalization. States would still have the authority—as they do under the waiver—to limit services to a specific number of people or a specific geographic area. And States would still have to submit documentation in their State plan showing that Medicaid costs will not be increased due to the establishment of the program. But the bill doesn't require States to jump through all of the hoops that the administration is now requiring. The main difference is that there will not be a waiver process; HCFA would have much less control over the process and States will have much more flexibility to tailor home care services to meet the needs of the population at risk of institutionalization.

Mr. President, this legislation addresses a second concern that relates to the out-of-pocket costs that many beneficiaries must pay to receive services. The administration currently requires that a recipient must allocate all of his or her income above the SSI income level—$356 per month for a single person in New Jersey—up to the cost of home care services to pay for services. Needless to say, in a high-cost State like New Jersey, it is very, very hard to live on $356 a month.

As examples, consider two eligible clients living alone—one with income

of $350 a month and the other with income of $550 a month. Under HCFA policy, the former client would not have to pay anything for services; the latter client would have to pay $194 a month for services. It is nearly impossible for a chronically ill person with income close to the poverty line to pay almost 40 percent of their income for home care. In my home State of New Jersey, this "cost sharing" provision has caused at least half of the persons eligible for services to opt not to join the program because of the high cost.

Last fall, I wrote to Secretary Heckler requesting a change by HCFA to raise the threshold by $150 a month before a person had to pay for services. HCFA denied this regulatory change.

Mr. President, to correct this problem, this bill increases the amount by $150 a month that a person can recieve in family income before having to pay for home care services. The Federal Government will still be saving money because the "cost neutrality" provision assures that the cost for the program will be no more than the Medicaid costs would have been if the program were not in operation.

Mr. President, there are many among us who have ignored the growing demand for long-term care services in this country, hoping that if the Federal Government does as little as possible that the problem will somehow go away.

The problem won't go away. It is only going to get bigger. In the next 15 years, the over-age-85 population will grow by 60 percent and the number of persons who suffer from a chronic disease that limits their daily activities will grow by 50 percent.

We have to come to grips with the fact that long-term care is going to cost this Nation a lot of money as the population ages. I believe that more home care—as an alternative to nursing home care services—is a humane and cost-effective approach. This bill allows states much greater flexibility to test out ways to provide affordable long-term care services at home.

The Federal and State Governments have a responsibility to develop innovative ways to help meet the long-term care needs of this Nation's elderly and disabled populations. I ask you—for cost reasons and for humanitarian reasons—aren't we better off living in a society that tries to find ways to keep the elderly and the disabled in their homes with their family members rather than in institutions?

ADDITIONAL COSPONSORS

S. 377

At the request of Mr. DECONCINI, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 377, a bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report to provide for the temporary stay of detention and deportation of certain Salvadorans, and for other purposes.

S. 505

At the request of Mr. DURENBERGER, the names of the Senator from Kansas [Mr. DOLE], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Montana [Mr. BAUCUS], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Mississippi [Mr. STENNIS], the Senator from Florida [Mr. CHILES], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 505, a bill entitled the "Maternal and Child Health Preventive Care Amendments of 1985."

S. 765

At the request of Mr. KASTEN, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 765, a bill to provide for coordinated management and rehabilitation of the Great Lakes, and for other purposes.

S. 855

At the request of Mr. PRYOR, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Tennessee [Mr. GORE], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 855, a bill for the relief of rural mail carriers.

S. 865

At the request of Mr. MATHIAS, the names of the Senator from Florida [Mr. CHILES], the Senator from Massachusetts [Mr. KERRY], the Senator from Missouri [Mr. DANFORTH], the Senator from Hawaii [Mr. INOUYE], the Senator from Texas [Mr. GRAMM], the Senator from Michigan [Mr. LEVIN], the Senator from Idaho [Mr. MCCLURE], the Senator from Georgia [Mr. NUNN], the Senator from Oklahoma [Mr. NICKLES], the Senator from Rhode Island [Mr. PELL], the Senator from Mississippi [Mr. STENNIS], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 865, a bill to award special congressional gold medals to Jan Scruggs, Robert Doubek, and Jack Wheeler.

S. 1093

At the request of Mr. MATHIAS, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1093, a bill to amend the patent law to restore the term of the patent grant in the case of certain products for the time of the regulatory review period preventing the marketing of the product claimed in a patent.

S. 1162

At the request of Mr. HART, the name of the Senator from Vermont [Mr. STAFFORD] was added as a cosponsor of S. 1162, a bill to amend the Nuclear Waste Policy Act of 1982 to require the Secretary of Energy to incorporate transportation impacts into the selection process for repositories of high-level radioactive wastes.

S. 1258

At the request of Mr. GARN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1258. A bill to modify the restrictions on the use of a certain tract of land in the State of Utah, and to provide for the conveyance of the fence located on such tract to the Armory Board, State of Utah.

SENATE JOINT RESOLUTION 78

At the request of Mr. SYMMS, the names of the Senator from New Jersey, [Mr. BRADLEY], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 78, a joint resolution to provide for the designation of June 10 through 16, as "National Scleroderma Week".

SENATE JOINT RESOLUTION 97

At the request of Mr. MATHIAS, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Joint Resolution 97, a joint resolution designating the Study Center for Trauma and Emergency Medical Systems at the Maryland Institute for Emergency Medical Services Systems at the University of Maryland as the National Study Center for Trauma and Emergency Medical Systems.

SENATE JOINT RESOLUTION 122

At the request of Mr. BRADLEY, the names of the Senator from Nebraska [Mr. EXON], the Senator from New Mexico [Mr. DOMENICI], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Massachusetts [Mr. KERRY], the Senator from Michigan [Mr. LEVIN], the Senator from Illinois [Mr. SIMON], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Joint Resolution 122, a joint resolution to authorize the President to proclaim the last Friday of April each year as "National Arbor Day."

SENATE JOINT RESOLUTION 125

At the request of Mr. LEAHY, the names of the Senator from South Dakota [Mr. ABDNOR], the Senator from Montana [Mr. BAUCUS], the Senator from Tennessee [Mr. GORE], the Senator from Kentucky [Mr. FORD], the Senator from Utah [Mr. HATCH], the Senator from North Carolina [Mr. HELMS], the Senator from Montana [Mr. MELCHER], the Senator from Maine [Mr. MITCHELL], the Senator from Nebraska [Mr. EXON], the Senator from Oregon [Mr. PACKWOOD], the Senator from California [Mr.

WILSON], the Senator from Arizona [Mr. GOLDWATER], the Senator from Hawaii [Mr. INOUYE], the Senator from Tennessee [Mr. SASSER], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 125, a joint resolution designating the week of June 23, 1985, through June 29, 1985, as "Helen Keller Deaf-Blind Awareness Week."

SENATE CONCURRENT RESOLUTION 47

At the request of Mr. HEINZ, the name of the Senator from Arizona [Mr. GOLDWATER] was added as a cosponsor of Senate Concurrent Resolution 47, a concurrent resolution observing the 20th anniversary of the enactment of the Older Americans Act of 1965.

SENATE RESOLUTION 177

At the request of Mr. KENNEDY, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Montana [Mr. MELCHER], and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of Senate Resolution 177, a resolution to assure Israel's security, to oppose advanced arms sales to Jordan, and to further peace in the Middle East.

SENATE RESOLUTION 178

At the request of Mr. EVANS, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Resolution 178, a resolution to urge the Administrator of the National Highway Traffic Safety Administration to retain the current automobile fuel economy standard.

AMENDMENT NO. 324

At the request of Mr. SYMMS, the names of the Senator from Florida [Mr. CHILES], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Amendment No. 324 proposed to S. 1003, an original bill to authorize appropriations for the Department of State, the United States Information Agency the Board for International Broadcasting, and the National Endowment for Democracy, and for other purposes for fiscal years 1986 and 1987.

AMENDMENT NO. 325

At his request, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Amendment No. 325 proposed to S. 1003, an original bill to authorize appropriations for the Department of State, the United States Information Agency, the Board for International Broadcasting, and the National Endowment for Democracy, and for other purposes for fiscal years 1986 and 1987.

AMENDMENTS SUBMITTED

DEPARTMENT OF STATE AUTHORIZATION ACT, FISCAL YEARS 1986 AND 1987

HAWKINS AMENDMENT NO. 329

Mrs. HAWKINS proposed an amendment to the bill (S. 1003) to authorize appropriations for the Department of State, the U.S. Information Agency, the Board for International Broadcasting, and the National Endowment for Democracy, and for other purposes for fiscal years 1986 and 1987; as follows:

On page 31, after line 23, insert the following:

TITLE VI—MISCELLANEOUS PROVISIONS

INTERNATIONAL NARCOTICS CONTROL COMMISSION

SEC. 601. (a) There is established the International Narcotics Control Commission (hereafter in this section referred to as the "Commission").

(b) The Commission is authorized and directed—

(1) to monitor and promote international compliance with narcotics control treaties, including eradication, money laundering, and narco-terrorism; and

(2) to monitor and encourage United States Government and private programs seeking to expand international cooperation against drug abuse and narcotics trafficking.

(c)(1) The Commission shall be composed of twenty-two members as follows:

(A) Seven Members of the House of Representatives appointed by the Speaker of the House of Representatives. Four members shall be selected from the majority party and three shall be selected, after consultation with the minority leader of the House, from the minority party.

(B) Seven Members of the Senate appointed by the President of the Senate. Four members shall be selected from the majority party of the Senate, after consultation with the majority leader, and three shall be selected, after consultation with the minority leader of the Senate, from the minority party.

(C) One member of the Department of State appointed by the President.

(D) One member of the Department of Justice appointed by the President who shall be the Attorney General.

(E) One member of the Department of the Treasury appointed by the President.

(F) Five members of the public to be appointed by the President after consultation with the members of the appropriate congressional committees.

(2) There shall be a Chairman and a Cochairman of the Commission.

(3) On the date of enactment of this section and at the beginning of each odd-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members as Chairman of the Commission. At the beginning of even-numbered Congress, the Speaker of the House of Representatives shall designate one of the House Members as Chairman of the Commission.

(4) At the beginning of each odd-numbered Congress, the Speaker of the House of Representatives shall designate one of the House Members as Cochairman of the Commission. At the beginning of each even-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members as Cochairman of the Commission.

(d) In carrying out this section, the Commission may require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpenas may be issued over the signature of the Chairman of the Commission or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Commission, or any member designated by him, may administer oaths to any witness.

(e) In order to assist the Commission in carrying out its duties, the President shall submit to the Commission a semiannual report regarding the status of compliance with narcotics control treaties, the first one to be submitted six months after the date of enactment of this section.

(f) The Commission is authorized and directed to report to the House of Representatives and the Senate with respect to the matters covered by this section on a periodic basis and to provide information to Members of the House of Representatives and the Senate as requested. For each fiscal year for which an appropriation is made the Commission shall submit to the Congress a report on its expenditures under such appropriation.

(g)(1) There are authorized to be appropriated to the Commission for each fiscal year and to remain available until expended $550,000 to assist in meeting the expenses of the Commission for the purpose of carrying out the provisions of this section, such appropriation to be disbursed on a voucher to be approved by the Chairman of the Commission.

(2) For purposes of section 502(b) of the Mutual Security Act of 1954, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to the use of funds in accordance with such sections.

(3) Not to exceed $6,000 of the funds appropriated to the Commission for each fiscal year may be used for official reception and representational expenses.

(h) The Commission may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

BYRD (AND OTHERS) AMENDMENT NO. 330

Mr. BYRD (for himself, Mr. LEVIN, Mr. BENTSEN, Mr. KERRY, Mr. BOREN, and Mr. THURMOND) proposed an amendment to the bill S. 1003, supra; as follows:

At the appropriate place in the bill insert the following:

(a) The Congress finds—

(1) The Japan-U.S. security relationship is the foundation of the peace and security of Japan and the Far East, as well as a major contributor to the protection of the United States and of the democratic freedoms and

economic prosperity enjoyed by both the U.S. and Japan;

(2) The threats to our two democracies have increased significantly since 1976, principally through the Soviet invasion of Afghanistan, the expansion of Soviet armed forces in the Far East, the invasion of Cambodia by Vietnam and the instability in the Persian Gulf region as signified by the continuing Iran-Iraq conflict;

(3) In recognition of these threats, the United States has greatly increased its annual defense spending through sustained real growth averaging 8.8 percent yearly between Fiscal 1981 and 1985, and cumulative real growth of 50 percent in that period.

(4) In May 1981, the Prime Minister of Japan stated that, pursuant to the Mutual Security Treaty between his country and the United States, and pursuant to Japan's own "Peace" Constitution; it was national policy for his country to acquire and maintain the armed forces adequate for the defense of its land area and surrounding airspace and sea lanes, out to a distance of 1,000 miles;

(5) The U.S. Government applauds the policy of Japan to obtain the capabilities to defend its sea and air lanes out to 1,000 miles and expects that these capabilities should be acquired by the end of the decade, and recognizes that achieving those capabilities would significantly improve the national security of both Japan and the United States;

(6) Japan, however, has failed to provide sufficient funding and resources to meet her basic self-defense needs and these alliance responsibilities under the Mutual Cooperation and Security Treaty between her and the United States, signed January 19, 1960;

(7) Every year since 1981, the Defense Department has reported to Congress that Japan "ranks last or close to last" on most measures surveyed and thus quite clearly "appears to be contributing far less than its fair share" of the common defense burden;

(8) In 1985, the Commander of all U.S. armed forces in the Pacific region, Adm. William J. Crowe, Jr., testified to Congress that Japan's decision to increase its defense budget in 1985 "is still inadequate to meet the defense capabilities the Japanese government has pledged itself to meet;"

(b) It is the sense of the Congress that Japan, to fulfill her self-defense responsibility as agreed upon pursuant to the Mutual Security Treaty with the United States and in accordance with the national policy declaration made by her Prime Minister in May 1981, to develop a 1,000 mile, airspace and sea-lanes defense capability, should:

(1) formally reexamine her 1976 National Defense Program Outline with the objective of revising it to reflect these agreed-upon responsibilities and today's increased mutual security requirements; and

(2) develop and implement a 1986-1990 Mid-Term Defense Plan containing sufficient funding, program acquisition, and force development resources to obtain the agreed-upon 1,000 mile self-defense capabilities by the end of decade, including the allocation of sufficient budgetary resources annually to reduce the ammunition, logistics, and sustainability shortfalls of her forces by 20 percent each year.

(c) It is the further sense of the Congress that Japan, to assume a more equitable share of the mutual security burden in view of her status as the second richest nation in the Free World, should be encouraged to:

(1) increase substantially her annual financial contribution to construct new facilities for U.S. military forces stationed in Japan; and,

(2) under the terms of the existing Status of Forces Agreement with the United States, increase substantially her annual financial contribution to support U.S. forces stationed in Japan, or operating in defense of Japan, including the assumption of a larger proportion of the labor costs of Japanese nationals employed by the United States in Japan.

(d) to permit the Congress to assess Japan's progress toward actually fulfilling her common defense commitments, the President should, not later than February 1, 1986, and on an annual basis thereafter, submit to the appropriate committees of Congress, a report in both classified and unclassified form, containing the following:

(1) a detailed estimate by the U.S. government of the level of funding resources, specific procurement programs and other defense improvement actions required annually between 1986 and 1990 for Japan to achieve the capabilities to defend her homeland and airspace and sea lanes out to 1,000 miles, by the end of this decade;

(2) a detailed estimate by the U.S. Government of the length of delay beyond 1990 for Japan to achieve the self-defense capabilities referred to in (c)(1) and caused by any disparities between the U.S. estimate of resources required and those resources provided by Japan for that particular annual period and for the years remaining in the 1986-90 Mid-Term Defense Plan; and

(3) an account of what actions the U.S. Government has taken in the preceding year to encourage Japan to attain by 1990 the 1,000 mile self-defense capabilities.

LUGAR AMENDMENT NO. 331

Mr. LUGAR proposed an amendment to the bill S. 1003, supra; as follows:

The text of Section 903 of P.L. 98-164 is hereby designated as subsection (a) and the text which follows as subsection (b):

Pending completion of the negotiation of an agreement with the Government of India, the annual earnings generated by the monies appropriated by P.L. 98-411 may be used for the purposes set out in Section 902(A) above.

McCLURE AMENDMENT NO. 332

Mr. McCLURE proposed an amendment to the bill S. 1003, supra; as follows:

At the end of the bill add the following new section:

"The Department of Defenese shall prepare a report, to be submitted to Congress in both classified and unclassified form by July 15, 1985, that describes in detail the direct and indirect military consequences and effects of all Soviet violations of all arms control treaties and agreements."

NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. COHEN. Mr. President, I wish to announce that the Senate Oversight of Government Management Subcommittee will hold a hearing on the Program Fraud Civil Penalties Act of 1985 (S. 1134) on Tuesday, June 18, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

SUBCOMMITTEE ON NUTRITION

Mr. HELMS. Mr. President, I wish to announce that the Subcommittee on Nutrition of the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the reauthorization of the Food Stamp Act of 1977 and legislation related thereto. The hearing will begin at 9:30 a.m. on Friday, June 14, 1985, in room 328-A Russell Senate Office Building.

If further information is needed, please call the committee staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SMALL BUSINESS: FAMILY FARM

Mr. THURMOND. Mr. President, I ask unanimous consent that the Subcommittee on Small Business: Family Farm, of the Committee on Small Business, be authorized to meet during the session of the Senate on Tuesday, June 11, at 2 pm, to hold a hearing on industrial development bonds.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. THURMOND. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, June 11, to hold a hearing on S. 403, 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; S. 426, to amend the Federal Power Act to provide for more protection to electric consumers; S. 1219, Fair Competition in Hydroelectric Licensing Act of 1985.

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

COMMITTEE ON THE JUDICIARY

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 11, 1985, in order to receive testimony concerning contractors indemnification.

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

ADDITIONAL STATEMENTS

A CONVENTIONAL MISSILE DEFENSE FOR NATO

● Mr. QUAYLE. Mr. President, there has been considerable debate over the President's strategic defense initiative [SDI]. Much of this debate has been confusing, if not confused. A critical

misconception is that SDI is only useful against strategic nuclear ballistic missiles. This is not so. Indeed, as was recently emphasized in an excellent Wall Street Journal op-ed by Dennis Gormley and Douglas Hart last week, one of the most urgently needed applications of SDI technology is against Soviet conventionally and chemically armed SS-21, SS-22, and SS-23 tactical missiles.

Currently, there is no defense against these deployed missiles. Thus, although NATO is spending billions pouring concrete to protect its main operating bases against Soviet fighter-bomber attacks, it is entirely nude before missiles that are accurate enough to do their job without having to be nuclearly armed. Certainly, NATO wants to deter a nuclear war, but it is even more imperative that NATO deter war at the conventional level since there is every reason to fear that once war begins, it may go nuclear.

Mr. President, as we consider what the value of defenses against missiles might be and how the United States might cooperate with its NATO allies on SDI, the Soviet tactical missile threat and the need to develop anti-tactical ballistic missile (ATBM) defenses are issues that we will be forced to address. In hopes that the wider distribution of the piece by Dennis Formley and Douglas Hart might invigorate Senate discussion of these issues, I ask that the full text of their op-ed in the Wall Street Journal of May 29, 1985, be entered in an appropriate place in the RECORD.

The text follows:

[From the Wall Street Journal, May 29, 1985]

A CONVENTIONAL MISSILE DEFENSE FOR NATO

(By Dennis Gormley and Douglas Hart)

While interest from European industry in President Reagan's Strategic Defense initiative is growing, NATO political leaders are becoming increasingly ambivalent over it. Not surprisingly, Moscow is using the revived arms talks to exploit European anxieties about SDI. Despite these anxieties, a ballistic-missile defense for Europe could offer the most effective and stable hedge against highly accurate, conventional ballistic missiles now being deployed with Soviet ground forces in Eastern Europe.

Unopposed by any form of missile defense, new Soviet missiles are aimed at the heart of NATO's defense policy of flexible response; they endanger the alliance's capacity to resist at the conventional level and to threaten nuclear escalation should Warsaw Pact success demand it. In addition to their nuclear and chemical warheads, Soviet SS-21, SS-22 and SS-23 missiles reportedly possess, or have under development, improved conventional munitions. With missile accuracies reported to be within 55 yards, these new weapons will increase the danger of conventional war in Europe, even with major reductions in superpower long- and medium-range nuclear missiles.

The reason is simple: Tied as they are to the Warsaw Pact's offensively oriented strategy of pre-emptive surpise attack, new deep-strike Soviet missiles will create a hair-trigger, highly unstable environment during crises because they foster such strong incentives to substitute military for diplomatic action.

How do these new military instruments fit into Soviet theater warfare strategy and why is some means of defense against them so vital to stability and deterrence in Europe?

Over the past two decades the Soviet Union has vastly improved its capacity to fight military campaigns without recourse to nuclear weapons. Soviet strategists see decisive advantages coming from exploiting the initial period of war when an adversary is only partially mobilized.

In an interview last May in Red Star, Marshal Nikolai Ogarkov, former chief of the Soviet General Staff, declared that major improvements in the range, accuracy and destructive potential of conventional weapons will greatly magnify "the role and significance of the initial period of the war." Soviet strategy for the initial period calls for a massive conventional air campaign and the insertion of the large mobile groups deep behind NATO's forward lines to create disarray and eventually a collapse of NATO's defense—especially its nuclear option and ability to reinforce Europe.

Many question whether such an audacious strategy could work. Its success hinges on the swift application of conventional firepower to open up corridors for the air campaign and to support airborne landings. Given NATO's significant investment in air defenses, it is highly uncertain whether the Warsaw Pact could achieve the required air superiority. But highly accurate, conventionally armed ballistic missiles are immune to NATO's air defenses. Besides striking deep into NATO's vulnerabile rear areas, these missiles could readily attack selected portions of NATO's air-defense belt, freeing Warsaw Pact aircraft for deep-strike bombing missisions.

A quick look at a map of Europe reveals just why these new tactical missiles will become so destabilizing. Most of NATO's most valuable military installations (nuclear storage sites, airfields, air-defense posts and reinforcement depots) are located within 300 miles of the East German border. Based in Eastern Europe, new Soviet tactical missiles could easily reach these critical installations (the SS-22 has a 560 mile range, while the SS-23's range is 300 miles).

Prudence alone mandates the immediate consideration of suitable hedges against this emerging threat. Several possible countermeasures—suppresive fire against Soviet missile launchers or improved dispersal and mobility of NATO's tactical nuclear weapons, for example—are worthy of study. Unfortunately, these could heighten the risks of war during crises for the very same reasons that Soviet missiles do. Offensive solutions like suppressive fire create strong hair-trigger incentives for pre-emptive attack, while defensive hedges such as dispersal and mobility succeed only if political leaders believe warning signals and react decisively. But history suggest leaders are reluctant to react for fear of provoking attack. NATO's fear of provoking Soviet pre-emption could inhibit such precautionary measures and, paradoxically, create still stronger Soviet incentives to act, even against purely defensive NATO efforts.

Ballistic missile defenses, by comparison, are entirely consistent with the historic premise that NATO is purely defensive military alliance. And because missile defenses are able to cope with the tension between military response and provocation, they could stabilize otherwise hair-trigger crisis environments. Most important, even if NATO leaders failed to react to warning and the Warsaw Pact successfully surprised the alliance, ballistic-missile defenses could best contend with the consequences of surprise.

NATO's near-term response to its dilemma could consist of either modifications to existing hardware (for example, to provide the Patriot air-defense system with a self-defense capability) or a new anti-tactical ballistic-missile system designed in an incremental building-block approach. A modest upgrade of the Patriot would not furnish any area production, but would help deter conventional war by complicating the delicate timing involved in the Soviet coordination of first-wave missile and follow-up air attacks.

Alternatively, the use of a building-block approach for a new ATBM system offers attractive opportunities for European cooperation with the U.S. Because the flight times for Soviet tactical ballistic missiles are appreciably shorter than for intercontinental ballistic missiles, their velocities are much lower, making them especially susceptible to an ATBM system of ground-based interceptors and airborne sensors. The first phase, which the U.S. might chiefly finance, could consist of only ground-based components: high-acceleration interceptors and supporting radars. European firms might usefully contribute to incremental system growth through work on either an airborne or space-based early-warning sensor. Such an addition to the ground-based components would substantially broaden coverage against a range of Soviet attack options, especially against NATO's vulnerable rear area.

Should the alliance prove reticent in dealing with its most inviting vulnerabilities, NATO Commander Gen. Bernard Roger's bleak assessment of allied conventional defenses will only worsen. Unfortunately, Gen. Rogers's only alternative—a resort to nuclear weapons "fairly quickly"—is increasingly incredible as a persuasive deterrent to conventional war in Europe.

By bringing Star Wars down to earth to deal with conventional, as well as nuclear instabilities, both sides of the Atlantic Alliance can improve NATO's means of deterrence and defense.

WALLOP-BREAUX TRUST FUND

● Mr. HOLLINGS. Mr. President, I commend the South Carolina General Assembly for their contribution to the debate over the Wallop-Breaux trust fund. Revenues for this fund are derived from user fees in the form of an excise tax on fishing equipment, motorboat fuel taxes, and duties on imported boats and fishing tackle. The money is then automatically apportioned to the States for use in protecting natural resources and enhancing recreational opportunities.

But the Reagan administration is trying to withhold these funds from the States and, as pointed out by the general assembly, that is wrong. The sportsmen have taken it upon themselves to become partners with the Federal Government in the preserva-

tion and development of our sport fishing programs and aquatic education programs. The States and the fishermen are doing their parts, and I intend to see that the Federal Government does its part. That is why I have cosponsored Senate Resolution 130, which expresses the sense of the Senate that the funds owned to the States from the trust fund should not be withheld or delayed.

I submit for the RECORD H. 2568, a concurrent resolution, passed by the House of Representatives of the State of South Carolina and concurred in by the Senate.

The resolution follows:

H. 2568

Whereas, sportfishing provides important recreational and economic benefits to the citizens of South Carolina and to the nation; and

Whereas, the South Carolina Wildlife and Marine Resources Department (department) is the state agency in South Carolina charged with the responsibility of managing, conserving, and developing the state's sportfishery resources and habitat; and

Whereas, the department also has responsibility regarding boating access and aquatic education; and

Whereas, the states currently do not have adequate funding for sportfisheries management, research, development, and enhancement actitivies; and

Whereas, the recent passage of Public Law 98-369 created the Sportfishing and Boating Enhancement Fund (Fund) for the purpose of providing much-needed revenues to the states for the further development of saltwater and fresh water sportfisheries program, boating access, and aquatic education programs; and

Whereas, the Office of Management and Budget has proposed that sixty-six million dollars or ninety-seven percent of the new money to be generated under Public Law 98-369 be "impounded" and utilized for purposes other than those intended by Public Law 98-369; and

Whereas, the source of funds for the Sportfishing and Boating Enhancement Fund is not from general treasury funds but, rather, from excise taxes on sportfishing equipment, a portion of unrebated motorboat fuel taxes, and custom duties on imported watercraft and fishing tackle; and

Whereas, virtually all of these newly authorized funds are a result of the user-pay concept and represent a philosophy supported by the federal administration; and

Whereas, to use these funds for purposes other than those embodied in Public Law 98-369 would be a serious break in faith with the fishing and boating public who are being taxed for the specific purpose of supporting sportfishing programs; and

Whereas, the action proposed by the Office of Management and Budget is contrary to law and to the intent of Congress in passing Public Law 98-369: Now, therefore, be it

Resolved, by the House of Representatives, the Senate concurring:

That the members of the General Assembly of the State of South Carolina, by this resolution, strongly urge the President and the Congress of the United States to take every action necessary to ensure that the Sportfishing and Boating Enhancement Fund (Fund) is used solely for the purposes and activities embodied in Public Law 98-369 and that monies from the Fund be made available beginning on October 1, 1985. Be it further

Resolved, That a copy of this resolution be forwarded to the President of the United States; to the President of the United States Senate; to the Speaker of the House of Representatives; to each member of the South Carolina Congressional Delegation; and to the Director of the Office of Management and Budget in Washington, D.C.●

EXCHANGE CLUB CENTERS

● Mrs. HAWKINS. Mr. President, the National Exchange Club Foundation for the Prevention of Child Abuse has played an important role in efforts to protect our Nation's children. In 1979, the National Exchange Clubs adopted as its national project the prevention of child abuse. The first 2 years were spent in creating the National Exchange Club Foundation for the Prevention of Child Abuse, a nonprofit organization headquartered in Toledo, OH. Also, during this time period the operating funds and seed grants were raised by the members of exchange all over the entire United States. In addition to raising funds, a contract for services for establishing training personnel and supervising centers was arranged with a child abuse prevention organization in Little Rock, AR, known as Scan America, a direct offshoot of Scan of Arkansas which had been in operation for over 12 years in the State of Arkansas.

On March 21, 1981, the first center under the National Exchange Club Foundation for the Prevention of Child Abuse was opened in Fort Pierce, FL. This center was opened with 3 paid staff and 12 volunteer lay therapists who had been trained by the professional staff of Scan America and the local paid staff. The three paid staff of the center consisted of a director, assistant director—or supervisor—and a secretary-bookeeper. The director and assistant director both had degrees in social work and a number of years of experience in the field of child abuse and child care in either the private sector or the State department of human services.

The basic operation funds for this first center came from a $25,000 seed grant from the National Exchange Club Foundation, a $30,000 title 20 grant and local funds from the private sector. As the years have gone on the finances for this center have come from the renewal of the title 20 contracts, grants from the juvenile justice board; county and city grants; State trust funds; major fundraising projects by the local exchange clubs in the four county area served by the center and contributions from other local civic organizations and the general public. The national foundation also receives funds that are earmarked for the Fort Pierce center from exchange clubs and friends in Florida and sends these funds to the center as they are collected by the foundation.

The Fort Pierce center is supervised and receives periodic advanced training by the foundation staff which since mid-1983 was moved from Little Rock, AR, to Toledo, OH, with the foundation now having complete control over the program with its own professional staff and is no longer affiliated with Scan America. In addition to the supevision from the foundation staff the local center has regular staff meetings with the Florida Department of HRS with which the center has its contract for services under the State and Federal statutes. I must say at this point that the relationship between this center and the HRS people of district IX has been extraordinarily fine and although there was some doubt on the part of many of the district people in the beginning that this program could not work using volunteers it has proven to be very successful and cost effective over the last 4½ years.

The center has had its ups and downs due primarily to being the first center under the National Exchange Club Foundation project but is now a very strong program both programmatically and financially. As stated earlier, the center covers the four county area of Saint Lucie, Indian River, Martin, and Okeechobee Counties. The monthly caseload has ranged from a low 6 families to a high of 46 families representing as many as 146 children at one point in time. Over the 4½-year period the center has served over 250 families and over 600 children. For the first 18 months of operation there was very little recognition of the program by the general public including other agencies dealing with the problems of child abuse and neglect, but now approximately one-third of the families the center works with comes from self-referrals or other agencies other than the department of HRS. It must be pointed out that whenever the case comes to us from these other sources it is immediately reported to the department so that final jurisdiction for the case lies with the department in accordance with the State and Federal statutes.

What does the future hold for exchange club centers in Florida? In November 1984 the second center was opened in St. Petersburg, FL. This is a joint operation with the child protection team at All Children's Hospital. The exchange club center will run the parent aide section of the joint program which again will use a limited paid professional staff and volunteer lay therapists. This program currently has about 19 families and approximately 40 children.

In July we hope to be in operation with another joint venture with the Parent Resource Center in Miami.

Here again, the exchange center will be running the parent aide portion of the program. The Parent Resource Center has been in operation since 1979 but has been relatively unsuccessful with its Parent Aide Program so has agreed to join forces with the National Exchange Club Foundation to take over the operation of the Parent Aide Program.

In addition to the three centers discussed above, we have had requests for centers to be established in the Ocala-Gainsville area, Jacksonville area, and Palm Beach County areas. At present we are working on putting together task forces which will assure the public and private sectors working together and avoiding duplication of services in these areas. Many of these task force people will become the beginning board of directors of the exchange club centers when they are finally formed and put into operation.

Child abuse in all its forms in the State of Florida is a very serious problem. Through the efforts of many people in the State and local governments as well as the private sector there has been a great awareness and progress created in the State. In 1981 there were some 70,000 cases of child abuse reported in the State. In 1984 the number of reported cases had risen to 115,000. When you realize that approximately one in five cases gets reported there is still a great deal of work to be done in our State, but the people of Florida are making progress in making this problem a prime target for both the government and the private sector to work together and one day be able to eliminate child abuse and neglect in our State.●

TONY JOHNSON: 1985 FFA AWARD WINNER

● Mr. SASSER. Mr. President, each year the Future Farmers of America designates a select group of young Americans as winners of awards for outstanding leadership in one of 22 different award areas.

These 22 FFA members have been selected from thousands of students who participated in the awards program nationwide.

There were three young Tennesseans honored—a reflection of the importance of agriculture to our great State, and of the dedication and regard for agriculture that our young farmers have.

Tony Johnson of Lexington, TN, is one of this select group of winners. Sponsored by Philip Morris, Inc., he was the 1985 award winner in fish and wildlife management.

Tony, 19 lives on a 12-acre farm where he and his father have a small herd of beef cattle. In 1983, Tony built a 1-acre pond and stocked it with 1,000 catfish.

Tony is greatly concerned about the survival of wildlife and feels he has made a great step in helping the wildlife on his farm by planting food plots and putting up nesting boxes. Tony attends the University of Tennessee, Martin, and is majoring in chemical engineering.

All of the FFA award winners were honored here last week with a series of events, and then left the United States for a travel seminar which will take them to several European countries so that they can learn first hand about agricultural problems, techniques, and policies in other nations.

I want to commend Tony for his award-winning abilities. I also want to commend the Future Farmers of America for helping to prepare young Americans in production agriculture and agriculturally related fields.

Tony Johnson is evidence that the FFA does a solid job of strengthening one's individual skills through classroom instruction, supervised occupational instruction, and through developing leadership, citizenship, and cooperation in its members. The FFA is a creative and positive force in Tennessee and in our society.●

CHRIS WINSTEAD: 1985 FFA AWARD WINNER

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Chris Winstead of Martin, TN, is one of this select group of winners. Sponsored by Pfizer, Inc., he was the 1985 award winner in swine production.

Chris, 19, comes from a family of four. His father is a salesman for Todd Uniform Service and farms about 225 acres with a 75 sow herd. Chris is in a partnership with his father in operating the farm. Now that Chris is out of high school, they plan to increase their swine operation to 150 sows.

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FIGHTING THE MONEY LAUNDERERS: OUR UNIQUE CAYMAN ISLANDS PARTNERSHIP

● Mrs. HAWKINS. Mr. President, during this session all of us have been giving a great deal of attention to the growing problem of narcotics trafficking and its attending evil, the "laundering" of illicit drug profits through the international financial system.

Anyone who has tried to grapple with drug profiteering knows how pernitious the problem is: The corrupting influence of billions of dollars in drug-related capital flowing through banks here and abroad, infects every element of our society and jeopardizes not just the health of our children but the integrity of our financial and governmental institutions.

There are many steps our Government has taken to combat the drug trade, and many more need to be explored. But beyond these unilateral actions, we must recognize the prime importance of entering into effective drug-interdiction and information-sharing arrangements with other sovereign jurisdictions throughout the world, whose own leaders recognize the perils of the drug trade as we do, and are prepared to attack it as we are.

One all-too-rare success story in this battle is the Cayman Islands. This small British crown colony and successful offshore financial center has resolved not to let its strict financial confidentiality laws serve as a shield behind which launderers with impunity. Under the law, when the Attorney General of the United States has reason to believe that identifiable persons are implicated in narcotics violations or related crimes, he may request relevant documentary information from the Attorney General of Cayman. The law then obligates the Cayman Attorney General to retrieve the requested documents, swiftly and under strict confidentiality, in order to prevent any leakage to targets of the U.S. investigation. Furthermore, Cayman and United States authorities are cooperating in drug interdiction efforts that the U.S. Drug Enforcement Administration has singled out for their effectiveness.

Mr. President, earlier this week my colleagues Mr. MATTINGLY, Mr. DODD

and I received a firsthand briefing on our Cayman Islands partnership from a visiting delegation of four senior Cayman officials: Attorney General Michael Bradley; Financial Secretary Thomas Jefferson; Minister for Health, Education, and Social Services Benson Ebanks, and Minister for Development and Natural Resources Vassel Johnson.

We learned at this briefing that our cooperative efforts are already bearing fruit. Under the narcotics agreement the Justice Department has made 28 requests for documentary information thought to be located in the Caymans. There has been 100-percent compliance with these requests, and the information provided has already led to eleven narcotics-related convictions. Joint Cayman-United States drug interdiction efforts have resulted in the seizure of more than 13,000 kilograms of marijuana between 1980-84, and some 630 drug-related arrests.

We also learned that Cayman banks closely scrutinize and require detailed references of potential new clients before accepting them, and—in an interesting step beyond our own disclosure laws—actually refuse to accept any large cash deposits whatsoever, so as to avoid even unintentional contact with illicit drug cash.

Mr. President, I learned from these gentlemen that the Cayman financial center is not, as some imagine, a mirage of nonexistent "shell" banks. In fact, more than 50 banks—including many of the world's largest institutions—maintain a significant presence in the Islands, accounting for the employment of a thousand people and contributing substantially to the Caymans' public treasury and private economy. Cayman financial institutions provide one of the world's largest Eurodollar marketplaces, and the Islands have a burgeoning captive-insurance industry as well. Such service-sector prosperity has given the Cayman Islands one of the highest per capita income levels in the Caribbean, and the islands are indeed an oasis of economic and political stability in a sea of politically troubled waters.

Mr. President, offshore financial centers may be mysterious to the general public, but are known within the financial world to serve a host of legitimate and productive purposes. To be sure, some financial centers are abused. But we must be alert to recognize the exemplary conduct of those centers like the Cayman Islands, which protects financial confidentiality but will not tolerate laundered money within its financial system.

Our unique partnership with the Cayman Islands was recently praised in a letter to Cayman Gov. Peter Lloyd from DEA's Caribbean affairs coordinator in Miami, Sam Billbrough. I would like to share this letter with my colleagues. I ask that the letter be printed in the RECORD.

The letter follows:

CAYMAN ISLANDS,
May 16, 1985.

Hon. G.P. LLOYD,
His Excellency the Governor, Government Administrative Office, George Town, Grand Cayman, Cayman Islands, BWI.

HIS HONOR THE GOVERNOR: I take this opportunity to discuss with you the cooperation between the Government of the Cayman Islands and the Drug Enforcement Administration.

Subsequent to the meetings with you, members of your Government and Mr. Peter Gruden, Special Agent-in-Charge, Miami Field Division, Drug Enforcement Administration in 1983, a very productive liaison was established with the Royal Cayman Islands Police force. Since the establishment of this liaison, the intelligence information passed between the Cayman Islands Police and DEA has proven very useful to both of our agencies. On several occasions, the information has led to arrests and seizures.

The assistance and advice of the Cayman Islands Police can only be described as exemplary. The cooperation of the Cayman Islands Police has always been complete and on numerous instances, major investigations being conducted by DEA could not have been successfully completed without this total cooperation. In several of the cases the CIP cooperated fully even though the investigation did not directly pertain to the Cayman Islands.

The Cayman Islands Police force is an agency that is well respected throughout DEA. This respect has been based on many facets. At one time the waters around the Cayman Islands appeared to be a way-station for drug vessels moving between the United States and South America. The quick and decisive action by the Cayman Islands Government helped alleviate this situation through an interdiction program, as well as joint enforcement activities with DEA.

As the Caribbean Affairs Coordinator, I am looking forward to a continued joint effort in the termination of drug movement in the Central Caribbean area.

Respectfully,

S.B. BILLBROUGH,
Caribbean Affairs Coordinator, Miami Field Division, Drug Enforcement Administration.

For more information about the DEA-Cayman relationship, please contact: William Yout, Public Information Officer, Miami Field Division, DEA (305) 591-4837.●

GRADUATION ADDRESS BY SENATOR GOLDWATER AT ARMY WAR COLLEGE, CARLISLE, PA

● Mr. GOLDWATER. Mr. President, I submit for the RECORD the graduation address I made at the Army War College in Carlisle, PA, on Monday, June 10, 1985.

The address follows:

SENATOR BARRY M. GOLDWATER, CHAIRMAN, SENATE ARMED SERVICES COMMITTEE, GRADUATION ADDRESS

General Healy, Ambassador Marthinsen, General Reynard, distinguished guests, students and faculty, ladies and gentleman.

Its been some years since I visited the Army War College and I'm delighted to be back. For someone like me who grew up in Arizona, and did most of his military duty on isolated air bases, this beautiful, green Pennsylvania countryside has a special attraction. I wonder if Henry David Thoreau didn't have the Carlisle lifestyle in mind when he said that: "It is impossible to give a soldier a good education without making him a deserter!"

While we were flying up this morning, I reviewed the mission of the Army War College. I see that the purpose of the curriculum is to qualify you to contribute to preparations for and potential conduct of war in support of national policy. I'm told you spend as much time on studying national policy as the conduct of war. I would say that is very important, because it gets at the heart of the fundamental national security issue of our day. Namely, how to reconcile what our values at home require with what our power abroad permits.

Albert Einstein put it very well when he said that in America ". . . our problem lies in a perfection of means toward a paucity of ends." Certainly that was true in Indochina.

Newspapers and television were filled last month with retrospectives on the Vietnam experience. Most of the articles and shows had a common underlying assumption. It was the seductive notion that once the lessons of Vietnam were pointed out, they would become so clear that readers and viewers would see them for themselves.

But Vietnam was not World War II, where we had clear enemies, well defined military objectives, and consequently a common interpretation of what the fight was all about. The Vietnam war had none of those. Consequently, even ten years later, making sense out of Vietnam is still almost as difficult as was fighting that war itself.

We each have our own views. Mine are well known, especially to those of you who were old enough to vote in 1964. From a military standpoint, I have always believed it was absolute folly to involve American troops in a ground war in Southeast Asia. We had the air and sea power to have made it impossible for North Vietnam to continue the war. We should have either ended the war as soon as possible—by using our superior power to force the North Vietnamese to stop their aggressive acts—or we should have pulled out promptly and come home.

A decade after the end of America's longest war, there is a great temptation to look back for the lessons of Vietnam. But this morning I want to look forward instead, and talk about the war's consequences and implications for our future.

To my mind, the most dangerous change flowing from that war was a decade of weakness and vacillation in U.S. defense policy. Much of the blame for that belongs squarely on the shoulders of those in Congress who believe that when a national security problem arises, one way to solve it is to starve it to death. By the way, these are the same folks who think federal money will cure any social ill.

Their reasoning goes something like this. The Vietnam war was no good. The Vietnam war was supported by defense appropriations. Therefore, the way to prevent wars like Vietnam is to reduce defense spending. Sadly, this kind of thinking prevailed during the decade of the 1970's. As a result:

We let economic conditions dictate our foreign and defense policies. Between 1970 and 1982, for example, government spending on social programs increased by 97 percent in real terms, while defense spending decreased by 8 percent. All this at a time when

the Soviets were arming at an unprecedented rate in peacetime.

We turned inward and rationalized disturbing events in Africa, Southeast Asia, the Perisan Gulf, and Latin America, as beyond our concern.

We downplayed the Soviet's growing military strength or responded with inadequate defense programs stretched out over too many years.

We clung to the idealistic spirit of detente, despite Soviet violations of the Helsinki Accords, the SALT I Treaty, and the Test Ban Treaty.

We put too much faith in arms control negotiations. Like the British in the inter-war years, we allowed our hope for effective arms control agreements to lull us into an unfounded sense of security.

We were unprepared to challenge Soviet or surrogate aggression, whether Cubans, in Angola, Vietnamese in Kampuchea, Libyans in Chad, or the Soviets in Afghanistan.

The consequences of those shortsighted policies are clear, especially to those of you who are military professionals. During the 1970's, United States military strength, when compared with the Soviet's, dangerously decayed. During that period, our nation: lost theater nuclear superiority in Europe; permitted an unfavorable shift in the overall U.S.-Soviet conventional force balance; suffered a serious loss in Vietnam, in part because of our failure to enforce the Paris Accords; experienced disruptions in our supply of foreign oil as that resource was turned against American interests; and we endured the revolution and hostage crisis in Iran, and with it the collapse of U.S. security policy in the Persian Gulf region.

America briefly rejected those shortsighted notions during the early 1980's and began a long overdue program to rebuild our defenses. But now, as the price of protecting our interests and holding to our cherished principles, has again become the focus of political attention, too many people in positions of leadership want to return to those failed policies of weakness, conciliation, and isolationism.

I am as concerned as anyone about the high cost of defense and size of the federal deficit. Unlike some of the liberal free spenders who recently have assumed the unaccustomed role of advocating federal thrift, I've been worried for years about the way we spend money.

Back in 1976, I wrote a little book called, The Coming Breakpoint. In it, I said that if we continued on our present course, we would inevitably reach a breakpoint—a point in time when the taxpayer's ability to support the government's unlimited largesse, would finally give way. I said then that while I didn't think the threat was immediate, in my view the nation had less than 10 years to go at the current spending rate before a genuine crises occurred.

Well here we are 9 years later and our huge federal deficit has become the number one economic problem. At the same time though, I am very concerned that an obsessive emphasis on the deficit problem may result in a dangerous lowering of our overall needed defense outlays.

In this sort of climate, it is absolutely essential to keep issues relating to the fundamental defense of this nation in proper perspective. Take the notion of a Military Industrial Complex.

The critics would have us believe it is the major cause of everything from past inflation to continuing poverty. When we have world wide responsibilities, we should not be surprised that we have a large and expensive military establishment supported by a capable defense industry. Simply because our enormous responsibilities require the existence of a Military-Industrial Complex does not mean that we must fear or feel ashamed of it. Does anyone seriously believe the Soviets would be at the negotiating table in Geneva if the United States did not have a capable military backed by industry to support and protect our interests?

Just because I support a strong national defense establishment does not mean I think we should tolerate waste, inefficiency or extravagance among our forces or the industries which support them. There is no more excuse for waste in defense than in any other area of Government.

Many of you students here this morning will soon be in the vanguard of our attempts to eliminate waste and improve our military procurement policies. But the mere existence of waste or cost overruns in military procurement must not be allowed to blind us to the need to keep our defenses strong. Nor should the cost of military hardware become the overriding consideration in determining how much we spend on defense.

We must never lose sight of the fundamental principle that when weighing defense decisions, in the interest of our nation's survival, we must always come down on the side of security. Regardless of taxes or deficits, inflation or social needs, the security of 236 million Americans is not negotiable. Where defense spending is involved, the first and enduring concern must always be the national interest and the security of the American people.

That is why I am always suspicious of arbitrary reduction figures, spending ceilings, and pat-sounding schemes for coming to grips with defense costs.

The latest of these simplistic solutions is the so called "Defense Freeze." Some of my congressional colleagues argue that a freeze on defense spending is necessary to reduce the federal deficit. Worse yet, they often employ highly misleading statistics in an attempt to pass off self-serving advocacy as reasoned analysis.

Consider their assertion that during that 1982-1985 period, we have been buying fewer weapons. For many items, such as munitions, this is patently false. But even so, how many items we buy is not always a clear indication of how much capability we're getting for our money.

Quality often matters as much as quantity, as in the case of the Army's Bradley Fighting Vehicle. For years the Army bought comparatively large numbers of their M113 Armored Personnel Carriers, in part because they were nursing along an inadequate combat vehicle. In short, they were substituting quantity for quality. Now that the superior Bradley Vehicle is available, we are buying less of them, but getting more capability through higher quality.

The truth is that a protracted defense freeze would be financially short-sighted because it might well actually increase defense costs in the future. Arbitrary cuts would produce mostly false economies and threaten all our efforts to puruse smarter procurement policies.

Take the matter of competition among defense industries. The Services have been making good progress in fostering competition in the weapons procurement process and the resulting savings can be enormous.

For example, competition among two shipbuilders for three AEGIS class cruisers in fiscal year 1985 saved more than $228 million dollars from the President's budget request. Similarly, competition in the attack submarine program saved 108 million dollars last year.

But if competition is to be sustained, then we must build ships and the like in sufficient quantities to make it worthwhile for more than one manufacturer to compete. When we build three cruisers a year, the contending builders sharpen their pencils and reduce costs, because the low bidder wins two ships. Conversely, if the AEGIS program were cut to only two ships per year, competition would be impractical and sole sourcing would inevitably lead to sharply increased costs.

The same is true of programs where we are finally enjoying substantial savings because of stable and economically efficient production rates. Freezing funding means cutting back on production rates and that inevitably will drive unit costs higher. The Air Force's B-1 bomber makes the point well. The administration has asked to buy 48 strategic B-1 bombers in 1986 at a cost of 159 million dollars each. If that quantity were halved, it would add 4.6 billion dollars to the total cost of the B-1 program.

Similarly, in 1985 we paid 64 million dollars each for 6 electronic warfare aircraft. This year the administration has proposed to buy 12 of the same airplanes for 39 million dollars each. By supporting more efficient production levels, we can save 25 million dollars per aircraft. But a spending freeze will stretch out procurement plans, disrupt efficient production, and increase costs. In short, we will end up paying more to get less.

As Chairman of the Armed Services Committee, I recently completed a series of hearings on the current readiness and future needs of our armed forces. Leaders of the Army, Navy, Air Force, and Marines all said that, by any measure, our military forces today are better manned, better equipped, better trained and more combat ready than ever before. But professional opinions aside, the objective facts provide further evidence that we are making good progress in restoring America's military might.

Airlift is a good example. Adequate airlift is essential to our ability to project force to respond to crises and support allies. Here the progress has been substantial. During the last four years, our nation's total strategic airlift capability has increased by 28 percent.

The Army has also made significant gains. Since 1980, Army flying hours and batallion training days have increased markedly. Superior new equipment, such as the Bradley Fighting Vehicle and M-1 Abrams Tank, are being delivered and overhaul and maintenance back logs reduced. By one estimate, the Army's total potential warfighting capability improved by 18 percent between fiscal year 1980 and 1984.

Marine Corps modernization has kept pace as well. Marine infantry battallions are being restructured with 10 percent fewer people and 25 percent greater firepower. This is possible because of a host of new, more powerful individual and crew served weapons.

As for the Navy, in February 1981 the fleet had 309 combatant ships. Exactly four years later, this number had grown to 341. When President Reagan took office in 1981, there were 479 ships in the U.S. battle forces. Today there are 532. Over 100 more are under construction, conversion, or reac-

tivation. United States maritime superiority is rapidly being restored and by 1989, the U.S. Navy will be 600 ships strong.

Afer a decade of neglect, President Reagan succeeded in persuading the American people that we need a foreign policy that reflects our determination to defend our interests and principles, and a defense rebuilding program to support that policy. Now the danger is that this rebuilding program may be hamstrung by the re-emergence of a myopic pre-occupation with economic problems and internal affairs. Too many of my congressional colleagues simply fail to appreciate the critical need for a stable national security effort that is independent of the fluctuations of domestic politics.

The defense budget is not sacrosanct. It ought to undergo the same scrutiny as any other program and some reductions will certainly be necessary this year. But given how far we've come in improving our defenses, how those reductions are applied is terribly important. In our search for quick, near-term savings, we must absolutely not do anything which would undermine the progress we've made in redressing serious military deficiencies.

I think our own history is instructive in this regard. It seems historians are always more explicit about the course of wars than their causes. Maybe that is a reflection of our inability to understand our own worst instincts. Greed, stupidity, egoism and miscalculation all play a part. But in my view, the most common recurring theme in the history of warfare, is the undeniable fact that weakness and inaction invite agression.

In our current fiscal climate, compromise would be as attractive and easy as the British found it during the 1930's. But this is not the time for business as usual. As thoughtful Americans, I urge you to reject simplistic defense cuts and oppose those who would risk this nation's security rather than make the difficult budgetary decisions that would upset favored special interest groups.

Today, when the stark reality of Soviet power and its threat to free world institutions is fully understood, the need for continued U.S. military strength is clear. Aggression can be deterred and our nation's security assured. But the clear lesson from the past is that we can never achieve peace unless there is a good faith commitment to do so. At the same time, we must never rest our nation's security solely upon the good faith of others.●

THE NORTH AMERICAN CONFERENCE ON ETHIOPIAN JEWRY

● Mr. MOYNIHAN. Mr. President, in 1982 a grassroots, activist, nonprofit organization, the North American Conference on Ethiopian Jewry, was founded in order to initiate and foster immediate action on behalf of the relief and rescue of Ethiopian Jewry. I am proud to serve as a member of the NACOEJ's Advisory Board.

Mr. President, at the request of Barbara Ribakove, chairwoman of the Board of Directors of the NACOEJ, I ask that a statement of the NACOEJ, commending the role of the U.S. Senate in the rescue of Ethiopian Jews from refugee camps on the Sudan in March 1985, be printed in full in the RECORD.

The statement is as follows:

STATEMENT OF THE BOARD OF DIRECTORS OF THE NORTH AMERICAN CONFERENCE ON ETHIOPIAN JEWRY

The North American Conference on Ethiopian Jewry expresses its profound gratitude to President Reagan, Vice President Bush, Secretary of State Schultz, Senator Cranston and the members of the U.S. Senate for their role in the rescue of Ethiopian Jews from refugee camps in the Sudan in March 1985.

As Americans and Jews, we take pride in the diplomatic and operational skill that brought about this brilliant rescue. We are thankful these men, women and children have been rescued from the horror of their present lives and given the opportunity to begin new lives with their people in Israel.

We urge you to apply your efforts now to those thousands of Jews still in Africa so they too will have the right to live as free people in the Jewish homeland.●

CONCERN OVER PROPOSED SALE OF SOPHISTICATED WEAPONS TO JORDAN

● Mr. D'AMATO. Mr. President, I rise today to reiterate my support for Senate Resolution 177, which I have cosponsored. This resolution makes crystal clear the opposition of the Senate to the sale of advanced weapons and sophisticated aircrafts to Jordan. I am very concerned over reports that the administration is planning to request such a sale in the near future.

Although I am pleased that the peace process in the Middle East is currently active, the United States should not prematurely reward Jordan with sophisticated arms until a lasting peace is really in sight. These weapons are an incentive for Jordan to pursue peace with Israel, thus it would be imprudent to offer them while peace efforts have not yet blossomed. Senate Resolution 177 sagaciously allows for sales of sophisticated weapons only after Jordan joins the Camp David peace process and begins direct negotiations with Israel.

The Middle East is a caldron of problems exacerbated by an overabundance of weapons. As our only true and stable ally in this area, Israel cannot be put into the vulnerable position of defending against highly sophisticated weapons from the United States. We must prevent putting the tools of Israel's destruction into the hands of her enemies. During the Camp David peace process, Egypt was allowed advanced arms only after its commitment to a lasting peace with Israel. This is a precedent we must continue to follow.

According to reports, the administration plans to sell $300 million worth of advanced weapons to Jordan. Included in the shipping list are F-16's and F-20's, the mobile I-Hawk medium-range ground-to-air missile system, and Stinger missiles. While such arms would improve Jordan's defense posture, it also would significantly improve its offensive power. This may have the unintended effect of reinforcing intrasigence on the part of Jordan in the peace process and increase the likelihood that Jordan would no longer refrain from participating in possible future armed conflicts.

There are other problems with this sale as well. The Stinger missile, for example, is a shoulder-launched anti-aircraft missile system operated by a single individual. We cannot afford to ignore the possibility that these missiles could fall into the hands of terrorists, including the PLO. If history is an accurate guide, we must be extremely cautious toward weapons sales of any kind to Jordan. Before 1967, Jordan promised not to move American supplied M-48 tanks into the West Bank. As soon as the 1967 war began, the Jordanians ordered the tanks to cross the Jordan River in clear violation of their agreement with the United States. U.S. arms sales to Jordan is a risk Israel should not be forced to accept.

Unless Jordan takes the bold and courageous step of direct negotiations with Israel, an arms sale to Jordan, a nation still technically at war with the people of Israel, would invite more turmoil in this region. We are, and must remain, committed to the security of Israel. The sale of sophisticated weapons to Jordan will significantly raise the stakes in the Middle East balance of power at a time when Israel is working hard to put its economic house in order.

Jordan's efforts toward peace with Israel are commendable but fall quite short of the mark. Jordan's recommendation to invite the Soviet Union to join the peace process is hypocritical when it is that very nation which is actively promoting terrorism and anarchy in the Middle East. I also question King Hussein's assurances that the Palestinian Liberation Organization agrees to U.N. Resolutions 242 and 338. In a recent article in the Wall Street Journal, Yasser Arafat, leader of the PLO, continued to refuse to publicly accept the U.N. resolutions. I am concerned whether King Hussein can deliver Yasser Arafat's support; I am equally concerned whether Yasser Arafat can deliver the support of the Palestinian people.

Mr. President, we should consider sales of advanced weaponry to Jordan only after it enters into direct negotiations with Israel. I strongly urge President Reagan not to request these sales at this time and I urge my colleagues to join me in opposition to this arms sale.●

THE WAR WE LOST IN NICARAGUA

● Mr. METZENBAUM. Mr. President, I understand that in Japan, they have a procedure through which certain artists and craftsmen may be designated as "National Treasures."

That is a fine idea—one that we, perhaps, should imitate.

And if we ever do, I intent to propose that Art Buchwald be one of the first nominees.

For decades, Art Buchwald has amused—and instructed—Americans with those fresh and lively columns of his. One column may be whimsical and the next an exercise in the sharpest satire. But always, there is in Art Buchwald's writing a great gentleness which may explain why he has become an American institution.

But on June 2, Mr. President, there appeared in the Washington Post a Buchwald column that clearly was not intended to be funny.

The column was entitled "The War We Lost in Nicaragua."

It was an account of a future event—A "Nicaraguan Remembrance Day", held on June 15, 1999, to honor the 200,000 Americans who died in a "Police Action" in Central America.

The column describes another Vietnam—an intervention launched in the second Reagan term and carried on by two succeeding Presidents. Like Vietnam, Buchwald's hypothetical Central American war was fought by the "Professional Military and the unemployed." And also like Vietnam, it ended in withdrawal of U.S. forces after two decades of war.

Is this far-fetched speculation?

Is it just another product of the fertile imagination of Art Buchwald?

I hope so.

But at a time when our Secretary of State describes aid to the Contras as the alternative to "direct application of military force," I wonder.

I wonder about those high administration officials who told the New York Times recently about the ease with which we could via military intervention, topple the Sandinista regime.

And I wonder also about those high White House and CIA officials who, says the Washington Post, "Contend that Americans will eventually share Reagan's perception of the Nicaraguan menace."

Mr. President, Art Buchwald's column of June 2 can today be classified as commentary. But let us hope that it will not at some time in the future be seen as phophesy.

I ask that the text of Mr. Buchwald's column be printed at this point in the RECORD.

The column follows:

[From the Washington Post, June 2, 1985]

THE WAR WE LOST IN NICARAGUA

(By Art Buchwald)

WASHINGTON, D.C., June 15, 1999—Officials and veterans gathered in the nation's capital today to celebrate "Nicaraguan Remembrance Day" and honor the more than 200,000 American GIs who died in the recent war in Central America.

The ex-GIs, dressed in old khaki, some wearing combat boots and medals, marched from the steps of the Capitol to the recently completed memorial overlooking the Potomac.

The war, which began during the second term of Ronald Reagan and was continued by two other presidents, ended in a stalemate with the withdrawal of American troops after a decade of fighting.

An estimated 535,110 fighting men on both sides and 1,620,000 civilians died during the bloody police action.

Many of the ex-GIs who participated today were bitter about the way they had been treated on their return from Nicaragua.

Ex-chief petty officer Clyde Durban had served on the destroyer escort Fishbait, the vessel that President Reagan claimed had been fired on by a Nicaraguan PT boat. It was because of this incident that the president asked for a "Gulf of Fonseca Resolution," which he said gave him the legal justification for ordering the U.S. Marines to invade Managua.

Durban said, "It was nighttime and we never did see the ship that was supposed to have attacked us in the Gulf of Fonseca. Some of the guys on board the Fishbait said they thought it was a fishing boat shooting up flares. We never dreamed the United States would go to war over it."

Former infantry lieutenant Harvey Robinson, who had been wounded at the Battle of San Rafael del Norte, tried to find the names of his buddies on the memorial wall. "It was Vietnam all over again," he said. "We were able to get control of the cities, but the Commies held the countryside. We'd wipe out a jungle hideout and as soon as we moved on, they would move back in. We didn't know which civilians were for us and which ones were against us. So after a while we started shooting at anybody who looked suspicious. When we couldn't hold on to real estate, Washington demanded body counts. Based on the counts, every president since Reagan promised we'd be home by Christmas."

Ex-captain Robert Simpson, who was shot down in a helicopter by a Soviet missile near Jinotega and held prisoner by the Sandinistas for four years, was bitter because so many American boys refused to go when President Reagan asked Congress to reinstitute the draft in September 1986.

He said, "After the October riots when an estimated 3 million kids declared they would go to jail rather than fight in Nicaragua, the president had to backtrack on this call for national conscription. So this left the professional military people and the unemployed to fight the dirty little war. We got our butts shot off while the guys back home were earning big bucks and getting the best jobs. 'Nicaraguan Remembrance Day' doesn't mean diddly beans to the guys who were there."

George Shultz, who was Ronald Reagan's Secretary of State at the time of the "Gulf of Fonseca Resolution," and is now teaching diplomacy at the University of Chicago, told reporters he still feels the United States did the right thing by invading Nicaragua. "At the time, Congress would not support the freedom fighters in Honduras, nor CIA efforts to destabilize the Sandinista government. So we had no choice but to get our American boys directly involved. The price may have been higher than we predicted, but we kept tyranny from being exported to Haiti. In spite of the casualties, the important thing is that President Reagan sent a strong message to the Russians that he would do everything to maintain his credibility. I'm sure that if faced with the same set of facts, Ronald Reagan would not hesitate to throw our boys into Nicaragua again."

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, the following determinations have been made by the Select Committee on Ethics pursuant to its responsiblities under paragraph 4 of rule 35.

The select committee received a request for a determination under rule 35 that Messrs. John Ritch and Kenneth Myers of the Senate Foreign Relations Committee staff be permitted to participate in a program in Bonn, West Germany, sponsored by the Friedrich Ebert Stiftung, from May 28 through June 1, 1985.

The committee determined that participation by Messrs. Richt and Myers in the program in Bonn, West Germany, at the expense of the Friedrich Ebert Stiftung, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Mr. Bruce MacDonald of the staff of Senator DALE BUMPERS, Mr. Mike House of the staff of Senator HOWELL HEFLIN, and Mr. Gregg Garmisa of the staff of Senator ALAN DIXON, be permitted to participate in a program in Taipei, Taiwan, sponsored by Tamkang University, from April 7–14, 1985.

The committee determined that participation by Messrs. MacDonald, House, and Garmisa in the program in Taipei, Taiwan, at the expense of Tamkang University, to discuss United States-Taiwan relations was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Ms. Denise Greenlaw of the staff of Senator PETE DOMENICI, Ms. Patty Lynch of the staff of Senator DENNIS DECONCINI, Ms. Jackie Clegg of the staff of Senator JAKE GARN, and Mr. Sam Ballenger of the staff of Senator PAUL LAXALT, be permitted to participate in a program in Santiago, Chile, sponsored by the University of Chile, from May 26–30, 1985.

The committee determined that participation by Ms. Greenlaw, Ms. Lynch, Ms. Clegg, and Mr. Ballenger in the program in Santiago, Chile, at the expense of the University of Chile to discuss United States-Chile relations, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Messrs. Andrew Wahlquist of the staff of Senator JOHN WARNER, Thomas G. Hughes of the staff of Senator CLAIBORNE PELL, David M. Strauss of the staff of Senator QUENTIN BURDICK, and Ms. Susan L. Arnold of the staff of Senator TED STEVENS, be permitted to participate in a program in Bonn, West Germany, sponsored by the Konrad Adenauer Stiftung, from April 13-21, 1985.

The committee determined that participation by Messrs. Wahlquist, Hughes, and Strauss and Ms. Arnold in the program in Bonn, West Germany, at the expense of the Konrad Adenauer Stiftung, to discuss United States-German relations, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Mr. Steven R. Valentine of the Subcommittee on Courts (Committee on the Judiciary), Mr. Mark Bowen of the staff of Senator JAMES EXON, and Ms. Kathy Stoner of the staff of Senator JESSE HELMS, be permitted to participate in a program in Taipei, Taiwan, sponsored by the Chinese Culture University, from April 6-13, 1985.

The committee determined that participation by Messrs. Valentine and Bowen and Ms. Stoner, in the program in Taipei, Taiwan, at the expense of the Chinese Culture University, to discuss United States-Taiwan relations, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Ms. Ruth Kurtz of the staff of the Joint Economic Committee and Mr. Gerard Wyrsch of the staff of the Housing Subcommittee, be permitted to participate in a program in Taipei, Taiwan, sponsored by Tunghai University, from May 24 to June 1, 1985.

The committee determined that participation by Ms. Kurtz and Mr. Wyrsch in the program in Taipei, Taiwan, at the expense of Tunghai University, to discuss United States-Taiwan relations, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Messrs. John Podesta and Ralph Oman, of the Subcommittee on Patents, Copyrights, and Trademarks, be permitted to participate in a program in Geneva, Switzerland, sponsored by the World Intellectual Property Organization in mid-May 1985.

The committee determined that participation by Messrs. Podesta and Oman in the program in Geneva, Switzerland, to attend a hearing on the Berne Convention on the international protection of intellectual property, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Messrs. Richard Gideon and Nick Chumbris, and Misses Barbara Sherry and Teresa Miller of the staff of Senator JEREMIAH DENTON, be permitted to participate in a program in Taipei, Taiwan, sponsored by the China External Trade Development Council, from April 5-12, 1985.

The committee determined that participation by Messrs. Gideon and Chumbris and Misses Sherry and Miller, at the expense of the China External Trade Development Council, to assist in escorting an Alabama trade delegation to develop export markets between Alabama and Taiwan, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Mr. Kevin G. Nealer of the Democratic Policy Committee be permitted to participate in a program in Japan, sponsored by the Japan Center for International Exchange, from April 7-14, 1985.

The committee determined that participation by Mr. Nealer in the program in Japan, at the expense of the Japan Center for International Exchange, to discuss United States-Japan economic relations, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Mr. Michael Sauls of the staff of Senator PAULA HAWKINS be permitted to participate in a program in South Korea, sponsored by Seoul National University, from April 4-14, 1985.

The committee determined that participation by Mr. Sauls in the program in South Korea, to discuss United States-Korea relations, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Ms. Reba Raffaelli of the staff of Senator JOHN HEINZ be permitted to participate in a program in the Republic of China, sponsored by Soochow University, from April 4-14, 1985.

The committee determined that participation by Ms. Raffaelli in the program in the Republic of China, at the expense of Soochow University, to discuss United States-Taiwan relations, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Mr. William D. Phillips of the staff of Senator TED STEVENS be permitted to participate in a program in the People's Republic of China, sponsored, by the Chinese People's Institute of Foreign Affairs in conjunction with the United States-Asia Institute, in mid-April 1985.

The committee determined that participation by Mr. Phillips in the program in the People's Republic of China, at the expense of the Chinese People's Institute of Foreign Affairs in conjunction with the United States-Asia Institute, to participate in eductional seminars with government and academic officials, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 that Mr. David V. Evans of the staff of the Subcommittee on Education, Arts, and Humanities, and Mr. Kenneth Apfel of the staff of Senator BILL BRADLEY be permitted to participate in a program in Irsee, West Germany, sponsored by the Center for Civic Education, a nonprofit, domestic educational organization, and the Center for Political Education, an agency of the Federal Rebublic of Germany, from April 13-19, 1985.

The committee determined that participation by Messrs. Evans and Apfel in the program in Irsee, West Germany, at the expense of the Center for Political Education and the Center for Civic Education, to discuss United States-German relations, was in the interest of the Senate and the United States.●

U.S. COMPLIANCE WITH SALT

● Mr. LEAHY. Mr. President, I wish to congratulate President Reagan for his decision yesterday to maintain U.S. compliance with the SALT agreements to the extent that the Soviet Union refrains from undercutting them. This was a decision in the national security interests of the United States and its allies. The President deserves credit for rising above his own longstanding opposition to SALT and for refusing to heed those who wanted to scrap the only remaining limits on nuclear missiles and bombers. He substituted arms control for an arms race.

I think it is clear that a number of things influenced the President's decision to continue to comply fully with the SALT agreements. One was the advice he was receiving from the Joint Chiefs of Staff that the limitations on Soviet forces in the agreements favored the United States and helped our security. Another was the strong views of our allies, particularly in NATO, in support of maintaining existing limits. A third surely was an understanding that U.S repudiation of the SALT agreements before a successor treaty can be negotiated would hand Moscow a tremendous propaganda victory. Last, was his own feeling that arms control is truly necessary.

Another reason which had to influence the President, one which I believe was a major factor, was the 90-5 vote of the United States on Wednesday, June 5, in favor of the amendment offered by Senators BUMPERS, CHAFEE, HEINZ and myself calling on

the President to continue the policy of not undercutting the SALT agreements. The Senate spoke strongly in support of arms control and against an unrestrained arms race, and the President heeded our voice. This is an instance where, I believe, the Senate can be proud of its stand on an issue of immense importance to the Nation, and the influence it had on the President.

Mr. President, it is not luck or chance when the Senate votes 90-5 in favor of a controversial measure such as the Bumpers-Leahy-Chafee-Heinz SALT compliance amendment. This victory was the consequence of many months of hard work and preparation. The whole effort originated in the winter of 1983 when DALE BUMPERS and I decided to try to put together a bipartisan coalition in support of maintaining the SALT limits. We drafted the first version of the Bumpers-Leahy amendment and sought cosponsors. I was delighted when my good friends JOHN CHAFEE and JOHN HEINZ joined us in the spring of 1984.

Last year, the precursor of this year's amendment was adopted by the Senate in an 82-17 vote. The 90-5 vote last week showed even stronger support in the Senate for continuing the arms control restraints. This is the more encouraging because the issue was much more controversial this year. To remain in compliance, the United States must dismantle the launchers on a Poseidon submarine later this summer. Last year, at least in military terms, it cost the United States nothing to continue the limits.

Mr. President, the success of our effort was the product of long hours of hard work, and much of that work was done by staff. I cannot let this proud moment pass without registering my deep appreciation for the contributions made by my staff and the staffs of my colleagues. In particular, I want to thank Eric Newsom, minority staff director of the Select Committee on Intelligence, and Bruce McDonald of Senator BUMPER's office. These two prepared the original resolution which formed the basis of the amendments. They were later joined by George Tenet of Senator HEINZ' office, and Scott Harris and then Cyndi Levi of Senator CHAFEE's staff. Luke Albee of my office also formed part of this able and dedicated staff group. To them and the many others who contributed to the success of our effort, my thanks and appreciation.●

PERSECUTION OF THE HEBREW TEACHERS

● Mr. METZENBAUM. Mr. President, a year ago, the Soviet Union launched an all-out campaign to crush once and for all the spirit of Soviet Jewry.

The notorious anti-Zionist committee filled the Soviet media with denunciations of Israel and with crude, anti-Semitic attacks on Jews who dare to practice their religion and to express their national sentiments.

Emigration, which in its peak year exceeded 51,000 dropped in 1984 to merely 896. So far this year, fewer than 500 Soviet Jews have departed.

But, Mr. President, the most brutal Soviet treatment has been received for the Hebrew teachers—people who have the temerity to instruct others in the ancient language of the Jewish faith and the living language of Israel today.

Aleksandr Kholmiansky, a Hebrew teacher from Moscow, received a 3-year sentence in a labor camp after Soviet police "found" an illegal weapon in his home.

Yakou Levin of Odessa received a 3-year sentence for defaming the Soviet State. He was found to be in possession of subversive documents such as a copy of Leon Uris' "Exodus" and works by Vladimir Jabotinsky which predate the Russian revolution.

Yakov Mesh of Odessa refused to give evidence against his friend, Yakov Levin. He was so badly beaten at the holding prison that he was released—with injuries diagnosed as "irreversible."

Another friend of Mr. Levin and Mr. Mesh, Mark Nepomniashchy, was sentenced to 3 years, also for slandering the state.

Dan Shapira of Moscow was arrested early this year. He awaits trial.

But of all these terrible cases, Mr. President, the one that is of the greatest concern today is that of Yuli Edelshtein.

Yuli Edelshtein is a religious Jew from Moscow who is serving a 3-year sentence in a labor camp for "drug possession"—drugs that were "found" by Soviet police among Mr. Edelshtein's religious articles. According to the Soviets, the drugs were to be used by Mr. Edelshtein in connection with Jewish "religious rituals."

Yuli Edelshtein is incarcerated in a camp whose commander has taken it upon himself to cure his prisoner of religious enthusiasm.

According to reliable reports, Yuli Edelshstein suffers daily beatings.

He is deprived of sleep and denied the rest periods from hard physical labor to which the other inmates are entitled.

All of his personal possessions—including his prayer book—have been confiscated.

This morning, I held a press conference in my office on the campaign against the Hebrew teachers at which we released a telegram to General Secretary Gorbachev. It was signed by myself, Congressman LARRY SMITH of Florida, Mrs. Teresa Heinz of Congressional Wives for Soviet Jews and representatives of a wide range of Christian and Jewish groups. I ask that a copy of the telegram be printed in the RECORD.

The telegram follows:

TEXT OF TELEGRAM TO MIKHAIL GORBACHEV, GENERAL SECRETARY, COMMUNIST PARTY, U.S.S.R.

Representing members of the U.S. Congress, Christian and Jewish national organizations, we deplore the Soviet actions of physical and emotional brutality against the incarcerated Hebrew teachers in the Soviet Union, specifically Yuli Edelshtein and Yosif Berenshtein and the conviction of Evgeny Aisenberg and forthcoming trial of Dan Shapira. We urge you to cease all harassment and allow all Prisoners of Conscience to repatriate to their homeland, Israel, and exercise their human rights under the Helsinki Accords, the Universal Declaration of Human Rights and the International Covenant on Human Rights.

Senator Howard Metzenbaum (D-OH).

Representative Lawrence Smith (D-FL).

Jerry Goodman, National Conference on Soviet Jewry.

Robert Z. Alpern, Unitarian Universalist Association of Congregations in North America.

Rev. Charles Bergstrom, Lutheran Council in the U.S.A.

Rabbi Irwin Blank, Synagogue Council of America.

David Brody, Anti-Defamation League of B'nai B'rith.

Hyman Bookbinder, American Jewish Committee.

George Chauncey, Presbyterian Church (U.S.A.).

Robert Chertock, Jewish National Fund.

Dr. Eugene Fisher, U.S. Catholic Conference.

Joyce Hamlin, United Methodist Church.

Teresa Heinz, Congressional Wives for Soviet Jews.

Marc Pearl, American Jewish Congress.

Rabbi David Saperstein, Union of American Hebrew Congregations, Religious Action Center.

Daniel Thurz, B'nai B'rith International.

Mr. METZENBAUM. Mr. President, at this morning's meeting, Rabbi Irwin Blank of the Synagogue Council of America addressed these words to a government that permits thugs in the guise of prison officials to torture Yuli Edelshtein.

To his captors, we say shame! shame! shame! How lacking in self-respect you must be to persecute a man of faith, to transgress your own laws, to have to govern by fear and force. What have you, a mighty super power to fear from this man of spiritual commitment?

I do not know what the Soviet leaders fear.

But whatever it is, they have responded to it in a manner repugnant to civilized humanity.

They have made a mockery of their own constitution.

They have shown just how worthless are their signatures on documents like the Helsinki accords and the Universal Declaration of Human Rights.

I hope, Mr. President, that the new leaders of the Soviet Union will move at last to change policies that bring such disgrace upon their country.

JOHN SCARLETT: 1985 FFA AWARD WINNER

● Mr. SASSER. Mr. President, each year the Future Farmers of America designates a select group of young Americans as winners of awards for outstanding leadership in 1 of 22 different award areas.

These 22 FFA members have been selected from thousands of students who participated in the awards program nationwide.

There were three young Tennesseeans honored—a reflection of the importance of agriculture to our great State, and of the dedication and regard for agriculture that our young farmers have.

John Scarlett of New Market, TN is one of this select group of winners. He was the 1985 award winner in dairy production. He was sponsored by New Idea Farm Equipment and Alfa-Laval, Inc., Agri-Group and American Breeders Service.

John, 19, is a fourth generation dairy farmer. He grew up on a 525-acre dairy farm with his parents and brother. John's herd consists of 43 cows and 39 heifers.

Scarlett's holstein cattle are known throughout the State of Tennessee for their excellence in production and type. John has shown cattle throughout the Eastern United States and has won many awards. An embryo transfer program is credited for much of his success in raising per cow milk production.

All of the FFA award winners were honored here last week with a series of events, and then left the United States for a travel seminar which will take them to several European countries so that they can learn firsthand about agricultural problems, techniques and policies in other nations.

I want to commend John for his award-winning abilities. I also want to commend the Future Farmers of America for helping to prepare young Americans in production agriculture and agriculturally related fields.

John Scarlett is evidence that the FFA does a solid job of strengthening one's individual skills through classroom instruction, supervised occupational instruction, and through developing leadership, citizenship and cooperation in its members. The FFA is a creative and positive force in Tennessee and in our society.●

INSTITUTIONALIZATION OF OUR CHILDREN

● Mr. DURENBERGER. Mr. President, over the last year, the number of adolescents admitted to psychiatric treatment facilities in Minnesota increased by 50 percent. We all need to take a close look at these statistics and examine the trends in inpatient treatment for all ages. While it is important to recognize the mental health needs of our children, it is also important to make sure that they are receiving the best care in the most appropriate setting.

On June 6, 1985, Mr. Ira Schwartz, senior fellow at the Humphrey Institute of Public Affairs at the University of Minnesota, testified before the House Select Committee on Children, Youth, and Families. Ira has done extensive research on the treatment and care of adolescents and has helped to bring national attention to the increasing rates of institutionalization of our children.

I ask, Mr. President, that Mr. Schwartz's testimony be printed in today's RECORD along with my own statement which was submitted to the House Select Committee on Children, Youth, and Families. Our experience in Minnesota raises important policy issues for the entire country.

The material follows:

TESTIMONY OF IRA M. SCHWARTZ

Mr. Chairman, members of the committee, I want to thank you for inviting me to testify today. The issue of growing numbers of juveniles being placed in inpatient psychiatric and chemical dependency (drug and alcohol) treatment programs in private hospitals and free-standing residential facilities, largely fueled by the availability of third party health care reimbursement is one that demands our immediate attention.

Currently, very little is known about this development. Undoubtedly, the interest and involvement of the committee will help to shed light on what may prove to be a complex problem and one of national significance.

At present, I am serving as senior fellow and director of the Center for the Study of Youth Policy at the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota. While some of my comments will reflect the findings of research activities undertaken at the center, the views and opinions I am expressing on this topic are my own and not those of the Humphrey Institute or the University of Minnesota.

Although the House Select Committee on Children, Youth, and Families has been in existence for a relatively short period of time, the committee is already recognized as a key source of data and policy information on the general condition and problems confronting children, youth and families in America. Also, the committee has developed a solid reputation amongst policy makers, practitioners, public interest groups and child advocates at the National, State and local levels.

I know that the committee is deeply concerned about the problems young people are having with respect to chemical dependency. Also, I know that the committee is alarmed by the extremely high rate of teenage suicide and the high incidence of emotional problems and other stresses that impact the lives of our children and youth.

However, while the problems confronting families and children are serious and the need for policies and services that are responsive is great, there is mounting evidence that some of the approaches used in meeting the needs of troubled youth and families are inappropriate and costly. In particular, I am referring to the alarming trend of institutionalizing juveniles in private hospitals and free standing residential facilities for chemical dependency and psychiatric treatment, largely fueled by the availability of third party health care reimbursement.

For example, it was recently reported on the CBS Evening News that juvenile admissions to private psychiatric hospitals jumped from 10,764 in 1980 to 48,375 in 1984. This represents an increase in admissions of nearly 350%. However, these figures may be the tip of the iceberg because they only pertain to admissions to the 230 hospitals that are members of the National Association of Private Psychiatric Hospitals.

Our research suggests that the largest number of admissions may be in private general hospitals that have developed inpatient psychiatric and chemical dependency programs. For example, the following table depicts the admissions trends and patient days of care for juveniles admitted to Minneapolis/St. Paul area hospitals for psychiatric care between 1976 and 1984.

TABLE I.—JUVENILE PSYCHIATRIC ADMISSIONS

Year	Number	Rate per 100,000	Patient days
1976	1,123	91	46,718
1977	1,062	88	53,730
1978	1,268	107	60,660
1979	1,623	142	68,949
1980	1,775	158	74,201
1981	1,745	159	72,381
1982	1,813	165	71,267
1983	2,031	184	76,899
1984	3,047	299	83,015

All of these admissions were in general hospitals. None was in the one hospital in Minnesota that is a member of the National Association of Private Psychiatric Hospitals.

Also, I would like to point out that the vast majority of these admissions were "voluntary" placements. In other words, they were not ordered by the courts. They occurred as a result of parents consenting to admit their child, often upon the recommendation of a physician.

Comparable data on admissions to inpatient chemical dependency programs for juveniles is not available. However, the indications are that the number of juveniles admitted to these programs in Minnesota increased significantly during the late 1970s and early 1980s and have leveled off in the past few years. Also, it appears that a significant number of youth in these programs come from other States.

While our formal research on the issue has been limited to the State of Minnesota, we suspect that juveniles are being propelled into these programs elsewhere. Informal contacts with representatives from the health insurance industry, specialists in health care, juvenile justice and child welfare professionals, academics and members of the media suggest that juveniles are being confined in hospitals in many other States.

The psychiatric and chemical dependency treatment industries targeted toward children and youth in Minnesota raise some important issues and policy considerations. These include:

1. The majority of inpatient psychiatric and chemical dependency placements are paid for by third party health care reimbursement. In the early 1970s, the Minnesota legislature enacted laws that mandated insurance companies to include coverage for mental health and chemical dependency as a condition for selling health insurance in the State. Minnesota's laws were among the first of their kind and have been used as a

model for the enactment of similar legislation in many other States.

Minnesota's mandatory mental health and chemical dependency health insurance laws are clinically vague and provide financial incentives favoring inpatient as compared to outpatient care. This, coupled with a need for services on the part of families, and an excess of hospital beds, has created ideal conditions for the development of inpatient psychiatric and chemical dependency programs as well as the potential for abuse.

2. There is a need to develop more specific criteria for admission to inpatient psychiatric and chemical dependency treatment. Currently, juveniles are largely being admitted to facilities for such things as emotional disturbance, conduct disorder, adolescent adjustment reaction and attention deficit disorder. These categories imply a level of diagnostic precision that has yet to be proven empirically and allow for the exercising of virtually unbridled discretion on the part of mental health professionals.

3. There are significant legal and procedural safeguard questions that need to be explored. The overwhelming majority of the youths admitted to inpatient psychiatric and chemical dependency programs are admitted on a "voluntary" basis (not ordered by the court). More often than not, these youths are referred by their parents. However, our research, as well as examples cited by legal aid attorneys and mental health advocates, suggests that many youth are coerced into these programs. For many, it means deprivation of liberty without benefit of due process.

Some of the questions that must be addressed are: "Should parents have the absolute right to admit a child to an inpatient psychiatric or chemical dependency program against the child's will?" "Should placement in a locked psychiatric or chemical dependency program be left almost entirely in the hands of psychiatrists?" "Should juveniles be afforded due process and procedural protections?"

4. One of the principal objectives of the Federal Juvenile Justice and Delinquency Act of 1974 is the deinstitutionalization of status offenders from such secure facilities as detention centers, training schools, and adult jails. However, on-site visits to facilities, discussions and interviews with psychiatrists, nurses, and social workers, and reviews of records suggest that some of the youths being incarcerated in private psychiatric and chemical dependency programs are status offenders. Instead of truancy, running away, incorrigibility, or inability to get along with parents, these youths are admitted for such things as conduct disorders or chemical dependency. Also, there is evidence that females are being admitted to psychiatric units for promiscuity.

The intent of the Juvenile Justice and Delinquency Prevention Act was not to have status offenders removed from institutions in the justice system only to have them incarcerated elsewhere.

5. While it appears that many youths are being placed in inpatient programs unnecessarily, there are others who are being denied access to appropriate services. For example, the overwhelming majority of youth in inpatient psychiatric and chemical dependency programs are from white, middle and upper class families which have insurance coverage or are able to pay for the cost of care. In contrast, youths from poor or low income families who are in need of mental health services tend to be defined as delinquent and end up in the public child welfare or juvenile justice systems. This is particularly the case for minority youth.

6. Another disturbing factor is that allegations of abuse and questionable practices are mounting. For example, there are reports of arbitrary and capricious use of solitary confinement, verbal abuse on the part of staff, little or no work with families, inadequate amounts of time spent with patients by psychiatrists, and the incarceration of children as young as two, three and four years old.

Mr. Chairman, our research has led us to conclude that a "hidden" system of juvenile control is developing in Minnesota and in a number of other States. It is a system that is largely unmonitored, unregulated and driven by the availability of third party health care reimbursement. Clearly, this is an issue that demands immediate attention on the part of policy makers, health care professionals, juvenile justice and child welfare specialists, public interest groups and child advocates.

STATEMENT BY SENATOR DAVE DURENBERGER

The information that has been generated on the rise in the institutionalization of adolescents is startling. As Chairman of the Senate Finance Committee's Subcommittee on Health I am concerned both about the quality of care being provided to these kids and the needless costs to the total health care system.

Although the issue revolves around state insurance laws and state mandated coverage policies, I think we all agree that inappropriate placement and poor quality care are subjects that must be addressed by all levels of government.

A recent ruling by the U.S. Supreme Court confirmed the states' role in this area, upholding a Massachusetts law which requires insurance companies to cover mental health services in employer-based plans. Currently some 26 states have mandated coverage laws. Although well meaning, these laws have contributed to the rise in the numbers of children, placed in psychiatric treatment hospitals. The logic is simple: If the insurance company will pay, the incentives are for hospitals and treatment facilities to admit.

And in fact, inpatient treatment is increasing at an alarming rate with no controls on quality, appropriate diagnosis, and appropriate placement. Over the last four years, institutional placement of adolescents has increased by 350%.

There are promising signs, however. Blue Cross/Blue Shield of Minnesota has taken the initiative in trying to prevent the needless institutionalization of adolescents. They have tightened their admission criteria and they have instituted a preadmission screening program for admissions to psychiatric treatment facilties. These initiatives led to payment denials for 20% of the cases filed last year. I am hopeful that as other insurance companies are faced with increasing costs, they too will begin to look more closely at their admission criteria and the quality of treatment provided.

In the meantime, we should note that this issue also has an important federal facet. I think it is high time we examine our federal insurance policies and their mental health and alcoholism treatment benefits. Medicare and Medicaid have generally utilized inpatient, medically-based treatment facilities. Questions have been raised not only on the comparative effectiveness of inpatient care but also on its relative costs. I plan to further explore the feasibility of coverage for outpatient and freestanding treatment facilities. In addition, I intend to examine more closely Medicare's admission criteria for inpatient mental health and alcoholism treatment.

Congress should also direct its attention to federal laws governing employee-benefit plans. Under current law, employee-based insurance is under the jursidication of the states and state mandated insurance laws. The self-insured, on the other hand, come under federal employee-benefit laws that do not mandate special treatment coverage. Justice Blackmun encouraged the Congress to explore the different treatment of employee benefit plans and I would concur with his advice.

I thank Representative Miller for the opportunity to include my Statement in the Select Committee's Hearing Record. I commend the Committee for its work in this area and I look forward to hearing from my Minnesota constituents.●

ORDERS FOR WEDNESDAY

Mr. DOLE. Mr. President, I am not certain the distinguished minority leader has had an opportunity to go over these requests.

ORDER FOR RECESS UNTIL 9 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. on June 12.

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

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order, there be a special order in favor of the following Senators for not to exceed 15 minutes each: Senators PROXMIRE, BENTSEN, BYRD, DIXON, MELCHER, MURKOWSKI, and DOMENICI.

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

ORDER DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. DOLE. Following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond 11 a.m. with statements therein limited to 5 minutes each.

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

PROGRAM

Mr. DOLE. Mr. President, following routine morning business, the Senate will go into executive session to consider Legal Services nominations. Rollcall votes are expected. Following the Legal Services nominations, the Senate will turn to the nomination of Martha Seger to be a Member of the Federal Reserve Board. A vote is expected on the confirmation.

Following the Seger nomination, it will be the majority leader's intention to begin consideration of S. 1128, the Clean Water Act. Votes could occur in connection with the clean water bill tomorrow afternoon.

I think there may also be a resolution to be offered by the distinguished Senator from Wisconsin [Mr. PROXMIRE] with reference to recess appointments. At least that is an indication he gave me as part of an agreement on the Seger nomination. That matter, I believe, is under discussion with Senator PROXMIRE and the chairman of the committee, Senator GARN.

UNANIMOUS-CONSENT AGREEMENT—LEGAL SERVICES NOMINATIONS

Mr. DOLE. Mr. President, with reference to the Legal Services nominations, as in executive session, I ask unanimous consent that at 11 a.m., on Wednesday, June 12, the Senate go into executive session to consider the 11 Legal Services nominations, and that they be considered under the following time agreement: 4 hours total on the nominations, to be equally divided between the chairman of the Labor Committee and the ranking minority member, or their designees, and that following the conclusion or yielding back of time, the Senate proceed to vote, without any intervening action, first on the nomination of Michael Wallace, and to be followed by the nomination of Leanne Bernstein.

I further ask unanimous consent that following the confirmation of Leanne Bernstein, the Senate proceed to the consideration of nine remaining Legal Service nominations, by unanimous consent, if there is no objection.

Finally, I ask unanimous consent that following action on the nominees, and the motion to reconsider and the notification of the President, the Senate resume legislative session.

Mr. BYRD. Mr. President, reserving the right to object, does the distinguished majority leader wish to modify the request?

Mr. DOLE. Mr. President, I would modify the request with reference to the nine remaining Legal Services nominations. I think it would be appropriate to say I further ask unanimous consent that following the confirmation of Leanne Bernstein, the Senate proceed to the consideration of the nine Legal Services nominations, period.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I have no objection.

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

Mr. DOLE. Mr. President, it would be my hope that we could dispose of those nine by voice because I think there are one or two Members who may have decided they could be absent tomorrow on official business because we were not going to have one vote count for nine votes.

Mr. BYRD. Mr. President, may I say to the distinguished majority leader, I apologize for the bit of confusion in connection with the paragraph which he has taken out of the overall omnibus request. That very language was put in at my request, but the matter was discussed in our Democratic conference today and I found that our conference did not wish to proceed exactly as I had proposed. So I apologize to the majority leader.

Mr. DOLE. I might say to the distinguished minority leader I had a brief discussion with the senior Senator from Massachusetts [Mr. KENNEDY] and he indicated they needed rollcall votes on at least two nominees and that the other nine could probably be by voice vote.

Mr. BYRD. I thank the majority leader.

RECESS UNTIL 9 A.M.

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until 9 a.m., Wednesday, June 12.

The motion was agreed to, and at 7:16 p.m., the Senate recessed until tomorrow, Wednesday, June 12, 1985, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 11, 1985:

EXECUTIVE OFFICE OF THE PRESIDENT

Clayton Yeutter, of Nebraska, to be U.S. Trade Representative, with the rank of Ambassador Extraordinary and Plenipotentiary, vice William Emerson Brock III.

DEPARTMENT OF STATE

Bruce Chapman, of Washington, to be the Representative of the United States of America to the Vienna Office of the United Nations and Deputy Representative of the United States of America to the International Atomic Energy Agency, with the rank of Ambassador.