HOUSE OF REPRESENTATIVES—*Tuesday, September 17, 1985*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O sing unto the Lord a new song, for he has done marvelous things!—Psalm 98:1.

Gracious God, as the morning comes new every day, so are Your blessings new to us. We are grateful for the gifts that brighten the day, that restore our faith, that make satisfying our lives. We are grateful for friends who support us and whose love encourages and sustains. We are thankful for families who nurture and forgive and with whom we can share the bonds of love. For Your wonderful gifts, O God, we offer this our prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate has passed joint resolutions and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S.J. Res. 68. Joint resolution to designate November 21, 1985, as "William Beaumont Day";

S.J. Res. 139. Joint resolution to designate the week of December 1, 1985, through December 7, 1985, as "National Home Care Week";

S.J. Res. 159. Joint resolution to designate the rose as the national floral emblem;

S.J. Res. 173. Joint resolution to designate the month of September 1985 as "National Sewing Month";

S.J. Res. 186. Joint resolution to designate the week of September 23, 1985, through September 29, 1985, as "National Historically Black Colleges Week"; and

S. Con. Res. 62. Concurrent resolution expressing solidarity with the Sakharov family in their efforts to exercise their rights of freedom of expression, of travel, and of communication, as guaranteed them under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Final Act of the Conference on Security and Cooperation in Europe.

REPORT ON HOUSE JOINT RESOLUTION 388, CONTINUING APPROPRIATIONS, 1986

Mr. NATCHER, from the Committee on Appropriations, submitted a privileged report (Rept. No. 99-272) on the joint resolution (H.J. Res. 388) making continuing appropriations for fiscal year 1986, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

LET'S MOVE ON SUPERFUND

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

Mr. ANDREWS. Mr. Speaker, among the most pressing tasks before the House is the reauthorization of the Superfund Program. On September 30, the authority for our abandoned hazardous waste cleanup law will expire. EPA has already begun scaling back its cleanup efforts. If we fail to reauthorize the 5-year program soon, we face the prospect of some of these projects coming to a halt altogether. Stop-gap funding will cripple the momentum we have worked so hard to establish over the past 2½ years.

We need a tough, responsible Superfund reauthorization bill that this Congress and the American people can support, and we need it now. H.R. 2817, the bill reported by the Energy and Commerce Committee and now before the Public Works and Transportation Committee, is such a bill. It would strengthen current law considerably, increasing the program's funding sixfold to $10 billion. It is a good compromise bill and our best vehicle for moving forward expeditiously on the Superfund issue.

Mr. Speaker, this program has already seen its share of politics. Let's move on Superfund.

AN AMERICAN HELD HOSTAGE IN LEBANON 18 MONTHS: ANOTHER MARKS 6 MONTHS IN CAPTIVITY

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

Mr. O'BRIEN. Mr. Speaker, yesterday marked the 18th month William Buckley, a U.S. Foreign Service officer, has been held hostage in Lebanon.

September 16 also marked the sixth month of captivity for Terry Anderson, the Associated Press bureau chief in Beirut.

Last Saturday was the 250th day Father Lawrence Jenco, head of Catholic Relief Services in Beirut, has been held hostage in Lebanon.

Rev. Benjamin Weir, a Presbyterian minister, will mark 500 days of captivity on Friday, September 20.

Tomorrow will be the 100th day Thomas Sutherland, dean of the American University Agriculture School, has been held hostage in Lebanon.

Today is the 112th day of captivity for David Jacobsen, director of the American University Hospital in Beirut.

Peter Kilburn, the American University librarian, disappeared 287 days ago today.

Lest we forget, the hostage crisis in Lebanon is now in its 550th day, more than 100 days longer than the Iran hostage crisis 5 years ago. Suppose, just suppose, Mr. Speaker, you and I were among the seven. Would we be wondering if our friends were doing enough to rescue us?

SUSAN AKIN OF MISSISSIPPI CROWNED MISS AMERICA

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

Mr. MONTGOMERY. Mr. Speaker, I am pleased to announce that the new Miss America, crowned Saturday night in Atlantic City, is from my hometown of Meridian, MS. Susan Akin has become the fourth Mississippian to win the title. She has all the qualities and talents to be an outstanding representative of the young women in America.

I hope to be able to host a reception for Susan here on Capitol Hill in the next few weeks. Mr. Speaker, if my colleagues are nice to me in the meantime, I might let them meet Miss America.

AMERICA SLOW TO RESPOND TO SOVIET VIOLATIONS

(Mr. ECKERT of New York asked and was given permission to address the House for 1 minute.)

Mr. ECKERT of New York. Mr. Speaker, Sunday, under questioning by CBS News correspondent Leslie Stahl on "Face the Nation," Secretary of Defense Casper Weinberger admitted that 8 days earlier the Soviets had once again violated a 1947 accord providing for onsite military inspection in Germany by detaining and harassing American military personnel at gunpoint.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

In light of the Soviets' brutal murder of Major Nicholson on March 24 and the subsequent additional violations of that agreement—and the absence of any strong American response—it may not be surprising that the Soviets continue to demonstrate utter contempt for their treaty obligations, but are we going to adopt a policy of not taking Soviet abuses seriously simply because contemptible behavior is their norm? That is what we seem to be doing. The Defense Department and the White House stood silent when faced with this latest Soviet outrage. Not a word until forced to speak. That raises serious questions about American honor.

Mr. Speaker, on May 9 the House of Representatives voted by a margin of 322 to 93 to call upon the President to expel the Soviet Ambassador unless the Soviets apologized for the brutal murder of Major Nicholson. They have not apologized. Nor have they made amends to the family of Major Nicholson. They continue to violate the agreement. They continue to be arrogant and abusive. They continue to harass American military personnel.

The President hasn't expelled the Soviet Ambassador. Nor has he taken any comparable action. It is time to ask the President: "When are we going to take effective action that will demonstrate to the Soviets that America will not tolerate such conduct?"

CONGRESS MOVES TO ADDRESS TRADE IMBALANCE PROBLEMS

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

Mr. NICHOLS. Mr. Speaker, this is not the first nor will it be the last speech given in this body protesting the lack of a fair and effective trade policy for the United States of America. In fact, I believe our mounting trade deficit will become the front-burning issue for months to come, and well it should be. Certainly, our concern over the national debt and our efforts to achieve a balanced budget should remain issues of grave importance to this Nation, and especially to its future generations; but the realistic fact is that the possibility of serious deficit reduction has passed for this session of Congress. What remains is the opportunity for the administration, as well as the 99th Congress, to pass constructive legislation that will address our trade deficit. Mr. Speaker, I am afraid that anything less will mean the loss of literally millions of American jobs and the continued erosion of our Nation's industrial base.

As one who is not willing to sit idly by and watch our national security be threatened by the loss of those industries that become even more important in times of national crisis, I pledge my support for a trade policy that is both fair for America and its allies, and more importantly, for the men and women whose only voice in the Federal bureaucracy is their elected Congressmen and Senators. It is the American people who have the most to lose if no action is taken. In this trade issue, they are the only special interest, and it is the obligation, and I might add the duty, of this Congress to keep their interest at heart.

The administration advocates the practice of "free trade," but I question whether our Nation's current trade policy is really one of free trade. When the markets of America are open to goods made in other countries, yet the markets in those countries are closed to American-made products, is that free trade? Or when a foreign nation subsidizes its products so they can be sold at a lower price than American products, is that free trade? Or better yet, is it even fair trade? The answer is "no," and yet, that is the policy the administration continues to accept in dealings without trading partners. Maybe I should say the nations who continue to flood our American markets, because like true free trade, partnership is a two-way street, but currently the traffic is only going one way, and the cost is plain and simple—American jobs.

Mr. Speaker, let me commend my colleagues in this body who have recognized the serious threat being posed by the current trade imbalance. The House and Senate are answering the call of the American people for immediate action on this problem, but with no help from the administration, which continues to be led blindly down the one-way street of free trade. Many of the measures currently pending before Congress are essential to the livelihood of America's industrial base and for the jobs of millions of Americans throughout the 50 States. I trust the administration will see the real necessity for a constructive policy on trade and will join with Members of Congress to pass needed legislation before more Americans lose their jobs, and industry in America is a thing of the past.

DEFICITS LEAD TO A NEW ANOMALY—THE -ILLION IMMUNITY

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

Mr. PETRI. Mr. Speaker, this Government is only days away from borrowing our second trillionth dollar. Two trillion dollars of debt!

Now, the word "trillion" doesn't seem to mean anything to anybody. Trillion sounds like billion which sounds like million. We've been talking in -illions around here for so long that everybody has developed -illion immunity.

Well, big deficits may not mean much to this spend-happy Congress. But they mean a lot to America's children. Thanks to the decisions of this Congress and of recent Congresses, every child born in America next year will start his or her life almost $9,000 in debt.

And it doesn't end there! Thanks to the toothless budget resolution approved here in August, this Congress has decided to add another $1,000 to each child's debt for every year that passes.

This is a sad legacy this Congress is leaving our Nation's youth.

INTRODUCTION OF THE FREEDOM OF INFORMATION PUBLIC IMPROVEMENTS ACT OF 1985

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

Mr. KLECZKA. Mr. Speaker, I am pleased to announce that today I am introducing the Freedom of Information Public Improvements Act of 1985. Developed with the guidance of the Society of Professional Journalists, the bill sets a bold agenda for strenthening the Freedom of Information Act.

First enacted in 1966, the Freedom of Information Act was a landmark in the struggle for a more open government. Since that time, the public has benefited from the act in countless ways, including exposures of wasteful Defense expenditures, consumer health risks, and abuses of power by the CIA and FBI.

As we approach the act's 20th anniversary, it seems only appropriate that we address problems that have arisen—problems which prevent the act from achieving its full potential for public good.

My bill would make a number of substantive changes by tightening exemptions for national security, internal personnel, and financial institution information. The bill also makes procedural changes to ensure that requesters get their information in a timely fashion and at a fair price. Specifically, the bill establishes penalties for agency delay in FOIA compliance, expands sanctions against employees who deliberately obstruct the law, and mandates a uniform system of fee waivers for those requesters benefiting the public.

There has been a lot of talk, especially from the administration, that the Freedom of Information Act needs to be curtailed. Mr. Speaker, let's remember the value of the act and work to strengthen it. I urge my colleagues to cosponsor this legislation.

FLAWED WHITE HOUSE ECONOMICS MAKES UNITED STATES A DEBTOR NATION

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

Mr. WILLIAMS. Mr. Speaker, for the first time in more than 70 years, America has tragically become a debtor nation.

The trade deficit has occurred, in large measure, because of two reasons: First, a weak trade policy on the part of our trade negotiators; and second, a flawed economic policy. Our trade negotiators sell wheat for less than it is worth and buy foreign cars for more than they are worth, and they call it "Yankee ingenuity."

Our economic policy, comprised of a half-baked, failed notion called trickle-down economics, has forced up real interest rates to a point where they are higher than they have been in half a century, and that in turn has, of course, resulted in an inflated dollar which has wreched our trade policy.

Mr. Speaker, White House economic policy has made America a debtor nation.

NATIONAL HISPANIC HERITAGE WEEK CELEBRATION

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

Mr. COLEMAN of Texas. Mr. Speaker, I rise today to salute Hispanics across the country for their significant contributions to the history of our Nation as we celebrate National Hispanic Heritage Week.

This week is a celebration of the diversity of the Hispanic community in the United States and a recognition of its achievements in the fields of science and technology, education and scholarship, public service and leadership, military service and valor, arts and culture, and sports and entertainment. It is a tribute to the Hispanic community's full, equal, and dynamic participation in American society.

I join Mexican-Americans in my district in commemorating their legacy and traditions. The League of United Latin American Citizens' annual Fiesta de las Flores in El Paso, the University of Texas at El Paso, and El Paso Community College's Hispanic Heritage Week activities, and the fiestas patrias in Pecos, El Paso, and neighboring Ciudad Juarez, Chihuahua, all add to the ambiente of this time. More importantly, they affirm a strong spirit of independence, demonstrate pride and unity, and reflect a strong commitment to the future of the Hispanic community.

Nowhere is this spirit so evident as in the works of the great El Paso artist, Manuel Gregorio Acosta, whose exhibition I am hosting this week in commemoration of National Hispanic Heritage Week. El Paso, TX, is the largest city on the United States-Mexico border, and its largely Hispanic population has a major influence on the community's cultural, social, and economic life. The Acosta exhibit is part of a national tour of the paintings funded by the city of El Paso and the Burlington Northern Foundation. This exhibit depicts the rich diversity of the Hispanic culture of the Southwest, and I urge all of my colleagues to view it.

Mr. Speaker, I hope all of my colleagues will join me in honoring Hispanics across the land.

THE REPUBLICAN AGENDA FOR WORKING WOMEN—A PR ROAD SHOW

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

Mrs. SCHROEDER. Mr. Speaker, the Republicans are very, very good at having PR events, especially when it comes to women, because they have nothing legislatively that they can say to working women, so today they announced another massive PR event. They are going on the road with a great road show, with all sorts of speakers talking about the wonderful things they have done for working women outside the home.

I have just looked at this agenda, and I am amazed at some of their oversights. I am sure they are going to want to correct it. First of all, they forgot to tell working women that this administration has in the President's tax reform bill a proposal where they can pay more taxes for the privilege of working outside the home. Yes, they are bringing back the marriage penalty, and I do not think that is the idea that most women would have when they think of opportunity. Nevertheless, they are giving them this opportunity of paying more.

They are giving them lots of other opportunities to work for less than they are worth. In fact, one of their star speakers is Linda Chavez. She is speaking on pay equity, and even though her salary is set on a comparable scale in the Federal Government, she does not approve of it for anybody else, thank you very much; she is going to give them the opportunity to go to work at the minimum wage.

So I really find this whole thing quite amazing. With the money they have, I guess they figure they can buy support one way or the other. I find it shocking, and I think the women of America who are working are much smarter than to be buying into this little PR road show.

PRESIDENT SERVES FRENCH WINE AS WE BECOME A DEBTOR NATION

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

Mr. COELHO. Mr. Speaker, last week, almost 5 years into his Presidency, President Reagan announced a "get tough" policy on trade. He finally seemed to acknowledge that many of our trading partners are taking unfair advantage of America's free trade philosophy; but just yesterday, at a White House luncheon for regional broadcasters, the President served his guests a very expensive wine, a very expensive French wine. How expensive? About $50 a bottle in your average restaurant. It was so expensive, I cannot even pronounce its name.

Now, Mr. Speaker, this might seem trivial to some, but of course not to those who make a big deal out of South African baseball caps; and it is not trivial to the grape growers in Ronald Reagan's home State of California or in my home district in the central valley, either.

In fact, there is currently action pending before the ITC to deal with the unfair trading practices of foreign wine producers, and we need the administration's support.

It is particularly interesting that the President would serve this very expensive French wine on the very day that the United States became for the first time in 70 years a debtor nation.

Mr. Speaker, the Presidency, as we all know, is a very symbolic office, and I hope in the future the President of the United States will support America's wine industry, not the French wine industry.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC, *September 14, 1985.*

Hon. THOMAS P. O'NEILL, Jr.,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5, rule III of the rules of the U.S. House of Representatives, I have the honor to transmit sealed envelopes received from the White House at 12:20 p.m. on Monday, September 16, 1985 as follows:

(1) Said to contain a message from the President wherein he transmits a report on the recommendations of the Office of Juvenile Justice and Delinquency Prevention; and

(2) Said to contain a message from the President wherein he transmits the 1984 Annual Report of the National Advisory Council on Adult Education.

With kind regards, I am,
Sincerely,
BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

EIGHTH ANALYSIS AND EVALUATION OF FEDERAL JUVENILE DELINQUENCY PROGRAMS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, referred to the Committee on Education and Labor.

(For message, see proceedings of the Senate of Monday, September 16, 1985, at page 23843.)

1984 ANNUAL REPORT OF THE NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, referred to the Committee on Education and Labor.

(For message, see proceedings of the Senate of Monday, September 16, 1985, at page 23843.)

ADMINISTRATION'S TRADE POLICY TEARING APART FABRIC OF AMERICAN INDUSTRY

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

Mr. MOLLOHAN. Mr. Speaker, the men and women in America's work places are, in increasing numbers, understanding that this administration's unyielding, stubborn free trade policies are tearing the very fabric of American industry apart, from steel to glass, to high tech, and from textiles to shoes, the American worker stands on shaky ground.

Mr. President, in the battle of international trade, your free trade stance has stacked the deck in favor of foreign competition. That is hard to understand, but what is unbelievable is the fact that your administration, through the Export-Import Bank, is currently financing the development of coal projects around the world.

In the last 5 years, America's Export-Import Bank has provided almost a billion dollars in loan and loan guarantee aid to develop coal mines in Australia, Turkey, Mexico, Yugoslavia, Zimbabwe, and most principally, Colombia, along with other foreign countries.

The bottom line is lost jobs, more lost jobs, in America's coal fields.

Is it not time, Mr. President, that our trade laws and trade policies stand up for America? We need fair trade now.

SYNFUELS CORPORATION RUSHES THROUGH NEW CONTRACTS

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

Mr. SHARP. Mr. Speaker, in July the House decisively voted to take away the remaining funds available to be spent by the Synthetic Fuels Corporation, but very quickly that corporation made clear to the public and to the Congress that it intended to go ahead and make several major financial commitments the taxpayers will have to honor if they go forward.

Several of us immediately wrote the President of the United States asking him to have his appointees stop such action and stop what we believe would be a waste of the taxpayers' dollars. The response so far has been a deafening silence.

Therefore, tomorrow the Energy and Commerce Committee will take steps to further discourage the signing of those contracts and those financial commitments.

In our deficit reduction package, we will include an effort to block the 11th-hour contracts that might be rushed through in defiance of the will of the House of Representatives. Although there is a constitutional question about the Government's ability to abrogate its contracts, we can and will take away the Government's consent to be sued. This is a fine legal distinction and an extraordinary step, one which we ordinarily would not take, but that corporation, that Government agency, simply has not gotten the message.

Potential award recipients are hereby warned, signing these last-minute contracts carries a large risk. We are determined to stop spending and to reduce the deficit.

MR. PRESIDENT, FREEZE ALL SPENDING

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

Mr. AUCOIN. Mr. Speaker, for 5 years the Reagan administration has been telling us that less government is better government, and that the Government can't continue to spend more than it takes in.

Many of us in Congress couldn't agree with you more, Mr. President. But every time we try to clamp a freeze on Government spending—which affects all the sacred cow's, including your own—your administration has always objected. And you've gotten your way.

And so, the Government is borrowing much more money today than it did when your administration took over. Our country has just established itself as a debtor nation for the first time in 71 years. The Federal debt has reached $2 trillion and is expanding at a rate of $200 billion a year.

Meanwhile, I read with amazement a news report that your administration has just approved a loan guarantee of $72 million to a Saudi billionaire to produce an oil substitute that will be far more expensive than the oil it is suppose to replace. And Mr. President, you've just appointed a new head for a million-dollar-a-year Government agency that's in charge of managing the Government's paperclips and paperwork.

Mr. President, you tell us that we must trim Federal fat. Meanwhile, you're contributing to some of the biggest spending boondoggles ever.

What's wrong, Mr. President? I'm hoping you'll give us some straight answers at your press conference tonight. I'm hoping you'll say, "Let's freeze all spending."

REQUEST FOR PERMISSION FOR COMMITTEE ON RULES TO FILE REPORT ON H.R. 3128

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight, September 17, 1985, to file a report on H.R. 3128.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

Mr. FRENZEL. Mr. Speaker, I reserve the right to object.

Mr. Speaker, under my reservation, I will yield to the gentleman from South Carolina to tell us what kind of a rule the committee has in mind, whether the Republican members of the committee have been advised of his request and are aware of the rule that is going to be passed and what amendments are going to be made in order under the rule.

I yield to the distinguished gentleman.

Mr. DERRICK. Mr. Speaker, I thank the gentleman.

We are still hearing testimony on the rule up there now, so I cannot tell the gentleman what kind of a rule it will be. I have spoken with one Member of the Republicans on the Rules Committee, the gentleman from Mississippi [Mr. LOTT], who has no objection. I have not spoken with the rest of them.

As to be able to give the gentleman the particulars of it, we are still hearing testimony on it, so I cannot tell the gentleman.

I would suggest, although I cannot speak for the Rules Committee, that there probably will be some amendments made in order.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, I thank the gentleman.

I am advised that the Republican leadership has a very strong interest in making certain amendments in order, particularly one by the gentleman from Ohio, and without the assurances that those might be granted, my inclination would be to object to the gentleman's request.

I yield to the distinguished gentleman.

Mr. DERRICK. Well, I regret that I cannot give the gentleman those assurances. I can tell the gentleman that we are hearing testimony. I am sure that it will receive fair consideration, but I cannot give assurances what the rule will be. I do not know.

Mr. FRENZEL. I thank the gentleman.

Further reserving the right to object, Mr. Speaker, under these conditions, until the minority has a little clearer fix on what is happening——

Mr. DERRICK. Mr. Speaker, will the gentleman yield further?

Mr. FRENZEL. I yield to the gentleman.

Mr. DERRICK. Mr. Speaker, if I can go back up and ask the other Members of the minority if they agree, would the gentleman withdraw his objection?

Mr. FRENZEL. I would at that time; but now, Mr. Speaker, I object.

The SPEAKER. Objection is heard.

AN UPDATE ON THE CABELL COUNTY DROPOUT PREVENTION PROGRAM

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

Mr. RAHALL. Mr. Speaker, not too long ago, I introduced my colleagues to a dropout prevention program that is in effect in Cabell County, WV.

In March 1982 a task force committee was established to review the problem of students leaving school prior to the completion of their school program. The results indicated that approximately 21 percent of students in Cabell County were leaving school before the completion of their school program.

Therefore, a county educational decision was reached to address this particular problem through the utilization of ECIA chapter 2 funds for the 1982-83 school year. A preventive program was established.

The Dropout Prevention Program, initiated by Cabell County Schools in 1982, involves teachers, students, parents, and other citizens in its quest to reduce the dropout rate and even to bring dropouts back into school.

The program targets potential student dropouts as early as the elementary level and attempts to instill into these students the proper habits which make school a turnon rather than a turnoff.

It reaches out to junior high students with low grades and/or low interest in school activities by offering alternate courses of study such as prevocational courses.

The Cabell County Public School's Dropout Prevention Program zeroes in on those students who have reached the legal age, 16, to leave school. JROTC, alternative vocational programs, tutor/advisers, the opening of school libraries after school hours, and an overall concern from teachers, fellow students, and others show the potential dropout that there are those who do care and want that student to get an education.

Each school has a parent advisory committee which offers suggestions and help in providing alternatives and added interests to students. At one school, a successful experiment was conducted with an automatic calling machine to contact homes of students who were habitually absent or tardy.

The tutor/adviser at each school is particularly helpful in getting low achievers back on track with their studies and involved with extra curricular school activities.

All teachers have been asked to join the dropout prevention team by offering suggestions or passing on information to the tutor/adviser on students they feel are leaning toward leaving school before graduation.

The overall project is funded through ECIA chapter 2 and includes staff members with assignments directly connected with the program. They include the project coordinator, tutor/advisers, and educational ombudsman and part-time tutors in libraries.

But, the success of the program also signifies the community support it receives and the overall awareness that the school system in Cabell County does care about its students and wants to go the extra mile for a student in providing a strong educational foundation.

I believe that the statistics show the success of the Cabell County Dropout Prevention Program. Tracking the number of high school and junior high school dropouts chronologically, the records show that the number of dropouts has declined from 276, 20.13 percent in 1980-81, 307, 21.19 percent in 1981-82, 197, 15.15 percent in 1982-83, and 235, 19.37 percent in 1983-84, to 192, 15.14 percent in 1984-85. Furthermore, one aspect of the program is designed to encourage dropouts to return to school. This, accompanied by the above declining dropout rate, exemplifies the effort put into and the progress made by my fellow West Virginians in Cabell County.

These people care, and with the help of Federal funding, they are able to work together to do something about the dropout problem. We in Congress must not ignore this problem or the success that this type of program can achieve. We have to face the fact that 85 percent of all jobs in the next decade will require vocational or technical training. Furthermore, we must face the realization that a teen droput has little to no chance of success in the complex world of the 1990's. As representatives of the people of this Nation, we have a responsibility to address this problem. We must not shirk this responsibility. I urge my colleagues to review any legislative measures which would address this national dilemma.

PERSONAL EXPLANATION

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

Mr. DANIEL. Mr. Speaker, in recent days, questions have been raised in the press about my flying in corporate aircraft. As I have stated from the first time this issue was raised and I was made aware of the rules governing this matter, I have made restitution to the company and amended my financial disclosure forms to reflect the receipt of transportation from my district.

On Friday, September 13, 1985, I filed my amended disclosure forms and also remitted to the Corporation a check in the amount of $1,127.00 for the cost of the flights.

I deeply regret this error on my part, due to a misunderstanding of the relevant House rules, and I believe I have now acted in a forthright and expeditious manner to correct the error.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2904

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that my name may be removed as a cosponsor of H.R. 2904.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, September 18, 1985.

□ 1230

EARTHQUAKE HAZARDS REDUCTION ACT AUTHORIZATIONS, FISCAL YEARS 1986 AND 1987

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 817)

to authorize appropriations under the Earthquake Hazards Reduction Act of 1977 for fiscal years 1986 and 1987, and for other purposes; with Senate amendments to the House amendments thereto, and concur in the Senate amendments to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendments, as follows:

In lieu of the matter proposed to be inserted by the amendment of the House numbered 3, insert "35,578,000".

In lieu of the matter proposed to be inserted by the amendment of the House numbered 4, insert "$37,179,000".

Page 2, line 20, of the House Amendment, strike out "and" and insert "and".".

SEC. 7. Section 2(b)(3) of the National Bureau of Standards Authorization Act for Fiscal Year 1986 (Public Law 99-73) is amended by striking "(7), and (8)" and inserting in lieu thereof "and (7)".

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendments be considered as read and printed in the Record.

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

There was no objection.

Mr. FUQUA. Mr. Speaker, I urge passage of S. 817, the Earthquake Hazards Reduction Act of fiscal year 1986 and fiscal year 1987 as amended by the other body.

This bill first passed the Senate on April 17, was amended by the House on June 24, and sent back to the Senate.

The bill as amended on July 31, represents an agreement reached by both the House Committees on Science and Technology, and Interior and Insular Affairs and the Senate Committee on Commerce, Science and Transportation. In particular, the bill would authorize the earthquake prediction and monitoring program at U.S. Geological Survey at a level of about $500,000 more than the House-passed bill, to a level of $35,578 million. Also, the Earthquake Program at the Federal Emergency Management Agency is reduced slightly below the fiscal year 1985 appropriation level. Other earthquake research programs conducted at the National Science foundation and the National Bureau of Standards would be maintained at the fiscal year 1985 appropriation level

Finally, this bill would authorize the written plan for the National Earthquake Hazards Reduction Program to be updated every 3 years.

Mr. Speaker, since the bill before us allots a total authorization level of $69,433 million, which is slightly below the fiscal year 1985 appropriation level, and since all other matters of controversy within the legislation have been resolved, I urge adoption of this bill.

S. 817 EARTHQUAKE ACT

	House passed version June 24, 1985 [1]	Senate passed version April 17, 1985 [1]	President's request 1986 [2]	Senate passed version July 31, 1985 [1]
FEMA	$5.596	$5.705	$5.596	$5.596
USGS	35.044	35.578	34.603	35.58
NSF	27.760	28.700	28.700	27.760
NBS	.499	.499	.000	499
Total	68.899	70.482	[2] 68.899	69.433

[1] 4.5-percent increase for fiscal year 1987.
[2] Such sums as may be necessary for fiscal year 1987.

Note.—Additional provision in bill—update of the 5-yr plan: Senate-passed verison July 31, 1985 would update the plan every 3 yrs.

Mr. LUJAN. Mr. Speaker, I also urge passage of S. 817, the Earthquake Hazards Reduction Act of fiscal year 1986 and fiscal year 1987 as amended by the Senate.

This bill is the result of work by both Houses which dates back to April 17, It is the result of a compromise position between the House versions, which supported the fiscal year 1986 request, and the Senate version, which is slightly below the fiscal year 1985 level. I feel this bill balances the need for the program with the very real concerns over Federal spending.

Mr. Speaker, the committees have negotiated this position and all matters of controversy have been resolved. I join the distinguished chairman of our committee in urging adoption of this bill.

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

There was no objection

A motion to reconsider was laid on the table.

FEDERAL FIRE PREVENTION AND CONTROL ACT AUTHORIZATION

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 818), an act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate bill

The Clerk read the Senate amendment to the House amendment, as follows:

Page 1, line 2, of the House engrossed amendment, strike out "$22,953,000" and insert "$22,037,000".

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment be considered as read and printed in the RECORD.

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

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the gentleman from Florida [Mr. FUQUA] to explain the bill.

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

Mr. LUJAN. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Speaker, I urge passage of S. 818, the Federal Fire Prevention and Control Act for fiscal year 1986, as amended by the other body. The bill first passed the Senate on April 17, was amended by the House on June 24 and sent back to the other body.

This bill, as amended on July 31, represents an agreement reached by both the House Committee on Science and Technology and the Senate Committee on Commerce, Science and Transportation. In particular, the bill would restore full funding for the Travel Stipend Program. The Stipend Program pays for a firefighter's travel expenses to the National Fire Academy. Other programs at the National Fire Academy would be authorized at slightly below the fiscal year 1985 freeze level. Programs at the U.S. Fire Administration would be authorized at a level of $9 million, about $700,000 less than the fiscal year 1985 freeze.

Mr. Speaker, since this bill before us allots a total authorization level, that would be slightly less than the fiscal year 1985 freeze level and since all other matters of controversy within the legislation have been resolved, I urge adoption of this legislation.

S. 818 FIRE ACT

	House passed version June 24, 1985	Senate passed version Apr. 17, 1985	President's request 1986	Senate passed version July 31, 1985
USFA	$9.736	$9.236	$7.685	$9.0
NFA	13.217	12.800	11.637	13.037
Total	[1] 22.953	22.036	19.322	[2] 22.037

[1] Same as fiscal year 1985 appropriations.
[2] With full funding of travel stipend program.

Mr. LUJAN. Mr. Speaker, I join the chairman of our committee in urging passage of S. 818, the Federal Fire Prevention and Control Act. As you have heard, this legislation is slightly more than the fiscal year 1986 request, but only because the full funding for the Travel Stipend Program has been restored. Mr. Speaker, we agree with the unanimous-consent request for this bill. This recognizes the overall national role of the Fire Prevention Program and the National Fire Academy.

The other authorizations of this program represent a savings to the taxpayers and I urge its approval.

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of the request made by the gentleman from Florida [Mr. FUQUA] to accept S. 818, as amended by the Senate. This bill does represent an agreement between both the House and Senate authorizing committees. I am very pleased to say

that it also fully supports the Travel Stipend Program for volunteer and professional firefighters to attend courses at the National Fire Academy in Emmitsburg, MD. I wish to express my appreciation to Senator GORTON and Senator RIEGLE for their leadership within the Senate Subcommittee on Science, Technology and Space. They have been particularly akin to priorities of the House Subcommittee on Science, Research and Technology, and very amiable in negotiating a strong position expressing the support of Congress for the Federal role in fire prevention and control.

I urge the immediate adoption of S. 818, as amended.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

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

There was no objection.

A motion to reconsider was laid on the table.

GOVERNMENT SECURITIES ACT OF 1985

Mr. WIRTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2032), to amend the Securities Exchange Act of 1934 to provide improved protection for investors in the government securities market, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2032

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

SECTION 1. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Government Securities Act of 1985".

(b) FINDINGS.—The Congress finds that transactions in government securities, as commonly conducted, are affected with a public interest which makes it necessary—

(1) to provide for the integrity, stability, and efficiency of such transactions and of matters and practices related thereto;

(2) to impose limited regulation of government securities brokers and government securities dealers generally;

(3) to require appropriate financial responsibility, recordkeeping, and reporting requirements;

(4) to impose requirements necessary to make such regulation effective; and

(5) to achieve effective coordination of the issuers and regulators interested in the government securities markets,

in order to protect investors and the national credit and to insure the maintenance of fair, honest, and liquid markets in such securities.

SEC. 2. ESTABLISHMENT OF THE GOVERNMENT SECURITIES RULEMAKING BOARD.

The Securities Exchange Act of 1934, hereafter in this Act referred to as "the Act", is amended by inserting after section 15B thereof (15 U.S.C. 78o-4) the following new section:

"GOVERNMENT SECURITIES

"SEC. 15C. (a)(1) It shall be unlawful for any government securities broker or government securities dealer (other than a registered broker or dealer) to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security unless such government securities broker or government securities dealer is registered in accordance with this subsection.

"(2)(A) A government securities broker or government securities dealer may be registered by filing with the Commission an application for registration in such form and containing such information and documents concerning such government securities broker or government securities dealer and any persons associated with such government securities broker or government securities dealer as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Within 45 days of the date of the filing of such application (or within such longer period as to which the applicant consents), the Commission shall—

"(i) by order grant registration, or

"(ii) institute proceedings to determine whether registration should be denied.

"(B) Proceedings instituted pursuant to subparagraph (A)(ii) shall include notice of the grounds for denial under consideration and opportunity for hearing and shall be concluded within 120 days of the date of the filing of the application for registration. At the conclusion of such proceedings the Commission, by order, shall grant or deny such registration. The Commission may extend the time for the conclusion of such proceedings for up to 90 days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the applicant consents.

"(C) The Commission shall grant the registration of a government securities broker or government securities dealer if the Commission finds that the requirements of this section are satisfied. The Commission shall deny such registration if it does not make such a finding or if it finds that if the applicant were so registered, its registration would be subject to suspension or revocation under subsection (c) of this section.

"(3) Any provision of this title (other than section 5 or paragraph (1) of this subsection) which prohibits any act, practice, or course of business if the mails or any means or instrumentality of interstate commerce is used in connection therewith shall also prohibit any such act, practice, or course of business by any registered government securities broker or registered government securities dealer or any person acting on behalf of such government securities broker or government securities dealer, irrespective of any use of the mails or any means or instrumentality of interstate commerce in connection therewith.

"(4) The Board of Governors of the Federal Reserve System, by rule or order, upon its own motion or upon application, may conditionally or unconditionally exempt any government securities broker or government securities dealer, or class of government securities brokers or government securities dealers, from any provision of this section or the rules thereunder, including the rules of the Government Securities Rulemaking Board, if the Board of Governors of the Federal Reserve System finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this title.

"(5) Any registered government securities broker or government securities dealer may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission.

"(6) If the Commission finds that any registered government securities broker or government securities dealer is no longer in existence or has ceased to do business as a government securities broker or government securities dealer, the Commission, by order, shall cancel the registration of such government securities broker or government securities dealer.

"(b)(1)(A) Not later than 120 days after the date of enactment of the Government Securities Act of 1985, the Board of Governors of the Federal Reserve System shall establish a Government Securities Rulemaking Board (hereinafter in this section referred to as the 'Board'), which shall perform the duties set forth in this section.

"(B) The Board shall be composed initially of nine members appointed by the Board of Governors of the Federal Reserve System. The initial members of the Board shall serve as members for a term of two years, and shall consist of—

"(i) three individuals who are not associated with any government securities broker or any government securities dealer (other than by reason of being under common control with, or indirectly controlling, any broker or dealer which is not a government securities broker or government securities dealer), hereafter in this subsection referred to as 'public representatives', at least two of whom are representative of investors in government securities;

"(ii) three individuals who are associated with and representative of government securities dealers that are monitored by and report daily to the Federal Reserve Bank of New York; and

"(iii) three individuals who are associated with and representative of government securities brokers and of government securities dealers other than those described in clause (ii).

"(C) Prior to the expiration of the terms of office of the initial members of the Board, an election shall be held, under rules adopted by the Board (pursuant to paragraph (2)(A) of this subsection), of the members to succeed such initial members.

"(2) The Board shall propose and adopt rules to administer the Board and to effect the purposes of this title with respect to transactions in government securities effected by government securities brokers and government securities dealers as follows:

"(A) Such rules shall establish fair procedures for the nomination and election of members of the Board and assure fair representation in such nominations and elections of government securities brokers and government securities dealers. Such rules shall provide (i) that the membership of the Board shall at all times be equally divided among representatives of the classes of persons set forth in clauses (i), (ii), and (iii) of paragraph (1)(B) of this subsection; and (ii) that at least two of the public representatives on the Board are representative of investors in government securities. Such rules shall also specify the term members shall serve.

"(B) Such rules shall provide for the operation and administration of the Board, including the selection of a Chairman from among the members of the Board, the compensation of the members of the Board, and the appointment and compensation of such

employees, attorneys, and consultants as may be necessary or appropriate to carry out the Board's functions under this section.

"(C) Such rules shall provide that each government securities broker and government securities dealer shall pay to the Board such reasonable fees and charges as may be necessary or appropriate to defray the costs and expenses of operating and administering the Board. Such rules shall specify the amount of such fees and charges.

"(D) Such rules shall establish standards providing safeguards with respect to the financial responsibility and related practices of government securities brokers and government securities dealers including, but not limited to, the acceptance of custody and use of customers' securities, the carrying and use of customers' deposits or credit balances, and the transfer and control of government securities in repurchase agreements and similar transactions.

"(E) Such rules shall prescribe records to be made and kept by government securities brokers and government securities dealers and the periods for which such records shall be preserved.

"(F) Such rules shall require government securities brokers and government securities dealers to make and disseminate reports, furnish copies of records, and file financial statements (which may be required to be certified by an independent public accountant) and other information concerning their financial condition. Such rules may prescribe the form and content of such financial statements and the accounting principles and accounting standards used in their preparation.

"(G) Such rules shall define the term 'separately identifiable department or division', as that term is used in section 3(a)(44) of this title, in accordance with specified and appropriate standards to assure that a bank is not deemed to be engaged in the business of buying and selling government securities through a separately identifiable department or division unless such department or division is organized and administered so as to permit independent examination and enforcement of applicable provisions of this title and the rules thereunder, including the rules of the Board. A separately identifiable department or division of a bank may be engaged in activities other than those relating to government securities.

"(H) Rules under subparagraphs (A) through (G) of this paragraph shall be proposed and adopted by the Board within 180 days after the establishment of the Board. Such rules shall thereafter be published for public comment by the Board of Governors of the Federal Reserve System and the Board of Governors of the Federal Reserve System shall take final action upon such rules within one year after such establishment.

"(3) If the Board determines, based upon its experience with rules adopted under paragraph (2) of this subsection, that the rules which are authorized to be proposed and adopted under paragraph (2) of this subsection are not sufficient to effect the purposes of this title, the Board may propose and adopt rules establishing standards relating to the operational capability of government securities brokers and government securities dealers and to the training, experience, competence, and other qualifications of natural persons associated with government securities brokers and government securities dealers.

"(4) If the Board of Governors of the Federal Reserve System determines that the rules which are authorized to be proposed and adopted under paragraph (2) of this subsection are not sufficient to effect the purposes of this title, the Board of Governors of the Federal Reserve System may, by rule, with respect to transactions in government securities effected by government securities brokers and government securities dealers—

"(A) regulate the amount of deposit that shall be initially required and subsequently maintained in connection with the purchase, sale, or carrying of any government security; and

"(B) after consultation with the Secretary of the Treasury, establish requirements relating to when-issued trading in government securities by government securities brokers and government securities dealers.

"(5)(A) Rules proposed and adopted under paragraphs (2), (3), and (4) of this subsection shall be designed to prevent fraudulent and manipulative acts and practices and to protect the integrity, liquidity, and efficiency of the market for government securities, investors, and the public interest.

"(B) Rules proposed and adopted under paragraphs (2) and (3) of this subsection shall not be designed to permit unfair discrimination between customers, issuers, government securities brokers, or government securities dealers, to fix minimum profits, to impose any schedule or fix rates of commissions, allowances, discounts, or other fees to be charged by government securities brokers or government securities dealers, to regulate by virtue of any authority conferred by this title matters not related to the purposes of this title or the administration of the Board, or to impose any burden on competition not necessary or appropriate in furtherance of the purposes of this title.

"(C) In proposing and adopting rules under this section, the Commission, the Board, and the Board of Governors of the Federal Reserve System—

"(i) shall consider the sufficiency and appropriateness of then existing laws and rules applicable to government securities brokers, government securities dealers, and persons associated with government securities brokers and government securities dealers; and

"(ii) may determine, to the extent consistent with the public interest, the protection of investors, and the purposes of this title, not to apply, in whole or in part, certain rules under this section, or to apply greater, lesser, or different standards, to certain classes of government securities brokers, government securities dealers, or persons associated with government securities brokers or government securities dealers.

"(6) The Board of Governors of the Federal Reserve System shall have the same functions, powers, and duties with respect to the Board as the Commission has with respect to the Municipal Securities Rulemaking Board under sections 17(a)(1), 17(b), 19(b), and 19(c) of this title, and the Board shall have the same duties and responsibilities as the Municipal Securities Rulemaking Board has under such sections.

"(7) If the Commission or the Secretary of the Treasury comments in writing on a proposed rule or proposed rule change of the Board that has been published for comment, the Board of Governors of the Federal Reserve System shall respond in writing to such written comment before approving the proposed rule or proposed rule change.

"(c)(1) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security in contravention of any rule of the Board.

"(2) The Commission, by order, shall censure, place limitations on the activities, functions, or operations, suspend for a period not exceeding 12 months, or revoke the registration of any government securities broker or government securities dealer, if it finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation, is in the public interest and that such government securities broker or government securities dealer, or any person associated with such government securities broker or government securities dealer (whether prior or subsequent to becoming so associated), has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

"(3) Pending final determination whether any registration under this section shall be revoked, the Commission, by order, may suspend such registration, if such suspension appears to the Commission, after notice and opportunity for hearing, to be necessary or appropriate in the public interest or for the protection of investors.

"(4)(A) The Commission, by order, shall censure or place limitations on the activities or functions of any person associated, or seeking to become associated, with a government securities broker or government securities dealer, or suspend for a period not exceeding twelve months or bar any such person from being associated with a government securities broker or government securities dealer, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) or paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within ten years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

"(B) It shall be unlawful for any person as to whom an order entered pursuant to subparagraph (A) of this paragraph or paragraph (5) of this subsection suspending or barring him from being associated with a government securities broker or government securities dealer is in effect willfully to become, or to be, associated with a government securities broker or government securities dealer without the consent of the Commission. It shall be unlawful for any government securities broker or government securities dealer to permit such a person to become, or remain, a person associated with him without the consent of the Commission, if such government securities broker or government securities dealer knew, or, in the exercise of reasonable care should have known, of such order.

"(5) With respect to any government securities dealer for which the Commission is not the appropriate regulatory agency, the appropriate regulatory agency for such gov-

ernment securities dealer may sanction any such government securities dealer in the manner and for the reasons specified in paragraph (2) of this subsection and any person associated with such government securities dealer in the manner and for the reasons specified in paragraph (4) of this subsection. In addition, such appropriate regulatory agency may, in accordance with section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), enforce compliance by such government securities dealer or any person associated with such government securities dealer with the provisions of this section and the rules thereunder, including the rules of the Board. For purposes of the preceding sentence, any violation of any such provision or rule shall constitute adequate basis for the issuance of any order under section 8(b) or 8(c) of the Federal Deposit Insurance Act, and the customers of any such government securities dealer shall be deemed to be 'depositors' as that term is used in section 8(c) of that Act. Nothing in this paragraph shall be construed to affect in any way the powers of such appropriate regulatory agency to proceed against such government securities dealer under any other provision of law.

"(6)(A) The Commission, prior to the entry of an order of investigation, or commencement of any proceedings, against any government securities dealer or person associated with any government securities dealer for which the Commission is not the appropriate regulatory agency for violation of any provision of this section, and the rules thereunder including any rule of the Board, shall—

"(i) give notice to the appropriate regulatory agency for such government securities dealer of the identity of such government securities dealer or person associated with such government securities dealer and the nature of and basis for such proposed action; and

"(ii) consult with such appropriate regulatory agency concerning the effect of such proposed action on sound banking practices and the feasibility and desirability of coordinating such action with any proceeding or proposed proceeding by such appropriate regulatory agency against such government securities dealer or associated person.

"(B) The appropriate regulatory agency for a government securities dealer (if other than the Commission), prior to the entry of an order of investigation, or commencement of any proceedings, against such government securities dealer or person associated with such government securities dealer, for violation of any provision of this section or the rules thereunder including the rules of the Board, shall—

"(i) give notice to the Commission of the identity of such government securities dealer or person associated with such government securities dealer and the nature of and basis for such proposed action; and

"(ii) consult with the Commission concerning the effect of such proposed action on the protection of investors and the feasibility and desirability of coordinating such action with any proceeding or proposed proceeding by the Commission against such government securities dealer or associated person.

"(C) Nothing in this paragraph shall be construed to impair or limit (other than by the requirement of prior consultation) the power of the Commission or the appropriate regulatory agency for a government securities dealer to initiate any action of a class described in this paragraph or to affect in any way the power of the Commission or such appropriate regulatory agency to initiate any other action pursuant to this title or any other provision of law.

"(7) The Board of Governors of the Federal Reserve System is authorized, by order, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise, in furtherance of the purposes of this title, to remove from office or censure any member or employee of the Board who, the Board of Governors of the Federal Reserve System finds, on the record after notice and opportunity for hearing, has willfully (A) violated any provision of this title or the rules and regulations thereunder, including the rules of the Board, or (B) abused his authority.

"(d)(1) Periodic examinations of government securities brokers and government securities dealers to assess compliance with this title and the rules thereunder shall be conducted by—

"(A) a registered securities association or a registered national securities exchange, in the case of government securities brokers and government securities dealers who are members of such association or exchange; and

"(B) the appropriate regulatory agency for any government securities dealer, in the case of all other government securities dealers.

"(2) An appropriate regulatory agency, registered securities association, or a registered national securities exchange shall make a report of any examination conducted and, on request, furnish the Commission or the Board of Governors of the Federal Reserve System a copy thereof and any data supplied to it in connection with such examination. Subject to such limitations as the Board of Governors of the Federal Reserve System, by rule, determines to be necessary or appropriate in the public interest or for the protection of investors, the Commission and each appropriate regulatory agency, registered securities association, and registered securities exchange, shall make available to the Board, on request, a copy of any report concerning examinations of government securities brokers or government securities dealers made pursuant to this paragraph or section 17(c)(3) of this title.

"(e) Nothing in this section shall be construed to impair or limit the power of the Commission or the Board of Governors of the Federal Reserve System.".

SEC. 3. STUDY OF TRADING SYSTEM FOR GOVERNMENT SECURITIES.

(a) REQUIREMENTS FOR STUDY.—The Comptroller General, in coordination and consultation with the Board of Governors of the Federal Reserve, the Secretary of the Treasury, and the Commission, shall study the nature of the current trading system in the secondary market for government securities, including—

(1) the extent and form of availability of bids and asks for government securities transactions on a real time basis;

(2) the extent and form of the availability of government securities brokers' services in the secondary market; and

(3) whether quotations for government securities and the services of government securities brokers are available on terms which are consistent with the public interest, the protection of investors, and the purposes of this title.

(b) PUBLIC HEARINGS.—In addition to the collection of information through surveys, public document review, interviews, and other information-gathering methods, at least one joint public hearing shall be held during the course of conducting the study.

(c) REPORT AND RECOMMENDATIONS.—The report of the Comptroller General shall be submitted to the Congress no later than six months after the date of enactment of this Act.

SEC. 4. CONFORMING AMENDMENTS.

(a) DEFINITION OF EXEMPTED SECURITY.—Paragraph (12) of section 3(a) of the Act (15 U.S.C. 78c(a)(12)) is amended to read as follows:

"(12)(A) The term 'exempted security' or 'exempted securities' includes—

"(i) government securities, as defined in paragraph (42) of this subsection;

"(ii) municipal securities, as defined in paragraph (29) of this subsection;

"(iii) any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian;

"(iv) any interest or participation in a single trust fund, or a collective trust fund maintained by a bank, or any security arising out of a contract issued by an insurance company, which interest, participation, or security is issued in connection with a qualified plan as defined in subparagraph (C) of this paragraph; and

"(v) such other securities (which may include, among others, unregistered securities, the market in which is predominantly intrastate) as the Commission may, by such rules and regulations as it deems consistent with the public interest and the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this title which by their terms do not apply to an 'exempted security' or to 'exempted securities'.

"(B)(i) Notwithstanding subparagraph (A)(i) of this paragraph, government securities shall not be deemed to be 'exempted securities' for the purposes of sections 15A and 17A of this title.

"(ii) Notwithstanding subparagraph (A)(ii) of this paragraph, municipal securities shall not be deemed to be 'exempted securities' for the purposes of sections 15, 15A, and 17A of this title.

"(C) For purposes of subparagraph (A)(iv) of this paragraph, the term 'qualified plan' means (i) a stock bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, (ii) an annuity plan which meets the requirements for the deduction of the employer's contribution under section 404(a)(2) of such Code, or (iii) a governmental plan as defined in section 414(d) of such Code which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan, if under such plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries, other than any plan described in clause (i), (ii), or (iii) of this subparagraph which (I) covers employees some or all of whom are employees within the meaning of section 401(c) of such Code, or (II) is a plan funded by an an-

nuity contract described in section 403(b) of such Code.".

(b) DEFINITION OF "SELF-REGULATORY ORGANIZATION".—Section 3(a)(26) of the Act (15 U.S.C. 78c(a)(26)) is amended—

(1) by striking out "or (solely" and inserting in lieu thereof "(solely"; and

(2) by inserting before the period at the end thereof ", or (solely for purposes of section 23(b) of this title) the Government Securities Rulemaking Board established by section 15C of this title".

(c) DEFINITIONS OF APPROPRIATE REGULATORY AGENCY.—Section 3(a)(34) of the Act (15 U.S.C. 78c(a)(34)) is amended—

(1) by inserting "or a government securities dealer" after "municipal securities dealer" in subparagraph (A);

(2) by inserting "and government securities dealers" after "municipal securities dealers" in subparagraph (A)(iv); and

(3) by redesignating subparagraph (F) as subparagraph (G) and inserting after subparagraph (E) the following new subparagraph:

"(F) When used with respect to the Government Securities Rulemaking Board, the Board of Governors of the Federal Reserve System.".

(d) DEFINITION OF STATUTORY DISQUALIFICATION.—Section 3(a)(39) of the Act (15 U.S.C. 78c(a)(39)) is amended—

(1) in subparagraph (B)—

(A) by inserting "or other appropriate regulatory agency" after "Commission"; and

(B) by striking out "or municipal securities dealer" and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer", and

(2) in subparagraph (C)—

(A) by striking out "or municipal securities dealer" and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer"; and

(B) by inserting ", an appropriate regulatory agency," after "Commission".

(e) ADDITIONAL DEFINITIONS.—Section 3(a) of the Act is further amended by adding at the end thereof the following new paragraphs:

"(42) The term 'government securities' means—

"(A) securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States;

"(B) securities which are issued or guaranteed by corporations in which the United States has a direct or indirect interest and which are designated by the Secretary of the Treasury for exemption as necessary or appropriate in the public interest or for the protection of investors;

"(C) securities issued or guaranteed as to principal or interest by any corporation the securities of which are designated, by statute specifically naming such corporation, to constitute exempt securities within the meaning of the laws administered by the Commission; or

"(D) for purposes of section 15C, any put, call, straddle, option, or privilege on a government security other than a put, call, straddle, option, or privilege—

"(i) that is traded on one or more national securities exchanges; or

"(ii) for which quotations are disseminated through an automated quotation system operated by a registered securities association.

"(43) The term 'government securities broker' means a broker engaged in the business of effecting transactions in government securities for the account of others, but does not include any corporation the securities of which are government securities under subparagraph (B) or (C) of paragraph (42) of this subsection.

"(44) The term 'government securities dealer' means any person (including a separately identifiable department or division of a bank) engaged in the business of buying and selling government securities for his own account, through a broker or otherwise, but does not include—

"(A) any person insofar as he buys or sells such securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business;

"(B) any corporation the securities of which are government securities under subparagraph (B) or (C) of paragraph (42) of this subsection; or

"(C) a bank, unless the bank is engaged in the business of buying and selling government securities for its own account other than in a fiduciary capacity, through a broker or otherwise.

If the bank is engaged in such business through a separately identifiable department or division (as defined pursuant to section 15C(b)(2)(H) of this title) the department or division and not the bank itself shall be deemed to be the government securities dealer.

"(45) The term 'person associated with a government securities broker or government securities dealer' or 'associated person of a government securities broker or government securities dealer' means—

"(A) when used with respect to a broker or dealer, any partner, officer, director, or branch manager of such government securities broker or government securities dealer (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such government securities broker or government securities dealer, or any employee of such government securities broker or government securities dealer; and

"(B) when used with respect to a government securities dealer which is a bank or a separately identifiable department or division of a bank, any person directly engaged in the management, direction, supervision, or performance of any of the government securities dealer's activities with respect to government securities, and any person directly or indirectly controlling such activities or controlled by the government securities dealer in connection with such activities.

"(46) The term 'registered broker or dealer' means a broker or dealer registered or required to register pursuant to section 15 or 15B of this title, except that in paragraph (3) of this subsection and sections 6 and 15A the term means such a broker or dealer and a government securities broker or government securities dealer (other than a bank or a separately identifiable department or division of a bank) registered or required to register pursuant to section 15C of this title.".

(f) ENFORCEMENT BY NATIONAL SECURITIES EXCHANGES.—Subsections (b)(1), (b)(6), and (d)(1)(B) of section 6 of the Act (15 U.S.C. 78f(b)(1), (b)(6), (d)(1)(B)) are each amended by inserting "including the rules of the Government Securities Rulemaking Board," after "regulations thereunder," each place it appears.

(g) SRO MEMBERSHIP.—Section 15(b)(8) of the Act (15 U.S.C. 78o(b)(8)) is amended—

(1) by inserting "registered or" after "any broker or dealer";

(2) by inserting "section 15, 15B, or 15C of" after "register pursuant to"; and

(3) by striking out "an exempted security or".

(h) RULEMAKING BY REGISTERED SECURITIES ASSOCIATIONS.—Section 15A(f) of the Act (15 U.S.C. 78o-3(f)) is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) Nothing in subsection (b)(6), (b)(11), or (g)(3) shall be construed to permit a registered securities association to make rules concerning any transaction by a broker or dealer in a municipal security or a government security.

"(3) Nothing in subsection (e) shall be construed to apply to any transaction in a government security.".

(i) EXAMINATIONS.—Section 17(b) of the Act (15 U.S.C. 78q(b)) is amended—

(1) by inserting "registered government securities brokers, registered government securities dealers, and" after "All records of"; and

(2) by striking out "or registered municipal securities dealer" and inserting in lieu thereof "registered municipal securities dealer, registered government securities broker, or registered securities dealer".

(j) FILING OF AND ACCESS TO DOCUMENTS.—Section 17(c) of the Act (15 U.S.C. 78q(c)) is amended—

(1) by striking out "and municipal securities dealer" in paragraph (1) and inserting in lieu thereof "municipal securities dealer, government securities broker, and government securities dealer";

(2) by adding at the end of such paragraph the following new sentences: "The Government Securities Rulemaking Board shall file with each agency enumerated in section 3(a)(34)(A) of this title and with the Secretary of the Treasury copies of every proposed rule change filed with the Board of Governors pursuant to section 15C(b)(6) and 19(b) of this title.";

(3) by striking out "or municipal securities dealer" each place it appears in paragraphs (1), (2), and (3) and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer"; and

(4) by adding at the end thereof the following new paragraph:

"(4) The Commission or the appropriate regulatory agency may specify that documents required to be filed with the Commission or such agency pursuant to this subsection may be retained by the originating clearing agency, transfer agent, municipal securities dealer, or government securities dealer or filed with another appropriate regulatory agency. The Commission or the appropriate regulatory agency (as the case may be) making such a specification shall continue to have access to the document on request.".

(k) BURDENS ON COMPETITION.—Section 23(a) of the Act (15 U.S.C. 78w(a)) is amended—

(1) by inserting "and the Board of Governors of the Federal Reserve System" after "Commission" each place it appears in paragraph (2);

(2) by inserting "or the Board's" after "Commission's" in paragraph (2);

(3) by inserting "and the Board of Governors of the Federal Reserve System" after "Commission" the first, second, and fourth place it appears in paragraph (3);

(4) by inserting "(including review pursuant to section 15C(b)(6) of this title)" after

"section 19(b) of this title" in paragraph (3); and

(5) by inserting "or the Board of Governors of the Federal Reserve System" after "Commission" the third place it appears in paragraph (3).

(l) COURT REVIEW OF FEDERAL RESERVE BOARD RULES.—Section 25(b)(1) of the Act (15 U.S.C. 78y(b)(1)) is amended by inserting "or a rule of the Board of Governors of the Federal Reserve System promulgated pursuant to section 15C of this title" after "17A, or 19 of this title".

(m) ADDITIONAL AMENDMENTS ADDING REFERENCES TO GOVERNMENT SECURITIES AND GOVERNMENT SECURITIES BROKERS AND DEALERS.—(1) Sections 15(b)(4)(B) and 17(f)(1) of the Act (15 U.S.C. 78o(b)(4)(B) and 78q(f)(1)) are each amended by inserting "government securities broker, government securities dealer," after "municipal securities dealer," each place it appears.

(2) Section 15(b)(4)(C) of the Act of (15 U.S.C. 780(b)(4)(C)) is amended by striking out "or municipal securities dealer," and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer,".

(3) Section 23(b)(3) of the Act (15 U.S.C. 78w(b)(3)) is amended—

(A) by inserting ", government securities brokers and government securities dealers" after "municipal securities dealers" each place it appears; and

(B) by inserting ", government securities broker, or government securities dealer" after "municipal securities dealer".

(n) ADDITIONAL AMENDMENTS ADDING REFERENCES TO THE GOVERNMENT SECURITIES RULEMAKING BOARD.—(1) Section 15(b)(4) of the Act (15 U.S.C. 78o(b)(4)) is amended by striking out "or the rules of the Municipal Securities Rulemaking Board," each place it appears in subparagraphs (D) and (E) and inserting in lieu thereof "including the rules of the Municipal Securities Rulemaking Board and the rules of the Government Securities Rulemaking Board,".

(2) Section 15A of the Act (15 U.S.C. 78o-3) is amended by striking out "the rules of the Municipal Securities Rulemaking Board," each place it appears in subsections (b)(2), (b)(7), and (h)(1)(B) and inserting in lieu thereof "including the rules of the Municipal Securities Rulemaking Board and the rules of the Government Securities Rulemaking Board,".

(3) Section 19(e)(1)(A) of the Act (15 U.S.C. 78s(e)(1)(A)) is amended by striking out "thereunder, the rules of the self-regulatory organization, or, in the case of a registered securities association, the rules of the Municipal Securities Rulemaking Board" and inserting in lieu thereof "thereunder (including the rules of the Government Securities Rulemaking Board and, in the case of a registered securities association, the rules of the Municipal Securities Rulemaking Board), or the rules of the self-regulatory organization".

(4) Section 19(g)(1) of the Act (15 U.S.C. 78s(g)(1)) is amended—

(A) by inserting "(including the rules of the Government Securities Rulemaking Board)" after "regulations thereunder"; and

(B) by striking out "and the provisions of the rules of the Municipal Securities Rulemaking Board" and inserting in lieu thereof "(including the rules of the Municipal Securities Rulemaking Board)".

(5) Paragraphs (1) and (4) of section 19(h) of the Act (15 U.S.C. 78s(h)(1), (4)) are each amended—

(A) by inserting "(including the rules of the Government Securities Rulemaking Board)" after "rules or regulations thereunder"; and

(B) by striking out "or any provision of the rules of the Municipal Securities Rulemaking Board" in subparagraph (B) and insert in lieu thereof "(including any provision of the rules of the Municipal Securities Rulemaking Board)".

(6) Paragraphs (2) and (3) of section 19(h) of the Act (15 U.S.C. 78s(h)(2), (3)) are each amended—

(A) by inserting before the semicolon at the end of subparagraph (A) the following: "including the rules of the Government Securities Rulemaking Board)";

(B) by inserting "or" after "this title," in subparagraph (B); and

(C) by striking out "or the rules of the Municipal Securities Rulemaking Board" in subparagraph (B) and inserting in lieu thereof "(including the rules of the Municipal Securities Rulemaking Board or the rules of the Government Securities Rulemaking Board)".

(7) Subsections (a) and (d)(1) of section 21 of the Act (15 U.S.C. 78u(a), (d)(1)) are each amended—

(A) by inserting "(including the rules of the Municipal Securities Rulemaking Board and the rules of the Government Securities Rulemaking Board)" after "rules or regulations thereunder";

(B) by inserting "or" after "with a member,"; and

(C) by striking out "or the rules of the Municipal Securities Rulemaking Board,".

(8) Section 21(e)(1) of the Act (15 U.S.C. 78u(e)(1)) is amended—

(A) by inserting "(including the rules of the Municipal Securities Rulemaking Board and the rules of the Government Securities Rulemaking Board)" after "rules, regulations, and orders thereunder";

(B) by inserting "and" after "with a member,"; and

(C) by striking out "the rules of the Municipal Securities Rulemaking Board,".

SEC. 5. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) EXCEPTIONS.—Notwithstanding subsection (a), effective on the date of enactment of this Act—

(1) the Securities and Exchange Commission may prescribe rules pursuant to section 15C(a)(2) of the Securities Exchange Act of 1934 (as amended by section 2 of this Act), relating to the registration of government securities dealers;

(2) the Board of Governors of the Federal Reserve System may establish the Government Securities Rulemaking Board pursuant to section 15C(b)(1) of the Securities Exchange Act of 1934 (as so amended); and

(3) the Government Securities Rulemaking Board may propose and adopt rules pursuant to section 15C(b) of the Securities Exchange Act of 1934 (as so amended).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Colorado [Mr. WIRTH] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. WIRTH].

Mr. WIRTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2032, as amended, the Government Securities Act of 1985. This bill was ordered reported by the Committee on Energy and Commerce on July 31, 1985, by a voice vote, without opposition. It was developed by a bipartisan group of Members, under the leadership of the distinguished chairman of the Energy and Commerce Committee, Mr. DINGELL, and the ranking minority member of the committee, Mr. BROYHILL.

I want to acknowledge at the outset the extraordinary efforts of members of the Subcommittee on Telecommunications, Consumer Protection and Finance who worked to develop the legislation: The gentleman from New Jersey, Mr. RINALDO, the gentleman from Washington, Mr. SWIFT, and the two gentlemen from Ohio, Mr. LUKEN and Mr. OXLEY.

We believe this legislation is necessary to protect investors and restore confidence in our markets. It addresses a serious deficiency in the supervision of our financial markets—a deficiency that has resulted in losses of over $900 million to investors since 1977 and has shaken confidence in our financial system as a whole.

I am sure your are aware of the most recent examples. In March of this year, the failure of ESM Government Securities, a small, unregulated Government securities dealer, resulted in more than $300 million in losses to savings and loan institutions and other investors.

Ohio's largest State-chartered savings and loan, Home State Savings Bank, lost $150 million in transactions with ESM. When it became known that Ohio's $130 million State insurance fund could be wiped out by Home State's losses alone, depositors with funds at other State-chartered thrifts panicked. We saw a run by depositors in that State—something we have not witnessed since the 1930's. Few thrifts had sufficient funds on hand to meet large-scale withdrawals, and the Governor of Ohio ordered the closure of all 71 State-chartered thrifts until the panic subsided. Ohio is still sorting through the fallout.

The savings and loan industry was not the only group hard hit by ESM's failure. Cities and local governments throughout the country that had invested taxpayers' funds with ESM were also losers. The cities of Beaumont, TX, and Toledo, OH, each lost $20 million, and three counties in the State of Washington lost a total of $17 million.

ESM failure set off a reaction in the Government securities market that soon led to the bankruptcy of another unregulated Government securities firm in New Jersey—Bevill, Bresler and Schulman Asset Management

Corp.—which cost 9 banks and 45 thrifts more than $240 million.

The losses from ESM and Bevill, Bresler occurred because of a serious gap in the supervision of our capital markets. While most securities broker-dealers must register with the Securities and Exchange Commission, dealers who trade only Government securities (Treasury securities and Government agency securities such as Fannie Mae's) are totally outside the bounds of Federal supervision. Consequently, a firm like ESM was able to engage in fraudulent practices for years. In fact, the evidence shows that ESM thwarted SEC investigators for more than 7 years before its collapse.

The lack of supervision in the Government securities market is even more disturbing in view of the fact that it is the largest securities market in the world. The Federal Reserve Board reports that the monthly trading volume for the largest Government securities dealers is more than $1.5 trillion—about 15 times the total volume of transactions in corporate securities on the stock exchanges and over-the-counter markets. It is also the most important market to our national economy. Through this market, the U.S. Government raised an average of $4 billion a day in 1984.

As we saw this spring, failures in this market can have international consequences. On March 19, 1985, just after ESM's failure and the crisis in Ohio, the dollar had its biggest drop in 15 years, and the price of gold jumped $35. The Financial Times of London titled an article on the U.S. financial system, "The Fear That More Dominoes May Fall." Confidence in the U.S. financial system was shaken around the world.

During consideration of these issues by the Subcommittee on Telecommunications Consumer Protection and Finance, there were some who lobbied against adding any safeguards to this market. One Government securities dealer testified that the problems at ESM and Bevill, Bresler resulted from the failure of investors (thrifts and municipalities) to take steps to protect themselves and, therefore, regulation of dealers was not necessary. Others argued that we should not legislate because no system can prevent fraud.

While fraud may be impossible to eliminate completely, there are certain minimum steps we can and must take to prevent unscrupulous dealers from placing investors, depositors, our financial institutions and our taxpayers' money at risk. We can register these dealers so we know who they are. We can require dealers to keep accurate books and records and submit to audits and inspections, making it more difficult for them to conceal fraud. We can require them to have adequate capital so they have some cushion against volatile interest rates. And we can require them to take steps to assure the safekeeping of investors' securities. All of these are standards with which other securities broker-dealers comply, and there is no reason why dealers in the world's biggest market should be free from these minimum responsibilities.

This bill would put these safeguards in place by creating a new industry self-regulatory organization called the Government Securities Rulemaking Board under the oversight of the Federal Reserve Board which would write rules to protect the integrity of the market. It requires that all Government securities dealers register with the SEC and gives the SEC and bank regulatory agencies power to enforce the rules.

Mr. Speaker, I noted at the outset that this bill is the product of a bipartisan partnership of members of the committee who believe it is a critical step toward restoring confidence in our financial markets. I also want to acknowledge the cooperation we have had in this effort from Members outside the committee. The gentleman from Illinois, Mr. ROSTENKOWSKI, and the gentleman from Mississippi, Mr. WHITTEN, worked closely with us in our deliberations on the legislation.

I would also note that the gentleman from the District of Columbia, Mr. FAUNTROY, and the Subcommittee on Domestic Monetary Policy have played a key role in educating Congress on the Government securities market. We have worked with the Committee on Banking and have welcomed the support of many of its members for the steps we are taking in the legislation.

We have also worked closely with the gentleman from Georgia, Mr. BARNARD, whose Subcommittee on Commerce, Consumer and Monetary Affairs of the Committee on Government Operations held extensive hearings on the recent failures of ESM and Bevill, Bresler. Those hearings further demonstrated the need for increased supervision of Government securities dealers and other participants in the market.

This bill will provide safeguards for investors. It will go a long way toward restoring confidence in a market that is critical to our economic health. It will help to maintain the liquidity and efficiency of this important market, which is of paramount importance to the effective, low-cost financing of the national debt. I strongly urge its passage.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support this legislation and join with the gentleman from Colorado [Mr. WIRTH], chairman of the Telecommunications, Consumer Protection and Finance Subcommittee in moving this matter forward. He has done an excellent job.

I think everyone here is aware of the recent failure of ESM Securities in Florida and Bevill, Bresler, Shulman in my home State of New Jersey. These failures have underscored the fact that changes are needed in the largely unregulated Government securities market.

This legislation seeks to close this regulatory gap and prevent another Government securities failure by establishing a new Government Securities Rulemaking Board under the supervision of the Federal Reserve. Mandatory rulemaking by the new board would focus upon recordkeeping, registration, and financial responsibility.

Mr. Speaker, the Subcommittee on Telecommunications, Consumer Protection and Finance spent an extensive amount of time in an attempt to accommodate the concerns of the Federal Reserve Board, the SEC, and primary and secondary dealers. So we did our homework and we examined all facets of this problem.

I believe that the Members and staff, particulary Members like the gentleman from North Carolina [Mr. BROYHILL], the ranking minority member of the full Committee on Energy and Commerce, and the gentleman from Michigan [Mr. DINGELL], chairman of the full Committee on Energy and Commerce, and everyone else involved should be commended for their efforts and the manner in which they approached an extremely serious problem. The bill that we are considering today is drafted so as to provide a fair and sound regulatory framework. At the same time, it does not impose excess rigidity or needless duplicative requirements. It is drafted to protect the integrity and efficiency and the liquidity of the Government securities market.

Any costs to the system should be minimal. In fact, no one can come up with any accurate estimate of costs, because they are going to be practically nothing.

We also have to bear in mind that doing nothing, after the market weaknesses we have experienced, adds tremendous costs to the marketing of securities. So everyone on this subcommittee felt that it was an accepted fact that something had to be done, and something should be done, before another failure occurs.

I urge my colleagues to join me and the chairman of the subcommittee, the gentleman from Colorado [Mr. WIRTH], and the gentleman from North Carolina [Mr. BROYHILL], and the gentleman from Michigan, [Mr. DINGELL], chairman of the full committee, in supporting this very important and needed piece of legislation.

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

Mr. RINALDO. I yield to the gentleman from Ohio.

Mr. OXLEY. I thank the gentleman for yielding and would simply add my voice in support of this legislation.

Those of us in Ohio I think particularly are very familiar with what has happened and the publicity that has resulted from the closing of savings and loans throughout Ohio because of the ESM collapse. This legislation, it seems to me, is a response to that very difficult situation that we face in the State of Ohio and that the State of Maryland is now facing.

We came through it relatively well, but there is clearly an indication from the strength of the dollar throughout the entire world that a seemingly small problem that developed in the State of Florida, spread to Ohio, could have an effect on worldwide markets, and that is why this legislation is so important.

I have to congratulate the chairman of the subcommittee as well as the full committee for what I consider to be a classic example of the legislative process at work. We had testimony from experts in the area, including Chairman Volcker from the Federal Reserve and Chairman Shad of the SEC, and testimony from different commercial dealers, during the drafting of this legislation. This is a very positive move in trying to see to it that this kind of situation does not happen again.

I think we can all be proud of our committee for the product that we have on the floor today. I am pleased to be a cosponsor and ask all of my colleagues to support this very meaningful and worthwhile legislation.

I yield back to the gentleman from New Jersey.

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

Mr. RINALDO. I am pleased to yield to the gentleman from California.

Mr. MATSUI. Mr. Speaker, I want to congratulate Chairman DINGELL, Congressman WIRTH, and the Energy and Commerce Committee on their timely response to a serious problem. The market for U.S. Government securities has not been operating in a manner that adequately protects the interests of investors. The failure of securities dealers has led to financial panics not experienced in this country since the 1930's. Action is clearly called for.

The Committee on Ways and Means has an interest in the efficient operation of the market for U.S. Government securities that extends beyond mere jurisdictional concern. The policies of this administration and this Congress result in unprecedented peacetime deficits. These $200 billion deficits must be financed by selling new securities and huge amounts of existing debt must be refinanced on a continuing basis.

This House, by approving the budget resolution for fiscal year 1986, has passed and sent to the other body a resolution to increase the debt ceiling to over $2 trillion. The efficiency of the U.S. Government securities market has an impact on the cost to the American public of paying interest on this debt. Any development affecting the marketing of U.S. Government securities falls within the scope of our committee's responsibilities for debt management under the Second Liberty Bond Act.

There is no reason to believe that the regulatory framework developed in the Energy and Commerce Committee's bill before us will adversely impact the U.S. Government securities market. Indeed, the influence could be positive if investor confidence is enhanced. However, the Committee on Ways and Means would be concerned if a new regulatory apparatus hindered the development of new and innovative methods the Treasury Department might use to market its securities. The Committee on Ways and Means will want to monitor the evolution of a new regulatory process from this perspective.

The Committee on Ways and Means did not request sequential referral of H.R. 2032 because of our heavy schedule of tax and trade legislation and because of the need to solve expeditiously many of the problems in securities markets. We will nonetheless have a continuing interest in this matter so that we can retain the most efficient debt management system possible for the Government, and one that protects the interests of investors in that market.

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Mr. RINALDO. Mr. Speaker, I yield such time as he may consume to the ranking minority member of the full committee, the gentleman from North Carolina [Mr. BROYHILL].

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this bill. This is a bill that I originally cosponsored, and I support it now here in its amended form. It is an important measure. It does address a major problem.

The markets in U.S. Government and Federal agency securities are the largest and most efficient securities markets in the world, and it is important that we maintain the efficiency, soundness, liquidity, and depth of the Government securities market. This is crucial to the viability of our economy since transactions in Government securities are the principal means of financing our national debt.

Mr. Speaker, we have already heard in the debate today where the failure of certain securities firms have had a profound and negative effect on financial institutions in other parts of the country. The fact is that our committee found that these failures were usually precipitated by fraudulent activity, by misleading financial statements, failure to maintain adequate books and records, lack of net capital requirements, and customer ignorance of the type and effect of the transactions in which they were engaging.

This legislation establishes a minimal regulatory framework to address the problem, and I maintain that it is necessary, it is essential, it is needed, and I urge the quick passage of this legislation.

Mr. WIRTH. Mr. Speaker, I yield 5 minutes to the distinguished delegate from the District of Columbia [Mr. FAUNTROY] who will speak on behalf of the Committee on Banking, Finance and Urban Affairs.

Mr. FAUNTROY. Mr. Speaker, I am pleased to join with my colleagues from the Committee on Energy and Commerce in support of H.R. 2032, a bill which responds to the need for effective regulation of the Government securities market. This bill will restore confidence. It is cost effective. More importantly, it represents the combined judgment of a very large number of overseers, regulators and participants in the Government securities market as the best way of assuring that the most efficient market in the world remain safe, sound and able to support the needs in Government finance and the Federal Reserve's conduct of monetary policy.

The Committee on Banking, Finance and Urban Affairs, through its Subcommittee on Domestic Monetary Policy, has long had an interest in the Government securities market because of its impact on credit availability, interest rates, and potential effects on the Federal Reserve's ability to conduct monetary policy. As early as March 1982, the Subcommittee on Domestic Monetary Policy began an inquiry into problems associated with Federal debt management which was shortly followed by additional hearings that resulted in a request to the General Accounting Office for a comprehensive study of the Government securities market.

Much of the work done by the GAO in response to that request is incorporated into both this bill and its report. I am pleased that our committee and the Committee on Energy and Commerce have been able to develop a bill which reflects so much of these efforts. Our cooperative spirit is a sign of the capacity of Congress to respond in a deliberate and thoughtful fashion to a potentially devastating financial crisis long before it occurs. While we have had several untoward events over the past few years whose portents warn of much greater tragedies were we to fail to act, I think it is fair to state that our combined committees have acted with reasonable dispatch and consideration in assuring protection for participants in these markets.

For all of this, however, I must nonetheless state that investors in every market must continue to use prudence and common sense. Much of what we saw in the losses by failures of unregulated, undercapitalized, and unscrupulous dealers was carelessness, greed, and misplaced trust by investors. This bill does not substitute for prudence and common sense. It does, however, provide additional safeguards that prudent investors can use. I would hope that investors will take full advantage of them.

The shock waves that went through all financial markets and which ultimately resulted in the failure of a statewide private insurance fund for depository institutions is a statement of the importance of the Government securities market. It is also a statement of the need for expeditious consideration of this bill. While the Government securities themselves are absolutely free of default risks, we have learned that their use as the underlying security in a derivative product, like a repurchase or reverse repurchase agreement, may not be so riskless. Thus, there is a need to develop a standard for evaluating the financial position of a dealer and for the handling of records and customer securities, as well as to establish both standards and a registration process for determining who is a dealer.

H.R. 2032, as reported, accomplishes these goals through a new, but limited, self-regulatory organization under the oversight of the Federal Reserve. Aside from some details which deal primarily with housekeeping-type matters, this approach is almost identical to that which was proposed by myself to my own subcommittee.

Were we to not act, potential investor fear and uncertainty might very well lead to higher interest rates and difficulties in debt financing. It is my own hope, however, that the approach which was adopted in this bill will enhance market confidence and thus offset any costs which a regulatory scheme must necessarily impose, even if they are as small as they are expected to be.

Thus, it is with a great deal of pleasure that I join in supporting this bill. I also want to thank Chairman DINGELL and Chairman WIRTH for agreeing to reserve time for the Banking Committee and for their splendid cooperation with all of the members of my subcommittee and the full committee.

Mr. WIRTH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. LUKEN] who has been so helpful in the development of this important legislation.

Mr. LUKEN. Mr. Speaker, I rise today in support of H.R. 2032, the Public Securities Act of 1985.

The markets in U.S. Government and Federal agency securities are the largest and most efficient securities markets in the world. Our national debt is financed through the Government securities market and Government securities are an essential weapon in the implementation of monetary policy by the Federal Reserve Board.

But there are serious weaknesses in the regulatory framework that governs the Government securities markets. For example, brokers and dealers who effect transactions exculsively in Government securities are exempt from the broker-dealer registration provisions of the securities laws and are not required to become members of a self-regulatory organization under the oversight of the Securities and Exchange Commission.

Moreover, the Federal Reserve Bank of New York, to whom the 36 primary dealers in Government securities report voluntarily, has no statutory authority or other basis on which to conduct onsite inspections of nonbank secondary dealers.

These gaps in regulation have been a contributing factor in the failures of a number of unregistered Government securities dealers. These failures include, during the past 8 years, Winters Government Securities in 1977, Hibbard & O'Connor Government Securities in 1979, Drysdale Government Securities and Lombard-Wall in 1982, as well as ESM Government Securities, Inc. and Bevill, Bresler & Shulman Asset Management Corp. during 1985.

Most Government securities are purchased by institutional investors, including financial institutions, municipalities, corporations, and pension funds. Individual investors hold only 9 percent of outstanding Government securities.

Why should the general public be concerned about the failure of a few Government securities dealers? Here's why.

It has now been more than 6 months since the collapse of an obscure Government securities dealer in Fort Lauderdale, FL, ESM, forced the temporary closing of 71 thrift institutions in the State of Ohio, left millions of innocent depositors without access to their savings for more than 3 months, and brought about a major restructuring of Ohio savings and loans.

But these failures reach far beyond the immediate victims, by threatening our Nation's financial system and undermining investor confidence. For example, the ESM financial crisis sent the price of gold soaring and the value of the dollar crashing on international markets.

We have an opportunity to act decisively today to prevent future ESM's and future Bevill Breslers by bringing brokers in Government securities under mandatory Federal regulatory supervision for the first time.

The bill, as reported by the Energy and Commerce Committee, would provide for the creation of a new nine member Government Securities Rulemaking Board comprised of representatives of Government securities dealers and investors in Government securities.

The Board would be supervised by the Federal Reserve Board, which would have the power to approve or disapprove its rules. Fed Chairman Paul Volcker advocated this regulatory framework in testimony before the Telecommunications Subcommittee last June.

The legislation directs the rulemaking board to issue mandatory regulations in critical areas identified by numerous witnesses before the subcommittee. These include: Registration of all dealers, recordkeeping requirements, and financial responsibility.

For the first time, all Government securities dealers would be required to register with the SEC, although the Federal Reserve and the SEC would have the authority to exempt certain dealers. In addition, and most importantly, the SEC would be given authority to enforce the rules of the Board and the Federal Reserve.

In practical effect, this means that the SEC would have authority to inspect the financial records of any Government securities dealer at any time.

If the Commission had possessed such authority in 1977, the SEC's enforcement agents, who were hot on the trail of ESM, would have uncovered the massive fraud that ESM was able to perpetrate on the American public for so long and would have corrected the problems that existed or shut the firm down. And the financial crisis that resulted would have been avoided.

Instead, because they lacked the authority, they spent 4 years in court in an unsuccessful attempt to gain access to ESM's books. Then, in 1981, the Commission incredibly called off its investigators and dropped pursuit of the matter entirely.

The legislation we have before us today addresses major shortcomings in Federal supervision of the Government securities market and goes a long way toward assuring the kind of protection that investors and the American public have a right to expect but have not received from the Federal Government.

I ask my colleagues to support this important measure.

Mr. WIRTH. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, as a cosponsor of the Government Securities Act of 1985, I urge my colleagues to support this important legislation. Prompt action on this bill is needed to restore investor confidence in the Government securities market and to provide for the efficiency and integrity of

the market in U.S. Treasury securities. The successful operation of this market is especially essential to the conduct of fiscal and monetary policy, due to our ongoing need to finance the Federal debt.

The recent failures of two small unregulated dealers, ESM Government Securities and Bevill, Bresler & Schulman have provided dramatic evidence of the inability of the SEC and other Federal and State regulators to prevent serious failures in the Government securities market. These were not isolated incidents; we have witnessed a pattern of bankruptcies caused by unsupervised, speculative trading practices and the failure to conform to strong financial standards.

Smooth trading in Federal securities is absolutely essential, as the national debt multiplies. There is an explosive risk in leaving this portion of the securities market unmonitored. I urge my colleagues to join me in supporting this legislation.

Mr. Speaker, I commend the chairman of the subcommittee, the gentleman from Colorado [Mr. WIRTH] and the ranking minority member, the gentleman from New Jersey [Mr. RINALDO] for their leadership on this issue.

Mr. RINALDO. Mr. Speaker, I yield 3½ minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, it is not my intention to rain on what is obviously a very popular and attractive picnic that has been presented to us today. In fact, I must give my congratulations to the committee and all of the capable and distinguished people who have worked on this bill.

Clearly, there was a problem; the committee reacted in the best way that it could.

It is also fair to say, Mr. Speaker, that the committee received little or no cooperation from the Department of the Treasury whose case I now raise. Faced with that lack of cooperation, the committee did what it had to do on a bipartisan and unanimous basis.

However, the Treasury, I am informed, has seen the error of its ways and wishes to present legislation that it thinks can remedy the problem that the committee perceived and that the public has perceived in such a way that it does not interfere with their responsibility of managing the public debt and in such a way that it does not increase the cost to the taxpayers of that public debt.

One of the problems that Treasury sees is this new Government securities marketing board with extra authority, a brand new commission; Treasury believes that the controversial bill could add billions of dollars to the deficit by increasing the cost of financing the public debt.

Earlier in the year the Congress asked the SEC to study the problem and did so in consultation with the Federal Reserve and Treasury.

Those three agencies agreed that an acceptable approach would be to have Treasury and not the Federal Reserve Board make the rules to provide for more effective regulation of the Government securities market. It has already been stated by another participant in this debate that the SEC Chairman, of course, has that feeling.

The Treasury's market is the largest market in the world. We wish it were not so. We wish we did not have to borrow and roll our debt as frequently as we do. As long as we have to, it is our obligation both to make it a safe market and to make it an efficient one at the very least possible cost for the taxpayers.

I believe that the Treasury has seen the error of its ways, that it will present to the Congress within a few weeks a bill which will do, I think, what the committee wishes to do but do it in a way that does not inhibit or add extra cost to the Treasury's management of the problem.

Therefore, Mr. Speaker, I felt compelled to raise the Treasury's cause and its ideas before this body.

I shall not ask for a vote on this.

□ 1300

Mr. Speaker, I believe that the committee has done a good job; it is proceeding in good faith and there is nothing wrong with the bill that cannot be straightened out elsewhere, and for that reason, I will not request a recorded vote.

I should like to invite the Members' attention to the problem that this may cost the taxpayers an awful lot of money, and that therefore we should look for perhaps an enhancement of the bill as it moves through the legislative process.

The letter referred to earlier follows:

THE SECRETARY OF THE TREASURY,
Washington, DC, September 16, 1985.

Hon. THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This letter is to inform you of the Administration's strong opposition to H.R. 2032, the "Government Securities Act of 1985." H.R. 2032 would establish a new regulatory agency and a new system of regulation for the government securities market. We plan to submit legislation in the next few weeks that will meet the essential regulatory objectives of H.R. 2032 in a manner less disruptive of the market for United States Treasury obligations and therefore less likely to lead to increased debt financing costs to the United States taxpayer and larger budget deficits.

H.R. 2032 is designed to respond to problems that have arisen as a result of recent failures of a few small unregulated dealers in the government securities market. As a result of these failures some institutional investors have suffered financial loss. A careful study of the Governments securities market has led us, and others, to conclude that additional regulatory oversight is necessary. We have reached this conclusion because we believe that the maintenance of unquestioned integrity of the market in United States Treasury obligations is essential to management of the public debt.

However, H.R. 2032 goes far beyond what is needed to maintain the integrity of the market for Treasury securities, establishing a new regulatory system for government securities and a new quasi-governmental regulatory body, the "Government Securities Rulemaking Board." The broad powers of that Board and of the Board of Governors of the Federal Reserve System, which would have oversight responsibility over it, would duplicate the Treasury's debt management responsibilities and impose unnecessary and burdensome regulation on the government securities market. Furthermore, we are concerned that this legislation, which impacts severely on an essential financial function of the federal government, has not been the subject of any consideration by those in Congress with expertise in that area, in particular the House Ways and Means Committee.

The Treasury has been charged by Congress with the efficient management of the public debt. Under the public debt statutes, the Treasury currently issues regulations and imposes certain restrictions on government securities dealers to assure the integrity and efficiency of the market. However, because of recent events, there is a need to broaden the Secretary's authority in order to assure effective compliance with standards that should be met by all dealers in Treasury securities. Treasury believes a legislative proposal along these lines and consistent with the regulatory proposal agreed to by the Treasury, the Federal Reserve, and the Securities and Exchange Commission earlier this year would be the most effective means of securing the integrity of the government securities market.

The market for Treasury securities is largely an institutional one for which the extensive regulatory regimes currently in place for other securities are not appropriate. Passage and implementation of H.R. 2032 would establish duplicative jurisdiction over this market, with resulting confusion and uncertainty. Higher financing costs to the United States taxpayer and higher budget deficits would inevitably follow. Because of the serious problems this legislation would pose, I would not recommend that the President sign the bill if enacted in its present form.

We urge the House to postpone further consideration of H.R. 2032 until these issues, and Treasury's proposed response, can be given full consideration.

Sincerely,

JAMES A. BAKER III.

Mr. WIRTH. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the full committee, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, the bill H.R. 2032 responds to a string of spectacular disasters in the Nation's Government securities market. Because small, thinly capitalized, unregulated Government securities dealers currently may engage in transactions with other regulated institutions, as well as with local governments and other public and private investors, un-

sound and fraudulent practices can send, and indeed have sent, shock waves throughout the financial community and the economy. Although the fraud provisions of the Federal securities laws apply to exempted Government securities, the ability of the SEC to prosecute fraudulent activities of Government securities dealers after the fact has done little to prevent losses or restore confidence lost as a result of failures in this important market.

In May 1982, shock waves, like those triggered by the March 1980 silver market collapse, reverberated through Wall Street after it was announced that Drysdale Government Securities, Inc., was unable to pay $270 million in interest accrued on Government bonds that it had borrowed in repo transactions with Chase Manhattan Bank. Initially, Chase Manhattan refused to pay that interest to its 30-odd securities firm customers, thereby placing them in jeopardy. Had Chase Manhattan finally not agreed to pay, there would have been widespread disruption in the market.

In hearings before a House Banking Subcommittee, Federal regulators described the Drysdale collapse as an "aberration." They said that the market was capable of healing its own wounds and that no regulatory cure was needed.

In 1984, however, a staggering $155 million pretax loss from a $2 billion speculative position in Treasury bonds was disclosed by the Nation's largest insurance broker, Marsh & McLennan Cos. Before we could piece together what happened there, Lion Capital Group taught a bitter lesson to an impressive roster of stunned school districts by filing for chapter 11 and leaving them unable to touch millions of dollars in Treasury securities they lent to Lion because of its promise of above-average returns.

This year ESM Government Securities, Inc., and Bevill, Bresler & Schulman failed within weeks of one another for a total combined loss to investors, local governments and savings and loans of over $500 million. All of Bevill, Bresler's affiliated securities concerns were put into receivership and losses greatly exceeded early estimates of $198 million. The list of its creditors includes 45 savings and loans and 9 banks, including three Maryland thrifts and the D.C. government. ESM's failure resulted in losses of over $300 million and triggered a run by depositors that forced the temporary closing of 71 Ohio thrift institutions and saw our citizens once again standing in depression-type lines outside financial institutions.

We cannot allow fraud and proven bad business practices in our financial markets.

We have been exploring solutions to these market failures over the past 2 years. We have talked with the Committee on Banking and the Committee on Ways and Means, the Federal regulators, market professionals and investors. The Government Securities Act represents our best judgment as to the least intrusive, most coordinated, and most cost-efficient way to restore confidence in the government securities market and protect our citizens from further instances of fraud and rascality.

H.R. 2032 is cosponsored by 36 Members of the House from both parties.

Mr. Speaker, I want to commend my distinguished colleague, the chairman of the subcommittee, the gentleman from Colorado [Mr. WIRTH]; the gentleman from New Jersey [Mr. RINALDO] and the distinguished gentleman from North Carolina [Mr. BROYHILL] for the outstanding work that they have done in bringing this legislation to the floor.

Mr. Speaker, the Treasury Department alleges that H.R. 2032 represents congressional overreaction to "recent failures of a few small unregulated dealers" and that only "some institutional investors have suffered financial loss. I want to observe that the distinguished gentleman from Minnesota [Mr. FRENZEL] has behaved in a most gentlemanly and appropriate fashion here, and I commend him for the fashion in which he has discussed this legislation.

I would observe that the Treasury has not been so afflicted with the factual approach.

Failures of Government securities dealers have been going on under Treasury's nose since 1977 and have cost investors approximately $1 billion in losses.

These failures included:

Winters Government Securities, Inc. (1977).
Hibbard & O'Connor Government Securities, Inc. (1982).
Drysdale Government Securities, Inc. (1982).
Comark, Inc. (1982).
Lombard-Wall, Inc. (1982).
Lion Capital Group, Inc. (1984).
RTD Securities, Inc. (1984).
ESM Government Securities, Inc. (1985).
Bevill Bresler Schulman Asset Management Corp. (1985).
Parr Securities Corp. (1985).

Among the more prominent of these failures were Drysdale, Lion, ESM, and Bevill Bressler.

Drysdale's customers incurred over $300 million in losses. This firm was bankrupt on the day it opened its doors.

The failure of Lion in 1984 resulted in losses of $40 million to about 60 institutions.

ESM, an unregistered Government securities dealer located in Fort Lauderdale, FL, failed in March 1985, with losses of over $300 million to investors. About $200 million of the $300 million of ESM losses were incurred by two Ohio savings and loan associations, triggering a run on Ohio's thrift institutions.

Bevill Bressler, an unregistered Government securities dealer located in New Jersey, failed in April 1985, with customer losses of as much as $235 million to a list of creditors including 45 savings and loans and 9 banks, including three Maryland thrifts and the D.C. government. As a result of their dealing with Bevill Bressler, three Government securities dealers, Brokers Capital, Ltd., Midwest Government Securities, and Collins Securities Corp., incurred aggregate losses of over $9.7 million and failed or were liquidated.

These comments do not include the misery that has been occasioned to depositors and the savings and loan systems in Ohio and in Maryland, where the losses have been directly attributable to failures in the regulatory systems with regard to Government securities dealers.

It is very clear, Mr. Speaker, that such customer losses are not something that can lightly be tolerated.

The Treasury Department's efforts to trivialize these losses and failures is an insult to the American public and to the intelligence of this body.

The Treasury Department also says that this legislation has not been the subject of any consideration by those in Congress with the relevant expertise. I find this an odd statement for them to make. Securities and exchanges have been under the jurisdiction of the Committee on Energy and Commerce since 1935. The Banking Committee, which has jurisdiction over the Federal Reserve and the conduct of monetary policy, has been working with us and is on the floor today supporting H.R. 2032. The Ways and Means Committee has also reviewed the bill and the House Report 99-258 and were consulted by committee staff and the Office of the Parliamentarian. I have talked personally with Chairman ROSTENKOWSKI. A member of that committee, Mr. MATSUI, has expressed the support of the Ways and Means Committee for H.R. 2032. The Treasury Department's representations vis-a-vis Ways and Means are just plain false.

Treasury likewise says that we should stop the train and wait for them to develop their own legislation. My response is: "Where have they been?"

We have been working on this for over 2 years and this particular bill was introduced in April. All the while, Treasury has been naysaying legislation and now expects us to accept their newly found beliefs. What they propose strikes me as too little, too late. One of the cosponsors of H.R. 2032, Mr. SWIFT, the gentleman from Washington, wrote an op-ed article for

the August 4, 1985, New York Times, "Fed, Not Treasury, Should Take the Lead," handily putting the Treasury's arguments to rest. The article will be included in the RECORD at the close of my remarks.

The Treasury also says this is going to adversely affect the financing of the national debt, a statement which is factually incorrect, as rebutted by the testimony of the chairman of the Federal Reserve Board in his appearance before our committee.

I would observe that this is one of the few areas where freebooters may enter, do business to suit themselves, extort large sums of money from the public, fly the town by night, and leave behind them calamity in their wake.

Interestingly enough, the Federal Government years ago found it necessary to regulate securities dealers. There is literally no difference in the behavior and the functioning of a securities dealer dealing with government bonds and one dealing with State bonds or local obligations, but one is regulated and one is not. Guess which one is not? The ones which this bill would regulate and the ones which are bringing about serious economic disasters in the wake of their misbehavior.

Let it be clear: It is not simply undercapitalization; it is not simply misfortune which has brought these events about. It is fraud, criminal misbehavior as well as diligent application of simple incompetence.

We all agree that it is high time that the Congress do something about this. The Treasury says, however, for us to wait and to allow them to develop their own legislation. The Committee has sought to have them bring forth some recommendations; instead, they sat in their tent, and sulked, and have refused to assist and cooperate. We have had to seek elsewhere for the advice which was necessary.

I say with collapses bringing down savings and loan systems, causing losses to local governments, causing untold hardship to citizens across the country, it is time that something be done without waiting for the lackadaisical Treasury Department, which apparently is concerned more with its inhouse concerns than it is with the protection of the American investing public. The Congress is simply compelled to do something.

Business Week has had some extraordinarily interesting remarks on its May 28, 1984, editorial page, which I think merit quoting at this particular time. Their comments were really very simple. They said:

The public and the firms themselves cannot tolerate the kind of lax financial practices that have caused a string of failures since the Drysdale Government Securities collapse two years ago. The Marsh & McLennan fiasco indicates that the market is still too freewheeling for its own good. The market needs minimum capital requirements for all dealers, tougher reporting rules, and stricter control over repurchase agreements. If the dealers do not police themselves, the government will.

They also went on to say in the rest of the editorial, that the Government should. Now, this is not a voice of the far left; it is a voice out of the financial mainstream; this is Business Week.

I would urge my colleagues to recognize that the time for tolerating misbehavior in this market; the time for permitting folks to bring disaster and misfortune upon innocent citizens everywhere, to cause collapse of financial institutions because of misbehavior, to escape the ordinary regulatory process and to behave in a fashion which is generally accepted as intolerable for this group is now passed.

The Treasury's importuning of us to delay while they come forth with some sort of program whose character and nature is unknown to us and whose purposes are unclear is, I think, irresponsible.

I would urge my colleagues to support this bill.

FED, NOT TREASURY, SHOULD TAKE THE LEAD

(By Al Swift)

Financial failure can be a powerful educational tool. Bank failures in the early 1930's taught us something about bank investment policies that had been missed by contemporary economics. In the same way, the failures this spring of E.S.M. Government Securities Inc. and Bevill, Bresler & Schulman Inc., both unregulated Government securities dealers, have shown us the regulatory gaps in the marketplace.

This trillion-dollar market is vital to the Treasury for financing the Federal debt, to the Federal Reserve Board for carrying out monetary policy and as a primary arena for institutional investors. Yet, we have no consistent Federal oversight, no uniform standards of conduct or capitalization, no accurate idea even of how many firms are dealing in Government securities.

We do know that when things go wrong in this marketplace, they go wrong in a big way. The failure of E.S.M. alone resulted in losses of more than $300 million for small institutional investors and many municipalities. This, in turn, scared international markets, leading to the biggest drop in the dollar in 15 years.

Unfortunately, E.S.M. and Bevill, Bresler are only the latest in a series of scandals in Government securities that includes—in just the last three years—the failures of Lombard Wall, Lion Capital Group and Drysdale Government Securities. After each collapse, we were told by Government experts that the failure was an aberration, that investors would now beware and that no regulatory corrections were needed.

Testifying before the House Telecommunications and Finance subcommittee last month, an acting Assistant Secretary of the Treasury, John Neihenke, said that the Treasury was "opposed to additional legislation . . . We are, of course, concerned about losses stemming from the [recent] failures. However, there has been no perceptible impact on the Government securities market from these failures."

Thus, while investors and financial institutions have lost close to $1 billion in this market since 1982, the Treasury—as an issuer of the securities—has found no cause for complaint. Mr. Neihenke went on to state that if Congress insists upon reforms, "any legislation which is enacted should recognize Treasury's responsibility for regulating and monitoring this market, and continue to vest such regulatory oversight responsibility with the department."

Some oversight! If the Treasury was indeed policing the beat, what went wrong? According to Mr. Neihenke, it was the fault of the deputies: "The victims of E.S.M. were institutional investors, thrifts and municipalities, which are subject to regulation at the Federal or state level."

It seems the Treasury wants to have it both ways. It does not want legislation, but should there be any, it wants to be in charge. It claims jurisdictional responsibility for the Government securities marketplace, but should anything go wrong, somebody else should have been more vigilant.

In contrast, the Federal Reserve chairman, Paul A. Volcker, has recommended, constructively, that the Federal Reserve be given lead responsibility for the market, and that it be aided by a self-regulatory organization (of Government securities brokers, dealers and investors) with rule-making authority over financial standards and market practices—subject to a Fed veto.

This approach makes sense, and is reflected in legislation passed this past week by the Energy and Commerce Committee. The Fed has the greatest hand-on expertise in Government securities and wields a great deal of acknowledged authority over the 36 primary dealers that handle the vast majority of the business. A self-regulatory organization would allow for continuous oversight by a responsible peer group.

It is also important to bring into play the Securities and Exchange Commission's experience in combating securities fraud. When E.S.M. and Bevill, Bresler collapsed, the S.E.C. was first on the scene. But the S.E.C. should be required to institute minimal registration for all dealers and be granted audit and investigatory powers, all of which should help head off fraud before it occurs.

The S.E.C. chairman, John Shad, and others have asserted that regulation of Government securities could add as much as $2 billion a year to the cost of financing the nation's debt. Let me reassure the chairman that neither his own staff nor market participants believe this figure. The true amount would be a tiny fraction of $2 billion, and would be in line with the costs of other financial regulatory agencies.

The subcommittee has worked closely with the primary dealers and other market participants in developing a consensus for legislation. It has also received technical advice from the New York Fed and the S.E.C. Any rule making should also have the benefit of the treasury's views, and a formal consultative process with both the Treasury and the S.E.C. should be followed before the Federal Reserve passes on any rules promulgated by the self-regulatory organization.

To many investors, the Government securities market today is still an unmapped territory of confused jurisdiction and regulatory gaps. In westerns, the bad men always flocked to towns with a weak sheriff. It's time we brought some prudent oversight to these financial badlands, where the writ of law still does not run.

Mr. WIRTH. Mr. Speaker, I yield one-half minute to the gentleman from Oregon [Mr. WEAVER].

Mr. WEAVER. First, Mr. Speaker, let me commend the chairmen of the committees that have brought this bill to the floor. I want to say that, not just the smaller players in this business are the culprits; the major, most prestigious institutions manipulate the Treasury bond market, and as a member of the Committee on Agriculture, I believe that we should also deal with the U.S. Treasury bond futures market which is closely related to the cash market, and is heavily manipulated as well.

Mr. WIRTH. Mr. Speaker, I yield myself the remaining minute.

Mr. Speaker, I will be placing into the RECORD a response to the comments made by the Department of the Treasury. I appreciate the statements made earlier by the gentleman from Minnesota [Mr. FRENZEL] and his understanding of the Treasury being Johnny-come-lately to this issue. We had asked them for months and months for their assistance; it was not forthcoming.

They have now gotten into this; they say they have a plan. I would also urge Treasury to please not be a Johnny-come-lately to the facts. They continue to emphasize what they say are cost figures which are specious and untrue. They have been quoted as talking about billions of dollars—cost figures which have been totally disabused in testimony before the subcommittee in response to questioning by the gentleman from Washington [Mr. SWIFT].

So the cost issue raised is specious. The argument that the bill would interfere with their responsibilities is also specious. The Treasury has no experience, no responsibility in regulating securities dealers; no experience in registering and checking on their past histories; no experience in inspecting books and records of dealers and conducting investigations for fraud and other securities laws violations; no experience in setting minimum capital requirements nor in setting requirements for customer protection. Treasury is an issuer, not equipped to do what the gentleman from Michigan suggests that this legislation is supposed to do.

I thank all of my colleagues for the great help on this legislation.

□ 1310

Mr. RINALDO. Mr. Speaker, I yield myself 1 minute, to say that it should be pointed out on the record that this is not an omnibus and instrusive regulatory scheme, that it is a regulatory scheme that was dictated by the testimony at the hearings, a regulatory scheme that establishes specific and narrow requirements of registration, recordkeeping and reporting and net capital requirements, something that for those who attended the hearings, people recognize something that was very, very definitely needed.

When we talk about costs, I do not think that the gentleman from Minnesota, my good friend, actually in his statement came up with any indication or scintilla of evidence whatsoever to indicate that there would be the kinds of costs that he mentioned occur as a result of this legislation getting enacted into law.

I think, above all else, we have to recognize that these responsibilities are responsibilities that investors and the public expect, that they need, deserve, and are entitled to.

Mr. RODINO. Mr. Speaker, as an original cosponsor of the Government Securities Act of 1985, I am pleased to rise in support of this much needed legislation.

The market for the securities of the U.S. Government is the largest in the world. Record setting levels of Federal deficits have increased its size even more. The efficient functioning of this market requires a high level of investor confidence—confidence that we can retain only if Government securities dealers maintain the highest standards of accurate disclosure, performance, and financial soundness and accountability.

In the 98th Congress, the Committee on the Judiciary became aware of the regulatory vacuum in this area. The Subcommittee on Monopolies and Commercial Law held bankruptcy hearings relating to certain issues involved in Government securities dealer's bankruptcy cases which revealed the lax, and in some instances fraudulent, business practices that had developed in this industry. These hearings heightened my concerns about the lack of regulation in this area and the need for greater financial and investor protection requirements.

Unfortunately, we have seen the demise of two government securities dealers in recent months—one in my home State of New Jersey, the other in Florida. These cases have added to a lack of investor confidence in the market.

At a time when all of us are anxious to minimize unncessary and costly Government regulation, the approach taken by this bill is a sound one. It creates an industry self-regulatory organization—the Government Securities Rulemaking Board—as the primary rulemaking body. The Board of Governors of the Federal Reserve System is responsible for overseeing these rulemaking activities. Enforcement responsibilities are shared by a number of existing government agencies—in particular the Securities and Exchange Commission—that will maintain a list of all registered firms. Another very much needed change is the imposition of minimal recordkeeping requirements that will permit better surveillance of the industry.

I am very pleased to add my voice in support of this very important legislation. I want to commend the gentleman from Michigan and the gentleman from Colorado for their efforts in bringing this matter to a vote in a timely fashion.

Mr. BARNARD. Mr. Speaker, I rise in strong support of H.R. 2032, the Government Securities Act of 1985.

This past spring, the Commerce, Consumer and Monetary Affairs Subcommittee of Government Operations, which I chair, conducted a comprehensive investigation and held oversight hearings into the failures of two Government securities dealers: ESM Government Securities of Fort Lauderdale, FL, and Bevill, Bresler & Schulman of Livingston, NJ. Between our ESM hearing on April 3 and our BB&S hearing on May 15, the country witnessed the collapse of four other Government securities dealers. Unless H.R. 2032 is enacted, I am convinced that there will be many such failures.

Mr. Speaker, the Commerce, Consumer and Monetary Affairs Subcommittee's investigation and hearings did, of course, examine the adequacy of current supervision of the Government bond markets. But because the subcommittee has oversight jurisdiction for our banking system, we also focused heavily on the impact of Government securities fraud on the Nation's financial institutions.

A subcommittee report on our investigation is currently in preparation and will be considered next month. But in view of today's vote on H.R. 2032, I thought it would be useful to describe a few of our central findings:

First, at the present time, governmental and private sector supervision of Government securities transactions is grossly inadequate. A principal cause of this inadequacy is that under current law, Government securities transactions are generally exempt from day-to-day scrutiny of the SEC and the NASD. While these agencies can investigate Government securities trades if evidence of fraud is present, they have insufficient authority to examine these transactions on a day-to-day basis. Systematic examination authority is essential if fraud and wrongdoing are going to be detected at a sufficiently early stage to premit corrective action;

Second, although recent cases of Government securities fraud involved smaller, so-called secondary dealers, even the transactions of primary dealers require more effective scrutiny. While the Federal Reserve receives regular reports from and exercises oversight of these primary dealers, their cooperation is voluntary. It must be made mandatory.

Finally, and this is the key point I wish to make, billions of dollars in Government securities are purchased each year by the Nation's federally insured financial institutions. Many thrift institutions and commercial banks suffered extensive losses in the failures of ESM and Bevill Bresler. We all know that the ESM failure precipitated the crisis among Ohio's 71 privately insured thrift institutions. What is not so commonly known is that the Maryland privately insured thrift industry was an indirect casualty, as well. Moreover, all of the Nation's

private deposit insurance systems have suffered major defections because of the domino effect of the fraud at ESM.

In the Bevill Bresler collapse, the Commerce, Consumer and Monetary Affairs Subcommittee's investigation discovered that 80 savings and loans, 14 national banks, 14 federally insured nonmember banks, and 4 Fed member banks are likely to suffer combined losses of $353 million.

Accordingly, enactment of H.R. 2032 is essential not just to protect the integrity of Government securities markets, but to protect the safety and soundness of the thousands of banks and thrifts that trade in these instruments.

I strongly urge support for the legislation.

Mr. LEVIN of Michigan. Mr. Speaker, I rise to express my strong support of H.R. 148, the Michigan Wilderness Heritage Act of 1985. I am proud to be a cosponsor of this important legislation, and I extend my thanks to my colleague from Michigan, Mr. KILDEE, for his tireless efforts in helping to preserve what is left of Michigan's wilderness lands.

My support for this bill is rooted in my belief that there is a clear and growing danger to wilderness lands throughout the United States. Of late, we have heard more and more of the ravages of reckless industrialization and deforestation. Rarely valued monetarily, the loss of the ecosystem services provided freely by these areas entail real social and economic costs. In my own State of Michigan, which possesses more Forest Service land than any other State east of the Mississippi, I have myself witnessed the gradual despoilment of the land. H.R. 148 provides us with an opportunity to stem the tide of this despoilment. In sum, H.R. 148 would designate 90,000 acres of northern Michigan as wilderness. Wilderness status means no construction of roads or buildings, no mining, logging, or other activities which would alter the land's natural conditions.

The proposed wilderness areas, grouped by national forest, are: Huron-Manistee National Forest the Nordhouse Dunes, 3,000 acres; Ottawa National Forest, Sylvania, 19,200 acres, Sturgeon River Gorge, 14,700 acres and McCormick Experimental Forest, 17,000 acres; Hiawatha National Forest, Rock River Canyon, 5,000 acres, Big Island Lakes, 5,000 acres, Delirium, 11,000 acres, Carp River, 11,000 acres, Horseshoe Bay, 3,900 acres, Government Island, 210 acres, and Round Island, 380 acres.

I also want to add that while H.R. 148 protects these 90,000 acres, at the same time it reiterates the rights of sportsmen, hikers, and researchers, to name a few, to enjoy and study the land. Indeed, this is the whole purpose of the legislation; to maintain these last strands of virgin forest for the present and future generations to enjoy.

Again, I wish to thank my colleague for championing this legislation, and I urge support for H.R. 148.

Mr. RINALDO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. WIRTH] that the House suspend the rules and pass the bill, H.R. 2032, as amended.

The question was taken.

Mr. LUNGREN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

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

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

There was no objection.

EXPRESSING SENSE OF CONGRESS IN SUPPORT OF EFFORTS OF ORGANIZERS AND PARTICIPANTS IN FARMAID CONCERT IN CHAMPAIGN, IL

Mr. WEAVER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 185) expressing the sense of the Congress in support of the efforts of the organizers of and participants in the FarmAid Concert to be held in Champaign, IL, to bring the current crisis in American agriculture to the attention of the American people.

The Clerk read as follows:

H. CON. RES. 185

Whereas family farms have played a critical role in the history and development of the United States;

Whereas, during the first 6 months of 1985, more than 43,000 mortgages on farms in the United States have been foreclosed;

Whereas over 200,000 jobs have disappeared due to the decline in the farm economy;

Whereas it is paramount that the contribution of agriculture to the United States economy be recognized and protected; and

Whereas the FarmAid Concert will focus national attention on the plight of the American farmer: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the efforts of the organizers of and participants in the Farmaid Concert to be held in Champaign, Illinois, to bring the current crisis in American agriculture to the attention of the American people should be supported.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Oregon [Mr. WEAVER] will be recognized for 20 minutes and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon [Mr. WEAVER].

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the terrible plight of American agriculture is unprecedented in modern history. House Concurrent Resolution 185, simply expresses the sense of Congress in support of the efforts made by the organizers of the FarmAid Concert. This concert will be held in Champaign, IL, on September 22. The purpose of this event is to bring to the attention of the American people the impact of the current farm depression on rural America.

Senator TOM HARKIN has introduced companion legislation, Senate Concurrent Resolution 63 in the other body.

Mr. Speaker, we owe special thanks to performer Willie Nelson. The deep concern he and other performers share for the family farmer brought about this concert. Another performer, Neil Young, agreed to assist in coordinating talent for the concert. The timing will afford the American people the opportunity to understand more fully the plight of the family farmer.

Mr. Speaker, my aide, Bill Sparks, has written a song recorded by Neil Young, and I believe it will be performed at this concert. The title of the song is "Going, Going, Gone." Those are the words of the auctioneer, auctioning off the farms of our Nation. The plight of hard-working, efficient farmers is heard in the sad but loving lyrics of this fine song.

Nashville Network, along with a group of commercial TV stations, will broadcast the concert live. Ninety-five percent of all homes in America will be able to see all or part of the concert.

The depth and extent of the current crisis in American agriculture is common knowledge to many of my colleagues and to those living in rural America. FarmAid will make urban America more aware of the current agricultural depression. Mr. Speaker, I, therefore, urge passage of House Concurrent Resolution 185.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 185, expressing the sense of the Congress in support of the efforts of the organizers and participants in the FarmAid Concert to be held in Champaign, IL, to bring the current crisis in American agriculture to the attention of the American people.

I have the privilege of representing 58 counties in Kansas. My congressional district produces more wheat than any other State. Beef cattle, grain sorghum, and corn are also vital cornerstones of the economy in my district. We have harvested a near record crop of wheat and we will be harvesting a huge crop of feed grain this fall. Yet,

even with these good crops, income is still too low for farmers to make ends meet. Our exports continue to decline and the U.S. Government continues to build inventories of grain that will depress prices for years to come.

During the August recess, I visited all 58 counties that I represent. Repeatedly, I was asked by farmers, "Do they really know how bad it is out here in farm country?" To that end, spreading the word about the seriousness of economic conditions in farm country, the FarmAid Concert will be very beneficial and the organizers of that effort should be commended for their efforts to bring the problems of the farmer to the attention of the general public.

One of the serious questions concerning the concert is what to do with the money raised at the concert. It has been pointed out that agriculture's debt is so large that if we raise $40 million it will barely pay the interest for 1 day on the farmer's debt. As the ranking Republican on the Department Operations Research and Foreign Agriculture Subcommittee, it was recently called to my attention that the U.S. Department of Agriculture has a program through the USDA Extension Service that provides financial counseling, crisis management, and general support to distressed farmers. The program is currently only operational in 12 States. It would be of great service to the American farmer if this program could be extended to all 50 States and expanded in scope. However, because of limited budget, the Agriculture Committee was unable to expand funding for this program.

I can think of no better use for the money raised by the FarmAid Concert than to put it to use providing counseling to distressed farmers. And I can think of no better organization than the Federal Extension Service in our fine land-grant schools who have been serving American farmers since 1914 to implement and use the FarmAid money wisely. I urge the organizers of the concert to take a look at the extension program as possible use for the money raised.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of House Concurrent Resolution 185, expressing the sense of the Congress in support of the efforts of the organizers of and participants in the FarmAid Concert to be held in Champaign, IL, to bring the current crisis in American agriculture to the attention of the American people.

Agriculture is our Nation's largest and most basic industry. America's farmers have given our people the world's best diet at cost which—in comparison with the average consumer's earnings—really constitute a farmer subsidy to the general public. One of the chief reasons this country has been able to grow and make progress in many areas has been the growing efficiency of its farmers and the other segments of agriculture. When agriculture is depressed, the farmer and his family suffer—but they do not suffer alone. There is distress in the agricultural supply industries and in businesses on hundreds of main streets around the Nation. And in the long run, a depressed and demoralized agriculture would be very bad economic news for the entire Nation.

Much of the agriculture today is in trouble today because of a combination of factors and forces that lie largely outside the areas that farmers themselves can control. The causes of today's problems include the general worldwide recession of the early 1980's, which depressed markets for American products, the strength of the dollar in recent years, the practices of some competing nations in world markets, and continuing surpluses of some commodities.

Perhaps the most glaring sign of the problems facing many segments of American agriculture today is the drastic decline which has taken place in farmland values. Losses in land values in recent years—beginning in 1981—have been the most severe since the Great Depression.

Behind the gloomy statistics lies a story of stark tragedy for thousands of families and hundreds of rural communities.

I congratulate the organizers and the participants in this FarmAid Concert because their efforts will certainly help to raise the consciousness of the American people about the plight of our Nation's farm families and about the way this economic adversity not only affects their health, happiness, and well-being, but also sends waves of unrest into various other sectors of our society.

Mr. Speaker, I urge the Members to join me in support of House Concurrent Resolution 185.

Mr. GROTBERG. Mr. Speaker, many of the Nation's farmers are in trouble. They're suffering from years and years of temporary first-aid measures in places where major surgery actually should have been performed.

But we're hopefully headed for the road to recovery, as Congress prepares to debate a new farm bill.

In the meantime, however, farmers will be getting some additional help through the Nation's first FarmAid Concert to be held September 22 at the University of Illinois—Champaign-Urbana, IL.

This FarmAid benefit concert is being produced by country music legend Willie Nelson to not only raise funds to aid distressed farmers, but also to put the spotlight on the plight of the American farmer. Willie Nelson and Illinois Gov. James Thompson, who've been spearheading the effort, deserve much credit.

Besides Willie Nelson, there is a list of 48 other performers who have pledged their time to perform at this worthwhile benefit. More than 77,000 tickets for the 12-hour event were sold within 72 hours, showing the grassroots support for this benefit, which organizers hope will raise $40 million for debt-ridden American farmers.

Agriculture, Mr. Speaker, is the Nation's largest industry and biggest employer in my district. Some 2.5 million people in the United States work in some area of Agriculture or Agribusiness. Agriculture is not just a rural issue, it's also an urban issue. When farmers are facing tough times, it also affects other businesses dependent on farm family patronage.

The plight of our farmers is a crisis that should concern all Americans.

Today we have a measure before us expressing congressional support for efforts by organizers and participants of the FarmAaid Concert to heighten the public's awareness of the trouble many of our farm communities face. I urge the support of House Concurrent Resolution 185.

Mr. WEAVER Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon [Mr. WEAVER] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 185.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

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

There was no objection .

MICHIGAN WILDERNESS HERITAGE ACT OF 1985

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 148) to designate certain public lands in the State of Michigan as wilderness, and for other purposes, as amended.

The Clerk read as follows:

H.R. 148

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 "Michigan Wilderness Heritage Act of 1985".

SEC. 2. In furtherance of the purposes of the Wilderness Act of 1964 (16 U.S.C. 1131), the following lands in the State of Michigan are hereby designated as wilderness, and therefore as components of the National Wilderness Preservation System—

(a) "subject to valid existing rights and reasonable access to exercise such rights" certain lands in the Manistee National Forest, comprising approximately three thousand acres as generally depicted on a map entitled "Nordhouse Dunes Wilderness—Proposed", dated July 1985, and which shall be known as the Nordhouse Dunes Wilderness;

(b) certain lands in the Ottawa National Forest, comprising approximately eighteen thousand three hundred twenty five acres

as generally depicted on a map entitled "Sylvania Wilderness—Proposed", dated July 1985, and which shall be known as the Sylvania Wilderness;

(c) certain lands in the Ottawa National Forest, comprising approximately fourteen thousand eight hundred and fifty acres as generally depicted on a map entitled "Sturgeon River Gorge Wilderness—Proposed", dated July 1985, and which shall be known as the Sturgeon River Gorge Wilderness;

(d) certain lands in the Hiawatha National Forest, comprising approximately five thousand acres as generally depicted on a map entitled "Rock River Canyon Wilderness—Proposed", dated July 1985, and which shall be known as the Rock River Canyon Wilderness;

(e) certain lands in the Hiawatha National Forest, comprising approximately five thousand five hundred acres as generally depicted on a map entitled "Big Island Lake Wilderness—Proposed", dated July 1985, and which shall be known as the Big Island Lake Wilderness;

(f) certain lands in the Hiawatha National Forest, comprising approximately twelve thousand four hundred acres as generally depicted on a map entitled "Mackinac Wilderness—Proposed", dated July 1985, and which shall be known as the Mackinac Wilderness;

(g) certain land in the Hiawatha National Forest, comprising approximately three thousand nine hundred acres as generally depicted on a map entitled "Horseshoe Bay Wilderness—Proposed", dated July 1985, and shall be known as the Horseshoe Bay Wilderness;

(h) certain lands in the Hiawatha National Forest, comprising approximately twelve thousand acres as generally depicted on a map entitled "Delirium Wilderness—Proposed", dated July 1985, and which shall be known as the Delirium Wilderness;

(i) certain lands in the Hiawatha National Forest, comprising approximately two hundred and fourteen acres as generally depicted on a map entitled "Les Cheneaux Wilderness—Proposed", dated July 1985, and which shall be known as the Les Cheneaux Wilderness;

(j) certain lands in the Hiawatha National Forest, comprising approximately three hundred and seventy-seven acres as generally depicted on a map entitled "Round Island Wilderness—Proposed", dated July 1985, and which shall be known as the Round Island Wilderness;

(k) certain lands in the Ottawa National Forest, comprising approximately sixteen thousand eight hundred and fifty acres as generally depicted on a map entitled "McCormick Wilderness—Proposed", dated July 1985, and which shall be known as the McCormick Wilderness.

SEC. 3. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas except that with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Michigan and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in the State of Michigan; such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Michigan;

(2) with respect to the National Forest System lands in the State of Michigan which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Michigan reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided,* That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Michigan are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Michigan for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Michigan which are less than five thousand acres in size.

SEC. 6. Congress does not intend that designation of wilderness areas in the State of Michigan lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness.

SEC. 7. As provided in section 4(d)(7) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Michigan with respect to wildlife and fish in the national forests in Michigan.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio [Mr. SEIBERLING] will be recognized for 20 minutes and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. WHITLEY], and I would like to thank the gentleman and his committee for their excellent cooperation with the Committee on the Interior and Insular Affairs in bringing this bill to the floor.

Mr. WHITLEY. Mr. Speaker, the bill, H.R. 148, to designate certain public lands in the State of Michigan as wilderness was referred to the Agriculture Committee on Tuesday, September 10, 1985, for the period ending Tuesday, September 24, 1985. Following my remarks I am including for the RECORD a copy of the letter written on September 5, 1985, asking for referral of the bill to the Agriculture Committee.

Mr. Speaker, speaking on behalf of the Agriculture Committee, we have no objection to the House now considering H.R. 148. However, in the event there is a conference with the Senate concerning the matters acted upon in this bill, the Agriculture Committee will request to be represented.

Mr. Speaker, I thank the gentleman from Ohio [Mr. SEIBERLING] for his co-

operation and the cooperation of the full Interior and Insular Affairs Committee with our committee.

COMMITTEE ON AGRICULTURE,
Washington, DC, September 5, 1985.
Hon. THOMAS P. O'NEILL,
Speaker, House of Representatives, H-204, The Capitol, Washington, DC.

DEAR MR. SPEAKER: I respectfully request referral to the Committee on Agriculture of the bill H.R. 148, to designate certain public lands in the State of Michigan as wilderness, and for other purposes. Unfortunately, the bill was not referred to this Committee when it was introduced on January 3, 1985.

H.R. 148 proposes the designation of certain wilderness areas within the National Forests located in the State of Michigan. This Committee's jurisdictional interest in the Nation's forests is established under clause 1(a)(13) of House Rule X, which specifically includes forestry in general and forest reserves other than those created from the public domain in the Committee's jurisdiction. I understand that roughly 90% of the National Forest land involved in H.R. 148 is acquired land, not public domain land. Thus, the jurisdiction of this Committee in the proposed legislation is clear.

If H.R. 148, or comparable legislation, should be reported by the Committee on Interior and Insular Affairs, I request that it be referred to the Committee on Agriculture.

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 148, the Michigan Wilderness Heritage Act of 1985. As reported by our committee, the bill would designate approximately 92,416 acres of national forest land as wilderness, most of which is located in Michigan's Upper Peninsula.

Mr. Speaker, in discussing this bill I believe it should first be pointed out that the wilderness proposals of H.R. 148 are very modest. Although Members may not be aware of it, Michigan has more national forest land—2.7 million acres to be exact—than any State east of the Mississippi River. And yet to date, not a single acre has been designated as wilderness. H.R. 148 attempts to balance the wilderness/nonwilderness ledger somewhat by designating 3.3 percent of the national forests in Michigan as wilderness. And while that acreage may seem meager in comparison with the wilderness in other States, the wilderness proposals of the bill are significant because they are truly representative of the broad range of ecosystems which exist in the State.

For example, the proposals include two scenic islands in Lake Huron; a dunes ecosystem on the Lake Michigan shoreline and a lovely 7-mile stretch of the Lake Huron shoreline.

And let me digress, Mr. Speaker. I spent many of my boyhood summers on an island off the southern shore of Lake Huron, and at that time, and even after World War II, one could travel most of the shore of the Upper Peninsula on the Lake Huron side, and everywhere were beautiful, pristine beaches, with fir trees and conifers in the background and the beautiful blue of Lake Huron before. Today, with the exception of these stretches that we are dealing with here, practically all of them are now developed and subdivided and allotted up into summer homes. And that is fine. I think that is something that is part of our heritage. But I think it is also part of our heritage that we should preserve some of these pristine areas. And, fortunately, because they were in the national forest, we have been able to do so, and that certainly applies to the 7-mile stretch of Lake Huron that I have just mentioned.

It also includes a lowland river/swamp ecosystem that provides excellent boating; the Hiawatha National Forest's largest and most productive great blue heron rookery; two scenic river canyons bounded by towering cliffs and several areas containing lake chains which afford outstanding canoeing. As such, the bill protects a microcosm of the landforms which exist in north and central Michigan and will ensure that those areas are available for future generations to enjoy in their natural state. The wilderness proposals also preserve important habitat for bear, moose, bobcat, otter, bald eagles, great blue herons, and other wildlife species that thrive in roadless and undeveloped land.

Mr. Speaker, like others in this Chamber, this bill has a special meaning for me because as I just mentioned, I was fortunate to be able to spend a portion of my youth in the Upper Peninsula. Many of my summers were spent at our family's home on an island in Lake Huron near Hessel, MI, just a short distance from the proposed Les Cheneaux Wilderness. I also know Round Island and have gone by the Horseshoe Bay area many times. It is therefore especially gratifying to me that this bill will preserve the two small islands and a magnificent stretch of the Lake Huron shoreline. I am also familiar with the types of Upper Peninsula terrain that are contained in many of the other wilderness proposals of H.R. 148, and am delighted that we still have an opportunity to protect some virgin stands of timber and representative landforms.

□ 1325

Again, when I was a boy, there were magnificent virgin stands of hemlock so large that they gave the impression that one usually only associates now with the redwood forests in California, and they are all gone, having fallen beneath the logger's ax, except for the very small fragments that would be preserved by this legislation.

Such preservation is especially appropriate at a time when the Michigan Forest Products Industry Development Council, which by the way supports this legislation, is engaging in efforts to revive the timber industry in the Upper Peninsula and increase logging activities. The industry's planned expansion will bring needed jobs to the area and assist in revitalizing the local economy, but, if logging is to increase, it is also important to set aside representative areas for protection in their natural state.

Finally, in discussing this legislation, I think it is important to dispel some of the myths about wilderness which have been circulated in the Upper Peninsula and which may have generated unwarranted opposition to H.R. 148.

For example:

Wilderness will not result in any private land being confiscated or condemned by the Federal Government. To begin with, most of the lands in H.R. 148 are already owned by the Forest Service and the Wilderness Act specifically prohibits condemnation. The rights of any private inholders are further protected pursuant to section 1323 of Public Law 96-487 and by the Wilderness Act.

Hunting, fishing and trapping are not prohibited in wilderness. Indeed, the protection of habitat for game species is one of the prime reasons why we designate wilderness areas, and both section 7 of H.R. 148 and our committee report so note.

Wilderness designation will not lead to the creation of protective buffer zones around wilderness areas, and section 6 of H.R. 148 specifically underscores that point. Nonwilderness activities can occur right up to the boundaries of the wilderness, and, indeed, many of the wilderness boundaries of the areas designated by the bill are formed by roads, powerlines or other nonwilderness features.

The wilderness proposals of H.R. 148 will not significantly impact the timber supply in the Upper Peninsula. The 11 areas contained in the bill represent less than 3 percent of the commercial forest land base in the Ottawa and Hiawatha National Forests and less than one-half of 1 percent of the total commercial forestland. In fact, the Michigan Forest Products Industry Council has endorsed the bill.

Wilderness will not impose stricter air quality standards. The national forest lands and most other lands in Michigan are currently designated class II for purposes of the Clean Air Act and will remain class II after wilderness designation unless the State of Michigan upgrades them. I should note that no State has ever upgraded an area from class II to class I.

In summary, Mr. Speaker, I believe H.R. 148 is highly meritorious legisla-

tion, which deserves our unqualified support. I would like particularly to commend our colleague, DALE KILDEE for the excellent job he has done in putting this legislation together and for refining it to meet some of the concerns which surfaced at our hearings. Michigan wilderness legislation has been pending in the House since 1980, and I am happy that we are finally moving it forward. I urge my colleagues to join me in supporting the bill.

Mr. Speaker, before I conclude, I want to say one other thing. Tomorrow is the last day for a very fine member of the staff of the House Interior Committee, and a member of the staff of my subcommittee, Andy Wiessner, who is moving to Colorado with his family.

He has had an absolutely unequaled record as a staff member in working on wilderness legislation, not to mention many other important pieces of legislation such as grazing legislation, and the Federal Land Policy and Management Act in the 1970's. I regret very, very deeply that he is leaving our subcommittee as do, I am sure, all the other members of the staff. He has been invaluable to me. His knowledge is encyclopedic; his legal mind is sharp, and he is an indefatigable worker, and I just thought the record ought to so indicate.

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

Mrs. VUCANOVICH. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. DAVIS] whose district contains 10 of the 11 areas in the bill.

Mr. DAVIS. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in opposition to H.R. 148, the Michigan Wilderness Heritage Act. As has been said, there are 92,000 acres that are being set aside as wilderness areas in this particular bill, of which approximately 89,000 acres are in my congressional district, the Upper Penninsula of Michigan.

Ten of the 11 tracts are in this area. We depend, in my congressional district, upon our natural resources for our very survival, whether we are talking about the forest products industry; the only iron ore mines in Michigan are in my district; the only copper mine, which is now closed, is in my district; tourism, which is very dependent upon natural resources. These things are so important to the economy of our area, that I must oppose this bill. For if we take away the 89,000 acres as possible multiple-use from those industries in my district, I do not think we have served the people of my district nor the people of the State or of the Nation well.

Some of the acres that are proposed in this particular legislation were not even part of the RARE II study. We have gone beyond some of those areas that have been designated, and they are incorporated in this particular bill. When you look at the area that I represent with an unemployment rate right now that is approximately 15 percent, and in many instances it runs much higher than that, and when you do depend on your natural resources, I think that it is important that we preserve these natural resources so that we can use them for economic development.

In my particular district, 42 percent of all the land is either owned by the Federal Government, the State government or local government. I understand that when you go out West there are States that have much more acreage that is under control of the Government, but in our particular area, we consider that 42 percent of the area is much too much. So I will urge my colleagues to oppose this bill. Again, I do not think it is in the best interest of the constitutents that I represent, and I guess I would have to say that beyond this particular bill, the 92,000 acres, I am very concerned about possibly the next go around. I recognize that 92,000 acres in the total context of the acreage that I represent is not a large amount. but I want to serve notice on the Congress that we must be very, very careful should there be any further attempt to designate any more acres in the area that I represent.

I recognize that this bill will probably pass the House handily, as most wilderness bills have, but I must continue to oppose it because the economy of our area is such that we do not want to lose any of these areas to wilderness areas.

I would now like to engage the chairman of the subcommittee, Mr. SEIBERLING, in a colloquy on one particular issue.

Mr. Speaker, is it the understanding of the gentleman from Michigan that you have language in the bill now that takes care of a particular problem of a constituent of mine, a Mr. Macke, who did have access to and a hunting camp on private property that was sold to the Forest Service, and subsequent to that the Forest Service has taken away that right for him to use this camp and that this particular language now will allow him to be able to use that? Is that correct, Mr. Chairman?

I yield to the gentleman for his response.

Mr. SEIBERLING. Yes, the committee has excluded the land in question from the Rock River Canyon Wilderness, and we have asked the Forest Service to issue Mr. Macke a special use permit so that he can continue to use his hunting camp, and that is set forth in the committee report as being the intent of the committee.

Mr. DAVIS. I would further ask of the gentleman from Michigan will the committee or committee staff follow up with the Forest Service to see that the committee's intentions in the language are followed up?

I yield to the gentleman for his response.

Mr. SEIBERLING. We will certainly do everything we can to see that that is the case. I would like to say one more thing. First of all, I want to say that I commend the gentleman for his assiduousness in devoting his efforts to the needs of his constituents as he used them, and it was in response to that that we did have the committee go up there and have a field inspection and listen to some of the local people give us their thoughts.

□ 1335

I would also say that we have no thought or plans for another round of wilderness designations in the State of Michigan, and as far as I know, nobody else does. I just want to give the gentleman that assurance.

Mr. DAVIS. I appreciate that, and I only hope that future Congresses will feel the same way.

Mr. SEIBERLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. KILDEE].

Let me say, Mr. Speaker, that I want to again commend him for the outstanding role he has had in putting together this legislation.

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

Mr. Speaker, I am pleased to be the sponsor of H.R. 148, the Michigan Wilderness Heritage Act of 1985.

H.R. 148 designates as national forest wilderness some 92,000 acres, about 3.3 percent of Michigan's three national forests.

Michigan has more Forest Service land than any other State east of the Mississipi, but currently has no national forest wilderness.

The 11 areas to be designated wilderness include unique examples of Michigan's varied flora, fauna, and geography.

Some of the last remaining stands of virgin forest in Michigan and the many rare and threatened plant species found in these areas provide habitat for bald eagles, moose, black bear, white-tailed deer, sandhill cranes, great blue herons, and many other varieties of wildlife,

The areas contain river canyons hundreds of feet deep filled with wild rivers, waterfalls and wetlands; Lakeshore sand dunes and beaches; winter ice caves of magnificent beauty and chains of granite-rimmed lakes.

I, too, have enjoyed the beauty of the Upper Peninsula, and I, too, with the gentleman from Michigan [Mr. DAVIS] want to make sure that we have a balance in this bill.

From the very beginning we tried to strike a balance with this legislation between the development and the reservation of Michigan's majestic forests.

Proof that we have achieved that balance is the endorsement of H.R. 148 by a bipartisan group of 12 of Michigan's congressional representatives, and by

Michigan Gov. James Blanchard, a former Member of this body, by

The Sierra Club and Wilderness Society

And the Michigan forest products industry development council.

The Forest Products Council, composed of representatives of the major timber-producing and using companies in Michigan, advises Governor Blanchard in his drive to expand Michigan's timber industry.

The council's 14 to 1 vote to endorse H.R. 148 demonstrates an understanding by the timber industry that the designation of these small wilderness areas will not adversely affect the continued growth of the timber industry in Michigan.

The 92,000 acres in H.R. 148 comprise less than two-tenths of 1 percent of Michigan's commercial timber land.

Public hearings on the Michigan Wilderness Heritage Act were held by the Subcommittee on Public Lands both here in Washington and in Michigan's Upper Peninsula, where the majority of the land to be designated wilderness is located.

I want to reiterate that while the gentleman from Michigan [Mr. DAVIS] and I do disagree on this bill, it was through his efforts that we did take the subcommittee to the Upper Peninsula to hear the considerations of those people, and we did find that there were certain concerns that we could be more sensitive to, and the bill addresses those concerns.

In addition to the strong support for the bill expressed by the majority of witnesses, several witnesses raised concerns regarding the establishment of buffer zones around the proposed wilderness areas.

Some worried about the continued access of hunters, fishermen, and other sportsmen to the areas.

Others questioned the ability of owners of valid existing rights, such as oil and gas leases, to exercise those rights inside the wilderness areas.

We added several amendments during the subcommittee markup to address the concerns raised at the public hearings.

Section 6 of the bill precludes the establishment of buffer zones around the proposed wilderness areas.

Section 7 makes reference to the pertinent section of the Wilderness Act of 1964 which retains the jurisdiction of the Michigan Department of Natural Resources over the wildlife management of these areas assuring sportsmen continued access to hunt, fish, trap, hike, and enjoy other outdoor activities in the wilderness.

I would like to express my deep appreciation to my good friend and colleague from Michigan, GUY VANDER JAGT, for his close cooperation in addressing the concerns of some of his constitutents who are owners of the subsurface rights underlying the Nordhouse Dunes area in his district.

Working with Mr. VANDER JAGT, in addition to language in the bill, the Interior Committee staff drafted an excellent committee report which provides the Forest Service with some broad direction in how it can undertake the delicate balance of protecting the wilderness values of the Nordhouse Dunes while allowing the subsurface owners reasonable access to exercise their right to develop the oil and gas deposits, should it prove economically viable.

The Forest Products Council endorsed H.R. 148 with the condition that standard release language be added to the bill.

Such language will release for future timber harvest some 22,000 acres currently in wilderness study areas.

Section 5 of H.R. 148 contains the standard release language requested by the Michigan timber industry.

Mr. Speaker, we have no intention of doing anything to these areas. We want to keep them just the way they are now—much as they were when they came from the hand of God.

Unlike many other pieces of legislation that we consider, H.R. 148 will not have any visible human effect.

But it will have an invaluable effect of preserving these last vestiges of wilderness in Michigan for the benefit and enjoyment of future generations.

Mr. Speaker, I feel happy to have worked with all the people involved in this bill, even those who were opposed to it, because in every instance they were honorable in addressing their concerns on this bill. I personally believe that we have a very well-balanced bill.

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

Mrs. VUCANOVICH. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. I thank the gentlewoman for yielding this time to me.

Mr. Speaker, I want first personally to congratulate the chairman of the committee, who has provided many years of outstanding work toward the preservation of our lands and the concerns of balance between the environment and industry, and I have been very honored to have supported his legislation over the years, and to the gentleman from Michigan [Mr. KILDEE], the sponsor, who is a former State senator. We served together with Mr. DAVIS, and the Congressman following me, Mr. HENRY. We are all four former State senators here today who helped lead a movement on the environmental concerns and quality of Michigan on water and clean air and clean water. I sponsored a resource recovery act myself in Michigan, and led in some work in cleaning up some lakes.

Mr. Speaker, I rise in support of H.R. 148, the Michigan Wilderness Heritage Act of 1985.

This is an important piece of legislation for Michigan, especially as there is not a single acre of Michigan's vast national forest tracts which is part of the National Wilderness Preservation System, a system that gives the necessary strong protection to wilderness areas. Areas in the bill which now are outside the National Forest System are overused.

We are not talking here about a lot of land. It's under one-third of 1 percent of Michigan's total land base. It's less than 1 percent of the Michigan Upper Peninsula's land base, where the great majority of the proposed wilderness areas are located. The land proposed for wilderness designation in the bill is just under 3 percent of the State's national forest land. It's just one-fifth of 1 percent of all of Michigan's commercial forest land.

Michigan's economy clearly will benefit from the designation of additional wilderness areas through enhanced tourist business.

I also would like to point out that, as much as possible, private property within the proposed areas has been excluded.

The Michigan wilderness bill would establish a wilderness component of a land use program that is a balance of environmental protection and sensible development. Many people enjoy Michigan's natural resources through autos, snowmobiles, powerboats, and other vehicles, and extensive efforts are made to assure such opportunities. But there also should be areas where the canoe, showshoe, and hiking boot prevail as the primary means of travel, thus safeguarding significant natural areas and wildlife habitats.

Mr. Speaker, I have long been a proponent of sound environmental policy throughout my public career. While a member of the Michigan Senate, I authored the State's resource recovery act and led a cleanup of Michigan's dying recreational lakes. In that same vein, I would like to urge my colleagues to support the Michigan wilderness bill.

The Roman lawyer and satirist, Juvenal, once said: "Nature and wisdom always say the same." Mr. Speaker, I consider approval of the Michigan wilderness bill a wise investment in our future.

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Mrs. VUCANOVICH. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I, too, would like to express special thanks and commendations to my colleague, the gentleman from Michigan [Mr. KILDEE], who for years has sought to reach this point on this very critical measure. I think, as can be determined from the various comments we have heard, there is great and broad and deep support for this measure in our delegation, and I think the gentleman deserves a special commendation for the years of effort he has given to bring us to this point.

I would also like to express appreciation to the chairman of the subcommittee, who made a special effort to ensure that the subcommittee went to the areas affected and went to extra great lengths to ensure that the peculiar concerns of the people most directly affected, as opposed to those who perhaps might be less directly affected, were given equal attention.

Mr. Speaker, I rise in support of H.R. 148, the Michigan wilderness bill. One of the great blessings which we who live in Michigan enjoy, and encourage our friends from other States to come and enjoy, is the abundance and beauty of our natural resources—our beautiful lakeshores, precious wetlands, and awesome forests. It is of critical importance that as we move to improve our State's economic diversity by developing our forestry and mineral industries, that a portion of these lands remain preserved and undeveloped.

H.R. 148 strikes an appropriate balance of the variety of demands on our State's national forest lands:

The bill involves about 3 percent of Michigan's total national forest lands; planned use of the remaining 97 percent can and should go forward in a way that balances the competing uses of the resources of our national forest lands.

The particular concerns about the management of wildlife and the potential of closing these lands to Michigan's many hunters, trappers, and fishers are addressed by reemphasizing provisions of the Wilderness Act that leave wildlife management in the hands of the Michigan Department of Natural Resources.

Undoubtedly, the most difficult issue surrounding this bill involves the rights of the mineral owners in the Nordhouse Dunes area. Those rights—and the right to exercise them—have been specifically protected in the bill. The language of the report addresses specific recommendations to the Forest Service as to how this should be done.

Finally, concerns have been raised by the Forest Service and others about the necessary maintenance of an earthen dam in the Delirium Wilderness area. The dam provides sufficient water levels in Sylvester Pond to protect the habitat rich with wildlife. Language has been included in the report, specifically directed at the Forest Service, to permit necessary maintenance of the dam, including use of mechanized equipment.

Each of these provisions has been carefully crafted. Obviously, they must be as carefully followed in the implementation. But the bill represents a fine balance of difficult and important interests, and a tremendously worthwhile endeavor to protect and preserve our State's natural heritage.

Mr. Speaker, I join my colleagues from Michigan in urging adoption of H.R. 148, the Michigan wilderness bill.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am opposed to H.R. 148, the Michigan wilderness bill. The bill exceeds the Forest Service's RARE II recommendations by more than 40 percent and exceeds the more recent recommendations being made as a result of the very comprehensive forest management planning process.

The Member in whose district 10 of the 11 areas are located is also opposed to the excessive acreage in the bill. As one who is also attempting to work out a statewide wilderness bill, I am opposed to any process which does not fully consider the views of the Member elected to represent the area.

I am also greatly concerned over the way in which the bill addresses the privately owned mineral rights underlying the Nordhouse Dunes area. While I am aware of the language added to the bill expressly recognizing "valid existing rights," this is an area of law which is not yet fully tested or defined. My State of Nevada is blanketed with similar mining and mineral interests which may or may not be compatible with true wilderness protection and I am concerned over the way we are addressing these areas.

It will be argued that the Nordhouse Dunes is a very small area, particularly by our Western standards. It is only 3,000 acres but I believe it is no less important to the overall question of what is a valid existing right, and what must the owners do to develop their claims or mineral interests.

There are over 1,900 acres of privately owned reserved mineral rights underlying the area, in addition to 675 acres of State-owned mineral rights—over 86 percent of the area. Oil and gas deposits have been found near the area, and recent seismic surveys indicate a good possibility of such underlying deposits. The owners of these minerals have testified in our committee that they wish to exercise their rights to develop the oil and gas potential of the area—an action which is not compatible with wilderness particularly due to the area's very small size and the extent of the private ownership.

Our committee has made a modest attempt at guaranteeing their rights to extract the oil and gas by including an amendment making the area subject to "valid existing rights" and the right to "reasonable access to exercise those rights."

I believe it is important to note for the record that the committee report also addresses this issue starting on page 4 and explains the quandary we have placed the Forest Service and the mineral owners in.

The report reads;

> What rights may constitute "valid existing rights" is a question of law which the Committee does not attempt to define. The extent of the nonfederally-owned mineral rights are determined in part by the terms of the deeds by which the owners acquired the rights, and by federal, state and local laws and regulations. By protecting valid existing rights, the Committee makes no express or implied determination regarding the nature or extent of the title to such rights.

The report refers directly to the amendment in section 2(a) of the bill and outlines some recommendations on what steps the Forest Service might follow. It is important to emphasize that these are only recommendations which do not blind the Forest Service or impose any additional constraints on the owners of the mineral rights. In fact, I believe the designation of the area as wilderness should not change the process the owners should go through or make it any more or less difficult for them to drill in the area, As I understand it, the terms of their original deeds are the prevailing requirements.

With these unanswered questions, one might ask why the committee designated the area as wilderness in the first place? The issue was raised in committee and many of us opposed the designation. It was also pointed out that the ultimate solution may be to purchase the mineral rights—the cost of which could be considerable.

I personally believe the best solution would have been not to designate the area. There are many other management alternatives which the Forest Service could use to protect the beauty of the area without so directly infringing on the rights of the mineral owners.

I urge my colleagues to oppose the bill for all the reasons I have stated. There is no great urgency to pass the legislation and more time should be spent drafting a more acceptable bill.

Mr. BONIOR of Michigan. Mr. Speaker, it is my pleasure to rise before the House today in support of H.R. 148, the Michigan wilderness bill. I would first like to commend the leadership of my colleague DALE

KILDEE for his diligence in delivering congressional action on the wilderness bill.

This bill is consistent with past congressional actions for preserving wilderness areas from certain development activities. The Wilderness Act of 1964, and the Forest Management Act of 1976, initiated systems by which forest lands would be reviewed and their usage designated.

During the process of land designation outlined by these two acts, controversy ensued over the management of lands not specifically designated as wilderness. These lands were considered ripe for harvest by the timber industry, but vital to the maintenance of local econsystems and wildlife habitats by environmentalists.

After 7 years of stalemate, Members of the 98th Congress drafted release language which outlined for the Forest Service how it was to manage remaining defacto wilderness lands. As a result of this release language, new State wilderness bills began to be passed. The passage of the Michigan wilderness bill is a continuation of a process Congress first started in 1964, and refined in the early 1980's. This bill would allow Michigan to join the ranks of 21 other States that have already asked Congress to set aside land in their States as wilderness.

H.R. 148 includes approximately 90,000 acres of national forest land in Michigan. This represents 3 percent of the 2.7 million acres of national forest land in the State, and a very small fraction of the Michigan Department of Natural Resources' estimate of 17.5 million acres of forested land in the State.

While this may be a small percentage of Michigan's vast land resources, it includes some of the State's finest remaining wildlands. Sylvania, a popular vacation spot for urban recreationalists from Milwaukee and Chicago, is teaming with eagles and waterfowl, otters, and within it stands Michigan's largest red pine.

The McCormick tract, a recent addition to the National Forest System, warrants the specific protection of H.R. 148 as this area contains one of the few remaining stands of virgin Hemlock and white pine in the State. It is also the site of ongoing integrative forest studies research by many of the State's acclaimed ecologists.

The Nordhouse Dunes are set aside under this bill for the protection of threatened plant species, as are the breathtaking precipices bordering Sturgeon River Gorge.

This bill has gained the support of both environmentalists and forest industrialists. I think this is important because although wilderness designations prohibit road construction, off-road vehicles, and logging, the wilderness designation is still a multiuse philosophy which restricts as little as possible, while maintaining a primary goal to preserve a unique ecosystem intact.

Critics of this legislation say these lands do not warrant special protection. But, it was Congress itself which first acted to guarantee preservation of these national treasures of nature. The unique areas included in this bill will add to the already diverse ecosystems contained in the national wilderness system.

One should not think these lands are locked up, however. Hunting, fishing, trapping, backpacking, and other nonmotorized recreational activities are allowed. U.S. Forest Service fire control, insect and disease control and medical evacuations; mineral and oil and gas exploration will be allowed to companies with subsurface rights, if they agree to proceed in a manner compatible with the preservation of the wilderness areas.

This bill does not seek to lock up these lands. Rather, it aims to ensure their availability for generations to come.

Wilderness is a part of our heritage. Our forefathers plunged into the depths of the wilderness at Jamestown. They tamed it to give them sustenance in their quest to establish a new home on this wild continent. We must preserve wilderness areas so that we can be reminded of the challenges that were overcome by our predecessors to make our country great. As Thoreau said, "In wilderness is the preservation of the world." So it is that we should find in the wilderness the preservation of our heritage.

Man, being of nature, needs to go back to nature from time to time to be reminded of the simplicity and beauty from which he arose. We must recognize that our roots as a species lie in wilderness lands. H.R. 184 seeks to preserve those roots which nourish us, for without them, we cannot survive.

Mr. FORD of Michigan. Mr. Speaker, I rise in support of H.R. 148, the Michigan Wilderness Heritage Act of 1985. I am a cosponsor of this important legislation which designates as national forest wilderness some 92,000 acres. Although Michigan has more Forest Service land than any other State east of the Mississippi, it has no national forest wilderness.

There are 11 areas to be designated as wilderness under H.R. 148. These areas provide habitat for some of the last remaining stands of virgin forests in Michigan. Many rare and threatened plant species found in these areas provide habitat for bald eagles, moose, black bear, white-tailed deer, sandhill cranes, Great Blue herons, and many other varieties of wildlife. The areas also contain river canyons hundreds of feet deep, wild rivers, waterfalls and wetlands, lakeshore sand dunes and beaches, winter ice caves, and chains of granite-rimmed lakes.

Mr. Speaker, I feel that H.R. 148 presents a balance between the development and conservation of Michigan's forest. This is demonstrated by the endorsement of this measure by a bipartisan group of 12 Michigan representatives. In addition, this important legislation has been endorsed by Michigan Governor James Blanchard, the Sierra Club and Wilderness Society, and the Michigan Forest Products Industry Development Council.

Earlier this year the Interior Committee held hearings on H.R. 148 in Washington and Michigan's Upper Peninsula. Following the hearings the committee added amendments to the bill which reiterate sportsmen's right to hunt, fish, and trap in the proposed areas, preclude the establishment of buffer zones around the areas, and emphasize the ability of owners of valid existing rights, such as oil and gas leases, to exercise those rights. Language was also added to the bill for the release of 22,000 acres for future timber harvest which are currently in wilderness study areas that will not be designated as wilderness by this legislation. The boundaries of the proposed wilderness areas have been carefully drawn to exclude private property wherever possible while improving the Forest Service's ability to protect the fragile and varied ecosystems found in these areas.

I urge my colleagues to support passage of H.R. 148, the Michigan Wilderness Heritage Act of 1985. I enjoy the beauty the State of Michigan offers and hope it can be preserved for future generations.

Mrs. VUCANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING] that the House suspend the rules and pass the bill, H.R. 148, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

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

There was no objection.

PERMISSION FOR CERTAIN SUBCOMMITTEES OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT DURING THE 5-MINUTE RULE ON WEDNESDAY NEXT AND THURSDAY NEXT

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that the following subcommittees of the Committee on Public Works and Transportation be permitted to sit during the 5-minute rule of the House.

The Subcommittee on Public Buildings and Grounds on Wednesday, September 18, 1985; and

The Subcommittee on Aviation on Thursday, September 19, 1985.

Mr. Speaker, this request has been cleared with the minority.

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

There was no objection.

FEDERAL TRADE COMMISSION AUTHORIZATION ACT OF 1985

Mr. FLORIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2385) to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2385

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

SECTION 1. SHORT TITLE AND REFERENCE TO ACT.

(a) SHORT TITLE.—This Act may be cited as the "Federal Trade Commission Authorization Act of 1985".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Federal Trade Commission Act.

SEC. 2. UNFAIR ACTS OR PRACTICES.

Section 5(a)(1) (15 U.S.C. 45(a)(1)) is amended (1) by inserting "(A)" after "(1)", and (2) by adding at the end thereof the following:

"(B) An act or practice in or affecting commerce shall be considered to be an unfair act or practice under subparagraph (A) if—

"(i) such act or practice causes or is likely to cause substantial injury to consumers; and

"(ii) such substantial injury (I) is not reasonably avoidable by consumers; and (II) is not outweighed by countervailing benefits to consumers or to competition which result from such act or practice.

Any determination under the preceding sentence regarding whether an act or practice is an unfair act or practice shall take into account, in addition to other relevant factors, whether such act or private violates any public policy as established by Federal or State statutes, common law, practices in business or industry, or otherwise. This subparagraph shall not have any force or effect, and shall not be taken into account, in connection with the enforcement of any State law which prevents persons, partnerships, or corporations subject to the jurisdiction of the State from engaging in unfair acts or practices.".

SEC. 3. REVIEW OF CERTAIN CEASE AND DESIST ORDERS.

Section 5(m)(2) (15 U.S.C. 45(m)(2)) is amended by adding at the end thereof the following new sentence: "The court in such action against such defendant also shall review, if requested by any party to the action, the determination of law made by the Commission in the proceeding under subsection (b) that the act or practice of the respondent which was the subject of such proceeding constituted a violation of subsection (a).".

SEC.4. PREVALENCE OF UNFAIR OR DECEPTIVE ACTS OR PRACTICES OR FALSE ADVERTISEMENTS.

Section 18(a) (15 U.S.C. 57a(a)) is amended by adding at the end thereof the following new paragraph:

"(3) The Commission may issue a notice of proposed rulemaking with respect to any unfair or deceptive act or practice or any false advertisement (as defined in section 15(a)(1)) only if—

"(A) the Commission has issued two or more cease and desist orders regarding such unfair or deceptive act or practice or such false advertisement; or

"(B) any other information available to the Commission provides the Commission with reason to believe that a pattern of such unfair or deceptive acts or practices or such false advertisements exists.".

SEC. 5. CIVIL INVESTIGATIVE DEMANDS.

Section 20 (15 U.S.C. 57b-1) is amended—

(1) in subsection (a)(2), by striking out "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act or practice or method of competition declared unlawful by this Act or any other Federal law administered by the Commission";

(2) in subsection (a)(3), by striking out "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by this Act or any other Federal law administered by the Commission";

(3) in subsection (a)(7), by striking out "unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act or practice or method of competition declared unlawful by this Act or any other Federal law administered by the Commission";

(4) in subsection (b), by striking out "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by this Act or any other Federal law administered by the Commission"; and

(5) in subsection (c)(1), by striking out "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by this Act or any other Federal law administered by the Commission".

SEC. 6. RESTRICTION OF COMMISSION AUTHORITY RELATING TO AGRICULTURAL COOPERATIVES.

The Federal Trade Commission Act is amended by redesignating sections 24 and 25 as sections 26 and 27, respectively, and by inserting after section 23 the following new section:

"SEC. 24. (a) The Commission shall not have any authority to conduct any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of the Act entitled 'An Act to authorize association of producers of agricultural products', approved February 18, 1922 (7 U.S.C. 291 et seq., commonly known as the Capper-Volstead Act), is not a violation of any of the antitrust Acts or this Act.

"(b) The Commission shall not have any authority to conduct any study or investigation of any agricultural marketing orders.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 26, as so redesignated in section 6, is amended to read as follows:

"SEC. 26. To carry out the functions, powers, and duties of the Commission there are authorized to be appropriated $63,900,000 for fiscal year 1986, $64,200,000 for fiscal year 1987, and $64,300,000 for fiscal year 1988.".

SEC. 8. DISAPPROVAL OF FTC RULES.

(a) AMENDMENT.—The Federal Trade Commission Act is amended by inserting after section 24, added by section 6, the following:

"SEC. 25. (a) The Commission, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same day and to each House of Congress while it is in session.

"(b) Any final rule of the Commission shall become effective in accordance with its terms unless before the end of the period of 90 days of continuous session of Congress after the date such final rule is submitted to the Congress a joint resolution disapproving such final rule is enacted into law.

"(c)(1) If a final rule of the Commission is disapproved in accordance with this section, the Commission may promulgate another final rule which relates to the same acts or practices as the rule which was disapproved. Such other final rule—

"(A) shall be based upon—

"(i) the rulemaking record of the disapproved final rule; or

"(ii) such rulemaking record and any record established in supplemental rulemaking proceedings conducted by the Commission; and

"(B) may contain such changes as the Commission considers necessary or appropriate.

Supplemental rulemaking proceedings referred to in subparagraph (A)(ii) may be conducted in accordance with section 553 of title 5, United States Code, if the Commission determines that it is necessary to supplement the existing rulemaking record.

"(2) The Commission, after promulgating a final rule under this subsection, shall submit the final rule to Congress in accordance with subsection (a).

"(d) Congressional inaction on a joint resolution disapproving a final rule of the Commission shall not be construed—

"(1) as an expression of approval of such rule, or

"(2) as creating any presumption of validity with respect to such rule.

"(e)(1)(A) For purposes of subsection (b), continuity of session is broken only by an adjournment sine die at the end of the second regular session of a Congress.

"(B) The days on which either House of Congress is not in session because of an adjournment of more than five days to a day certain are excluded in the computation of the period specified in subsection (b).

"(2)(A) In any case in which a final rule of the Commission is prevented from becoming effective by an adjournment sine die at the end of the second regular session of the Congress before the expiration of the period specified in subsection (b), the Commission shall resubmit such rule at the beginning of the first regular session of the next Congress.

"(B) The period specified in subsection (b) shall begin on the date of a resubmission under subparagraph (A).

"(f) For purposes of this section:

"(1) The term 'joint resolution' means a joint resolution the matter after the resolving clause of which is as follows: 'That the final rule promulgated by the Federal Trade Commission dealing with the matter of , which final rule was submitted to Congress on is disapproved.', the first blank being filled with the subject of the rule and such further description as may be necessary to identify it, and the

second blank being filled with the date of submittal of the rule to the Congress.

"(2) The term 'rule' means any rule promulgated by the Commission pursuant to this Act other than a rule promulgated under section 19(a)(1)(A).".

(b) CONFORMING AMENDMENT.—Section 21 of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57A-1) is repealed.

SEC. 9. INTERVENTION BY COMMISSION IN CERTAIN PROCEEDINGS.

(a) GENERAL RULE.—The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commisison Act (15 U.S.C. 41 et seq.) for fiscal year 1986, 1987, or 1988, for the purpose of submitting statements to, appearing before, or intervening in the proceedings of, any Federal or State agency unless the Commission advises the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives, at least sixty days before any such proposed action, or, if such advance notice is not practicable, as far in advance of such proposed action as is practicable.

(b) NOTICE.—The notice required in subsection (a) shall include the name of the agency involved, the date upon which the Federal Trade Commission will first appear, intervene, or submit comments, a concise statement regarding the nature and purpose of the proposed action of the Commission, and, in any case in which advance notice of sixty days is not practicable, a concise statement of the reasons such notice is not practicable.

SEC. 10. NATIVE AMERICAN ARTS AND CRAFTS.

The Federal Trade Commission shall investigate the marketing of imitation Native American arts, crafts, and jewelry. The Commission shall, upon the expiration of eighteen months after the date of the enactment of this Act, report to the Congress on the investigation made under the preceding sentence. The Commission shall develop and distribute a consumer information brochure designed to assist consumers in identifying imitation Native American arts, crafts, and jewelry. The brochure shall be completed and distribution begun not later than six months after the date of the enactment of this Act.

SEC. 11. LIFE CARE HOME STUDY.

(a) STUDY.—The Federal Trade Commission shall conduct a study of unfair and deceptive practices in the life care home industry, including practices engaged in by life care homes. Within 2 years of the date of the enactment of this section, the Commission shall report the findings and conclusions of the study to Congress. If the Commission finds a rulemaking is warranted under section 18 of the Federal Trade Commission Act, the Commission shall, promptly after completion of the study, initiate a trade regulation rule proceeding under such section 18 respecting unfair and deceptive acts or practices in the life care home industry. If the Commission determines a rulemaking is not warranted, the Commission shall include in the report to Congress the reasons for such determination.

(b) DEFINITIONS.—For purposes of subsection (a):

(1) The term "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract.

(2) The term "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

SEC. 12. NURSING HOME STUDY.

(a) GENERAL RULE.—The Federal Trade Commission shall continue studying unfair and deceptive acts and practices in the nursing home industry, including practices engaged in by nursing homes. Within one year of the date of the enactment of this section, the Commission shall report to the Congress the findings and conclusions of the study. If the Commission finds a rulemaking is warranted under section 18 of the Federal Trade Commission Act, the Commission shall, promptly after the completion of the study, initiate a trade regulation rule proceeding under such section 18 respecting unfair and deceptive acts or practices in the nursing home industry. If the Commission determines a rulemaking is not warranted, the Commission shall include in the report to Congress the reasons for such determination.

(b) DEFINITION.—For purposes of subsection (a), the term "nursing home" includes a residential facility that provides convalescent or chronic nursing care, or both, for persons unable to care for themselves.

SEC. 13. PREDATORY PRICING.

(a) The Federal Trade Commission shall submit to the Commission on Energy and Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate the information specified in subsection (b) of this section every 6 months during each of the fiscal years 1986 and 1987. A report containing such information shall be submitted when the Commission submits its annual report to the Congress during each of such fiscal years and such report may be included in the annual report. A separate report containing such information shall be submitted 6 months after the date of submission of any such annual report. Each such report shall contain such information for the period since the last submission under this section.

(b) Each report shall list and describe, with respect to instances in which predatory pricing practices have been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission;

(2) each preliminary investigation opened or closed at the Commission;

(3) each formal investigation opened or closed at the Commission;

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission;

(5) each complaint issued by the Commission;

(6) each opinion and order entered by the Commission;

(7) each consent agreement accepted provisionally or finally by the Commission;

(8) each request for modification of an outstanding Commission order filed with the Commission;

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order; and

(10) each disposition by the Commission of a request for modification of an outstanding Commission order.

Such report shall include copies of all consent agreements and complaints executed by the Commission referred to in the report. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The descriptions required under this subsection shall be as complete as possible. The report shall include any evaluation given to the potential impacts of predatory pricing upon businesses (including small businesses). The report shall not reveal the identity of persons or companies complained about or those subject to investigation that have not otherwise been made public.

SEC. 14. EFFECTIVE DATES, APPLICABILITY OF AMENDMENTS.

(a) GENERAL RULE.—Except as otherwise provided in this section, the provisions of this Act, and the amendments made by this Act, shall take effect on October 1, 1985.

(b) SECTION 2.—

(1) The amendments made in section 2 shall apply only to—

(A) cease and desist orders issued by the Federal Trade Commission under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) on or after October 1, 1985; and

(B) rules for which advance notices of proposed rulemaking are published in the Federal Register by the Commission under section 18(b)(2)(A) of such Act (15 U.S.C. 57a(b)(2)(A)) on or after October 1, 1985.

(2) The amendments referred to in paragraph (1) shall not be construed to affect in any manner any cease and desist order issued on or after October 1, 1985, if such order is issued in accordance with a remand, from a court of appeals of the United States or the Supreme Court of the United States, of any cease and desist order issued by the Commission before such date.

(c) SECTION 4.—

(1) The amendment made in section 4 shall apply only to rules of the Federal Trade Commission for which advance notices of proposed rulemaking are published in the Federal Register by the Commission under section 18(b)(2)(A) of the Federal Trade Commission Act (15 U.S.C. 57a(b)(2)(A)) on or after October 1, 1985.

(2) In the case of any rule of the Commission which has not become final before October 1, 1985, but for which such advance notice has been published before such date, the Commission shall include with its submission of such rule to the Congress under section 25 of the Federal Trade Commission Act a statement describing the extent of the prevalence of occurrences of the unfair or deceptive act or practice, or the false advertisement, which is the subject of such rule.

(d) SECTION 8.—Section 25 of the Federal Trade Commission Act, as added by section (8), shall apply with respect to final rules of the Commission promulgated after October 1, 1985.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey [Mr. FLORIO] will be recognized for 20 minutes and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. FLORIO].

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measures I am recommending today—directed at treating the symptoms by curing the causes of this trade crisis—will require a dedicated effort. But the rewards will be enormous: A future of jobs, industrial competitiveness, leadership, and prosperity.

This is the way America will recapture control of its own destiny and our own future.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 10 a.m., with statements therein limited to 5 minutes each.

VOLUNTARY REFUND POLICY FOR SPARE PART PURCHASES

Mr. GOLDWATER. Mr. President, earlier this year on the 20th of June, I made a floor statement commending the Boeing Co. for its announcement of an unprecedented spare parts refund policy for its dealing with the Pentagon. In that statement, I called on all members of the defense industry to join Boeing and make a similar commitment.

Today I am pleased to report that several major defense contractors have now agreed to a similar, voluntary refund policy for spare parts purchased by the Government. I would like to give public recognition to those companies and also recognize Dr. James P. Wade, the new Assistant Secretary of Defense for Acquisition and Logistics for his efforts in promoting this policy throughout the defense industry.

The Boeing policy, which was directly aimed at putting an end to the so-called spare parts horror stories, guarantees the Government a full refund of the purchase price of any spare part bought from Boeing for a price less than $100,000 which the Defense Department later determines to have been overpriced—subject to a reasonable time limitation. This is a "no questions asked" policy—if the Government says the price was too high, the money is refunded and that's the end of it. No arguments—just a complete refund.

Not long after Boeing announced their policy, other major contractors made similar commitments. General Electric, McDonnell Douglas, Grumman, Raytheon, General Dynamics, and Martin Marietta all voluntarily offered the Government similar refund policies.

The Defense Department, through the efforts of Dr. Wade, combined the best aspects of each of these unsolicited proposals into a single comprehensive refund policy which was then sent out to our top 30 defense contractors. As of today, I am advised that the following companies have signed up to this new policy: Martin Marietta, Raytheon, Sperry, Rockwell, Westinghouse, United Technologies, RCA, Boeing, Lockheed, GTE, Allied, and General Dynamics.

Mr. President, I wish to publicly commend each of these companies for making this voluntary commitment. In my opinion, this confirms what I have always believed about the vast majority of those who make up our defense industry—that they are honest, patriotic citizens doing their very best for their country. And they want to put an end to these horror stories just as quickly as you and I do.

I would also like to commend Dr. Wade for his personal efforts in promoting this very favorable agreement between industry and the Pentagon. Dr. Wade is the first person to hold the Office of Assistant Secretary of Defense for Acquisition and Logistics, and in my opinion, he is off to an excellent start. Having served very ably as the Assistant Secretary of Defense for Development and Support and the Principal Deputy Under Secretary of Defense for Research and Engineering, Dr. Wade brings a wealth of ability and experience to his new post. I congratulate him on his promotion and wish him every success in what is bound to be a very challenging and important position.

DEAN PHILLIPS

Mr. HATCH. Mr. President, although I did not have the opportunity to get to know Dean Phillips as well as I would have liked, I was fortunate to have worked with him on several legislative matters. Dean was a courageous individual, courageous in his military achievements, courageous in his leadership in difficult public policy issues, and courageous in his fight against the disease that recently took his life. It was my privilege to have known and worked with Dean Phillips, a genuine American hero and patriot. I ask unanimous consent to place in the RECORD an outstanding article that recently appeared in the Washington Post on Dean Phillips.

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

THE BONDING OF WAR

On Monday morning the Army, which he had served so valiantly, buried Dean K. Phillips with the full panoply of military honors that was his due. This much-decorated citizen soldier and fellow Vietnam veteran was laid to rest in his uniform, the ribbons on his chest a solemn testament to the professionalism he had brought to his calling in the now distant rice paddies of an earlier and more troubled era. In the end the ravages of cancer were able to effect that which another formidable, though less insidious, enemy had been unable to accomplish almost 20 years previously. Throughout it all, Dean's courage served as a beacon to all of us who loved and admired him.

As his friends and family gathered at the grave site in a stand of pines beneath a slate gray August sky in Arlington National Cemetery to pay their last respects, I reflected on what his passing meant to me and on the special covenant that binds men who have experienced the horrors of war. I had been to see him one last time shortly before he died, not because we were particularly close, but because ours was a kinship forged in the bloody crucible of Vietnam, and because I felt an urgent need to honor him for what he had endured. He had by then become a shell of his former robust self, the cataclysmic virulence of the cancer having almost run its course, but his handshake remained firm and his thinking clear.

He had been to see "Rambo" several weeks earlier, which he disliked for a number of reasons, among them the facile way the picture treated death and the distortedly romantic gloss it placed on combat. Dean knew better, and we discussed the new patriotism and the so-called revisionist view of Vietnam at length. He had enlisted in the Army in the mid-'60s despite having been granted a student deferment to attend law school, and he had refused a commission out of a desire to serve in the ranks. Often at odds with the Army as an institution, he nevertheless passionately loved its soldiers, and his service in Vietnam earned him two Silver Stars, two Bronze Stars and a Purple Heart. He told me that he did not understand the cyclical view of patriotism, and he was realistic enough to know that no amount of revisionism could erase the obloquy returning veterans faced as they attempted to enter the mainstream of society in the late '60s and early '70s. He had devoted the remainder of his professional life to easing that transition by his tireless work as an attorney on issues affecting veterans.

I spent several hours with Dean that sultry summer afternoon, and I watched him mask his pain as he acted the good host and tended to the needs of his company. I could see also by his conversation and demeanor that he was putting his house in order and preparing himself for the final battle. As I readied myself to leave, he took my hand in both of his and told me that he hoped he had been able to do some good for mankind in the time he had been given. I do not know if his final words to me were a question or a declaration, but I was only able to squeeze his hands by way of affirmation in what I now regard as a woefully inadequate response.

Dean Phillips died at home with his family a month later, beaten but not bowed by an enemy whose onslaughts he was powerless ultimately to turn aside. He was 42 years old and left behind grieving parents, a loving wife and daughter, and a 2-year-old son who will develop at best only a vicarious insight into his father's enormous stature.

He is gone now, joined at last with his beloved brothers whose names appear on the Vietnam Memorial, most of whom died themselves in their teens and early twenties well before their time, like Dean, and I am as yet unable to derive any meaning or take any solace from his death. I know only that he touched my heart, and I am richer for having shared his life.

DAVID BRODY

Mr. HATCH. Mr. President, it has been one of my pleasures in Washing-

ton to have worked closely with many outstanding individuals of varying interests and perspectives. There is none, however, whom I admire more than Dave Brody, Washington Representative for the B'nai B'rith Anti-Defamation League. Dave is a consummate professional, the paragon of effective Washington lobbyist. He is honest and forthright and the sort of individual in whom a Member can rely for sound information and counsel regardless of their agreement or disagreement on any given issue. It was thus with great satisfaction that I recently read an outstanding thumbnail sketch about Dave in the September 14, 1985, issue of the National Journal. I ask unanimous consent that this article be printed in the RECORD.

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

[From the National Journal, Sept. 14, 1985]

MAKING MATCHES MEANS ACCESS

(By Dick Kirschten)

Most Washington lobbyists boast about having connections. David A. Brody takes pride in making them.

The veteran Washington representative of the B'nai B'rith Anti-Defamation League is an inveterate matchmaker who wends his way through the capital's power circles on the lookout for people who ought to know one another.

No sooner do his antennae pick up a nugget of conversational information about somebody's past or present interests than the next words out of his mouth are invariably, "I'd like to put you together with. . . ."

The very next day, if not later the same day, Brody will be on the telephone proposing a luncheon involving himself and the two people he wants to bring together. Invariably, they are people who would have gotten together on their own at some point but, as Brody said in an interview, he finds that it advances his long-term interests if he can be the "facilitator or catalytic force."

"I do it so that the two people will know each other, so they will not be strangers when they need to deal with one another. Both parties usually welcome it," he explained. Those involved may run the gamut from Members of Congress, White House aides and ambassadors to reporters, fund raisers and constituents.

Twenty years at his job has taught Brody that at some point, his gestures of good will are likely to be returned in some form. "It's not so much that people are beholden to me, as it's a matter of providing greater access for me," he said, stressing the golden word of the lobbyist's trade—access.

The autographed pictures on the wall of Brody's office attest to his success in gaining access at the very highest levels. They also attest to his skill at hearing what people say and sensing what makes them tick and what their current concerns are.

"In this town, so many people talk rather than listen," explained Brody, giving away a major secret of his success. It also helps to be quick-witted enough to put information to immediate use. "If I happen to be in a Member's office and a name comes up, we'll often set up a lunch right then."

Brody is constantly on the lookout for likely connections, two Members of Congress who haven't met each other yet, a reporter who is starting out on a project involving principals he hasn't met, new arrivals at the Israeli Embassy who need to meet the people they will be dealing with in Washington.

'It's just a matter of having almost an intuitive sense about people's needs," Brody said. "I guess it is just a matter of knowing how to relate to people. I will occasionally bring Members of Congress together whose views may be divergent. In bringing them together, they find that they are able to work together on other issues."

Those other issues, with luck, may turn out at some point to be the very ones upon which Brody is lobbying. And even if their votes do not always go his way, Brody at least gets a chance to have his say. In 1981, when Congress approved the sale of military aricraft to Saudi Arabia, Brody recalled, "a number of good friends of mine voted for the sale, but I still had the opportunity to sit down and talk to the principal—to the man who cast the vote."

That statement is also revealing. In lobbying, as in match-making, the permanence of relationships is important. Accordingly, significance attaches to Brody's reference to "good friends" who voted against his position. They still are his good friends, and maybe next time they will be with him.

Besides putting his lunch hour to regular use, Brody and his wife, Bea, entertain at their home, throwing dinner parties that may bring anywhere from a dozen to three dozen Washington notables together to trade information and get to know one another better.

"From time to time, press people are invited to my parties at home as friends," Brody explained. What goes on is not intended for publication, Brody noted, but it is recognized "a reporter may pick something up at a party." But, he added, "the story won't be that I had that group of people to dinner."

Brody added that he has never hesitated to bring politicans and journalists together in a social setting. "I don't draw any lines," he said. "When I find it useful to play that catalytic role, I do it." With reference to the politicians, he observed, "I think they welcome the opportunity too, otherwise they wouldn't agree to it."

To the best of his recollection, Brody over the years has never become a matchmaker in the romantic sense. He says that he knows of no marriages that have resulted between people he has brought together and quickly adds in a businesslike tone that "if it has happened that would not be the purpose that the meeting started out with."

There is more than a bit of a Horatio Alger aspect to Brody's career. The man who now wines, dines and facilitates friendships among the high and mighty started out in life as the son of an immigrant garment worker who entered this country through Ellis Island. He grew up in Brooklyn, attended public schools and ended up studying law at Columbia University on a scholarship. He came to Washington in 1940 to work as a lawyer for the government and has been with the Anti-Defamation League since 1949.

Brody said he has developed his skills as a lobbyist-social connecter as he has gone along. "I like to say that the things I do, I never learned in law school." Nonetheless, the 69-year-old lobbyist makes it clear that he enjoys what he does. "I have no plans to retire," he said.

The matchmaker is obviously well matched to his calling.

CONGRESSIONAL CALL TO CONSCIENCE

Mr. NICKLES. Mr. President, I would like to take a few minutes to address the continued harassment of the Soviet Jews by the Soviet Government. The congressional call to conscience has been going on for 9 years and it seems like a long time. However, this does not even begin to compare with the years of waiting that many of the Soviet Jews have endured in the hopes of one day being able to leave the Soviet Union and join relatives in another country.

I remember when Mikhail Gorbachev became the new leader in the Soviet Union. It was thought at that time that he would be more sympathetic to the rights of the Soviet Jews. If he is sympathetic, we have not seen evidence of it. The statistics show that based on the first half of 1985, there has not been much change in emigration levels from that of last year. As many of us remember, last year produced the lowest level of Jewish emigration since the movement began almost 20 years ago.

Because of the great role that Mikhail Gorbachev plays in the lives of the Soviet Jews, a letter was circulated by one of my colleagues. This letter, which I signed, was sent to President Reagan asking him to discuss the issue of human rights when he meets with Mr. Gorbachev in November. It is my sincere hope that the President will be able to heed this request and include this vital issue on the agenda for the upcoming talks.

Three months have elapsed since I spoke before this body regarding the Vainerman family. I am sad to report that during this time the Vainermans have waited without any further word regarding their request. Three months is a very long time to wait for something when you have already waited for 5 years.

It appears as though more and more attention is being focused on the human rights violations throughout the world. Although the news is disturbing, I am glad that it is being reported. It is important that we do not forget those individuals who are struggling for their rights, while we as Americans are freely enjoying ours. One of the rights that we do enjoy is being able to speak out against such abuses. It is not only a freedom, but I believe it is also a duty that should not be taken lightly. At this point, the most that we can do is continue to speak out, and to continue to educate others regarding the violations in other countries.

I would encourage my colleagues to continue to remember not only the Soviet Jews, but individuals all over the world who are struggling to survive in countries that do not grant them the freedoms they deserve. We

agricultural cooperatives and marketing orders. The bill also directs the Commission to undertake numerous studies and reports to Congress on enforcement efforts. While I question the need for some of these requests, especially where in the nursing home instance, the study has been independently initiated by the FTC and is already ongoing. They do signal congressional concern over potential illegal conduct and seek to encourage Commission involvement in these areas, within its current jurisdiction and subject to its enforcement discretion.

Finally, I would like to associate myself with the concern of the gentleman from North Carolina, the ranking Republican of the committee, with respect to legislative review and veto of Commission rules. Although a provision is included in the bill providing for review of FTC rules, the provision as currently written is not effective because it does not contain expedited procedures. These procedures are necessary in order for the Congress to successfully disapprove a rule, if the circumstances so dictate. In other words, this provision has no bite to its bark.

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Mr. Speaker, I want to take just a moment to commend and thank the outgoing Federal Trade Commission Chairman, James Miller, for the leadership and direction he brought to the Commission. Under his stewardship the FTC has regained the trust and confidence of Congress. I wish him every success as Director of the Office of Management and Budget.

Mr. Speaker, while I am somewhat disappointed that a request to include expedited legislative review procedures in the bill was not favorably acted upon, I remain hopeful that something can be worked out in conference.

I urge passage of the bill.

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

Mr. LENT. I am happy to yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Speaker, at the outset I want to commend the chairman and ranking Republican of the Energy and Commerce Committee on bringing us a noncontroversial and bipartisan FTC bill. It's long overdue. The FTC has been without an authorization since 1982 for a variety of reasons, including the professions and legislative veto issues.

Mr. Speaker, I also want to take this opportunity to commend the Chairman of the FTC, James Miller, on his outstanding stewardship at the Agency and his persistence in pushing for an authorization before he goes on to head the Office of Management and Budget. The administration is fortunate to have a person of his intelligence and abilities.

Having said all that, let me say that I regret this is coming to us under suspension instead of the open rule requested by the Chairman of the Energy and Commerce Committee. I think it's a little ironic that this bill fell victim to a one-member veto in the Rules Committee over the issue of whether there should be a congressional veto of FTC regulations. And it's even more ironic that this bill was held up not because its provisions were particularly objectionable, but because the other body had included some special rules provisions with its legislative veto.

Mr. Speaker, all this fuss might be justified if the other body were attempting to foist some new procedures on the House, but the fact is that this House has previously agreed to nearly identical expedited procedures when it enacted the 1980 FTC Act. The other body also has a provision in its bill permitting limitation amendments on appropriations bills to block regulations which both Houses may have previously disapproved. But that's something this House had been doing for its first 194 years before the Democratic caucus decided to restrict us in 1983.

Mr. Speaker, I would suggest that if the Rules Committee were really concerned about these expedited procedures that will give teeth to the legislative veto for FTC rules, then it would have granted a rule that made in order the amendment of the gentleman from North Carolina [Mr. BROYHILL]. He had a legislative veto amendment that had been fashioned in consultation with Rules Committee staff that should have been acceptable.

That's the way to deal with provisions in the other body's bill: Give the House a chance to work its will on this issue before we go to conference. But, I suspect there are those who fear what the result would be. Two years ago the Rules Committee attempted to delete the FTC legislative veto from the bill, and that amendment was overwhelmingly rejected by a voice vote. I hope our conferees will agree to some form of expedited procedures for these joint resolutions of disapproval so that the legislative veto will have real teeth and be a credible deterrent against arbitrary and capricious agency regulatory actions.

Mr. LENT. Mr. Speaker, I want to thank the gentleman for his contribution and say that I heartily agree with the sentiments the gentleman has expressed here this afternoon.

Mr. FLORIO. Mr. Speaker, I would just like to publicly express my appreciation to the gentleman from New York [Mr. LENT], the gentleman from North Carolina [Mr. BROYHILL] and the gentleman from Michigan [Mr. DINGELL] for their cooperation in putting together this consensus piece of legislation. It is long overdue and I hope it passes very quickly.

Mr. BROYHILL. Mr. Speaker, today the House will have the opportunity to consider legislation reauthorizing the Federal Trade Commission.

Since 1982, the Commission has functioned without an authorization, without congressional guidance and statutory direction. For almost 3 years those who are subject to the Commission's expansive jurisdiction to police "unfair or deceptive acts or practices" and "unfair methods of competition" have had to operate hampered by the uncertainty of the Commission's authority.

During this time, the Congress has struggled with numerous issues affecting the Commission's jurisdiction and ability to pursue certain activities. The debate over the proper role of the Commission to regulate the activities of professionals is a case in point.

Today, with the passage of this legislation, the Congress will be able to remove that "cloud" of uncertainty and will reaffirm and direct the Commission's authority and function in several areas. I have repeatedly urged this step and welcome it today.

The Federal Trade Commission Authorization Act of 1985, H.R. 2385, contains several provisions which help to delineate the rulemaking and adjudicative authority of the Commission.

Section 2, for example, would clarify the Commission's authority over "unfair acts or practices." This term is the basis of the Commission's consumer protection jurisdiction, and since its inclusion in law in 1938 with enactment of the Wheeler-Lea Act (52 Stat. 111) has never been defined.

Section 2 of the bill sets out several criteria the Commission must use in determining that a particular act or practice is "unfair." First, the FTC must find that the activity in question causes, or is likely to cause, substantial injury to consumers. Once injury is found, the FTC must assess whether it is outweighed by countervailing benefits to consumers and competition. A final determination must also be made that the injury is not reasonably avoidable by consumers.

This definition will lend predictability and certainty to the Commission's "unfairness" authority to the benefit of not only those who fall within the FTC's jurisdiction, but to consumers as well.

The bill also contains a provision which will help to delineate the rulemaking authority of the Commission. Section 4 would incorporate a requirement that a showing of "prevalence" be made before the FTC could embark on an industrywide rulemaking proceeding. Specifically, the Commission would be required to find that an activity to be regulated must be a prevalent one within the industry. Such a finding could be made if several cease-and-desist orders prohibiting the practice had been issued or sufficient information is available to the FTC to demonstrate that a pattern of such practice exists.

This provision will help to ensure that the Commission will regulate only in those areas where substantial abuse exists, not in instances where isolated or insignificant violations have occurred. In effect, the prevalence requirement will discourage the FTC from issuing rules where no demonstrated need to regulate exists.

Another rulemaking reform which I believe should be included in this bill is a legislative review procedure for FTC rules. Since the Supreme Court's decision in Immigration and Naturalization Service Versus Chadha held legislative veto unconstitutional, rules issued by the Commission have not been subject to legislative review and veto. Given the breadth of the Commission's jurisdiction to regulate, I believe it imperative that an effective and workable legislative review devise be incorporated in law.

While section 8 of the bill would provide for a 90-day congressional review and, when appropriate, disapproval of FTC rules through the passage of a joint resolution, the provision is a paper tiger. The mechanism set out in section 8 is ineffective because it has no expedited procedures to ensure that a rule will be considered in a timely manner. Without these procedures, it will be practically impossible for Congress to disapprove a rule.

Although a request was made to the Rules Committee to include expedited procedures in section 8, this request was not acted upon. I do hope that we can achieve a workable legislative review procedure in conference.

Despite the fact that this issue remains unresolved, I am pleased that the House will act on an authorization bill today.

I should mention that the bill before us contains no provision delineating the Commission's authority over professionals. A consensus has been reached on the proper role of the Commission in this area and specific statutory language appears unnecessary.

This consensus confirms the FTC's existing authority to protect consumers and competition from certain practices engaged in by professionals. This consensus also recognizes the proper role of the States in licensing and setting the appropriate functions or tasks of professionals.

The debate over this issue has been a lengthy and difficult one since strong competing issues are involved. I am pleased that it has been resolved in a way which will protect consumers against potentially harmful, anticompetitive restraints, which, if unchecked, could lead to higher prices, reduced choice in professional services, and restricted access to important information.

Mr. Speaker, in closing, I would like to commend FTC Chairman James Miller, for his dedication and unwavering commitment to the Commission's goal of protecting consumers and competition. His effort has directed the FTC along a sensible and astute path. His endless work and perseverance is appreciated and he will be certainly missed. We wish him well in his new endeavor as the Director of the Office of Management and Budget.

Thank you, Mr. Speaker.

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

Mr. FLORIO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. FLORIO] that the House suspend the rules and pass the bill, H.R. 2385, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. FLORIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1078) to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1078

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 "Federal Trade Commission Act Amendments of 1985".

UNFAIR METHODS OF COMPETITION

SEC. 2. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end thereof the following:

"(n) The Commission shall not have any authority to find a method of competition to be an unfair method of competition under subsection (a)(1) if, in any action under the Sherman Act, such methods of competition would be held to constitute State action.".

AGRICULTURAL COOPERATIVES

SEC. 3. The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by redesignating section 24 and section 25 as section 26 and section 27, respectively, and by inserting after section 23 the following new section:

"SEC. 24. (a) For purposes of this section, the term 'Capper-Volstead Act' means the Act entitled 'An Act to authorize association of producers of agricultural products', approved February 18, 1922 (7 U.S.C. 291 et seq.).

"(b) The Commission shall not have any authority to conduct any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of the Capper-Volstead Act, is not a violation of any of the antitrust Acts or this Act.

"(c)(1) Before issuing a complaint under section 5 against any agricultural cooperative on the basis that such cooperative has violated any of the antitrust Acts or has used an unfair method of competition in or affecting commerce, the Commission shall—

"(A) provide the Secretary of Agriculture with a copy of the proposed complaint not less than fifteen days before the complaint is issued; and

"(B) consult with the Secretrary of Agriculture regarding the possible applicability of the Capper-Volstead Act to the conduct of the cooperative.

"(2) The Commission shall not issue any such complaint unless—

"(A) it has considered any comments regarding such complaint which have been submitted by the Secretary of Agriculture under this subsection; and

"(B) it has reason to believe that the Capper-Volstead Act does not provide an exemption for the conduct which is the basis of such complaint.

"(3) If the Commission makes a modification to any such complaint after it has provided the Secretary of Agriculture with a copy of the complaint pursuant to (1)(A) of this subsection, the Commission shall not, with respect to such modification, be required to comply with the provisions of paragraphs (1) and (2) of this subsection unless such modification substantially expands the original basis for the issuance of the complaint.

"(4) The Secretary of Agriculture shall designate those officials and employees of the Department of Agriculture who may have access to documents or information received from the Commission under this subsection. Officials and employees of the Department of Agriculture shall be subject to the same requirements and penalties regarding confidentiality of such documents and information and disclosure of the existence of an investigation or consideration of a complaint as apply to officials and employees of the Commission.

"(5) Unless specifically authorized in writing by the Commission (or by any official or employee of the Commission designated by the Commission), no official or employee of the Department of Agriculture may request information relating to such complaint from any proposed respondent or any third party before the issuance of such complaint.

"(6) After any such complaint is issued, the Secretary of Agriculture may file with the Commission a written statement regarding the applicability of the Capper-Volstead Act to the action or method which is the basis of such complaint. The Commission shall include such statement in the record of the proceeding regarding such complaint.

"(7) No decision of the Commission to consult with the Secretary of Agriculture in accordance with the provisions of this subsection shall be construed to imply that the Commission has made a determination that it has reason to believe that any agricultural cooperative has violated or is violating any of the antitrust Acts or has used an unfair method of competition in or affecting commerce.

"(8) The provisions of this subsection shall not create any new basis for direct or collateral challenge to any complaint issued by the Commission.

"(d) The Commission shall not have any authority to conduct any study or investigation of any agricultural marketing orders.".

COMPENSATION IN PROCEEDINGS

SEC. 4. (a) Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)) is repealed, and subsections (i), (j), and (k) of section 18 are redesignated as subsections (h), (i), and (j), respectively.

(b) Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)) is amended by striking "subsection (i)" and inserting in lieu thereof "subsection (h)".

by making U.S. commodities relatively more expensive on world markets.

However, Boschwitz said recently that the interrelationship between cutting farm prices and reducing the deficit has not been well understood by others on the Agriculture Committee.

"Senators really aren't very entrepreneurial," said Boschwitz, who also suggested that his colleagues undervalue that ability of farmers to grasp the logic behind a market approach to agricultural policy. "I'm willing to take chances. I'm a gambler and I think most farmers are too. Give me an upside, I like that," he said.

Indeed, Boschwitz still draws lessons from the days when he founded his home improvement business, Plywood Minnesota. Struggling in the beginning, he recalls lowering his prices so much that he became an industry pariah.

That experience, he added, led him to an important realization: "When the price came down, there was a market for it."

William Lesher, an economist on the Agriculture Committee staff when Boschwitz arrived, remembered that Boschwitz was relatively ignorant about farming or agricultural policy issues then.

Said Lesher, who now is a consultant, "I think he has progressed remarkably well. He has worked harder than most to the point that now he has a better grasp of the issues than most on the committee. The way he did it was by asking questions."

Lesher also credited Boschwitz with "bringing a new dimension to the debate" by coauthoring with Sen. David Boren, D-Okla., a farm bill built around the addition of lowering U.S. farm prices while protecting farm income through transition payments, designed to phase out about the time exports would be expected to start booming.

For the time being, at least, Boschwitz has abandoned the transition payment idea, while continuing to insist on the dual principle of lowering farm prices and maintaining an interim income safety net.

Indeed, Boschwitz seems little fazed by occasional indications that others on the committee may have tired by now of his proselytizing.

During one contentious committee meeting, Sen. Edward Zorinsky of Nebraska, the panel's ranking Democrat, interrupted Boschwitz. "Let's vote," said Zorinsky.

Snapped Boschwitz, "I will continue, Senator. That's not for you to say, Let's vote.' "

THE RETIREMENT OF GEN. JOHN W. VESSEY, U.S.A., CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Mr. DURENBERGER. Mr. President, on the 30th of this month, a great American, a great patriot, and a great soldier will retire from active service. In 46 years in the Army, Jack Vessey has seen it all. From World War II, through the cold war, through Korea and Vietnam to the age bounded by nuclear deterrence and low intensity conflict. He has kept his vigil through thousands of national crises and contributed his wisdom to thousands of critical decisions. Warrior—statesman—leader. He is a soldier's soldier—a general's general—and a Minnesotan's Minnesotan. His career is the epitome of the standard, duty, honor, country.

General Vessey will receive a shower of well-deserved accolades in the coming weeks. To those I wish but to add the simplest—yet most powerful praise of one soldier to another, "well done." Steve Berg's piece in the Minneapolis Star and Tribune is an excellent tribute to this great man and I ask unanimous consent that the column be printed in the RECORD.

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

[From the Minneapolis Star and Tribune, Aug. 25, 1985]

NATION'S TOP SOLDIER PREPARES FOR ASSAULT ON WALLEYES

(By Steve Berg)

WASHINGTON, DC.—On the last day of September, Gen. John W. Vessey Jr. will cease to be the nation's most powerful soldier, closer perhaps to the president than any of his predecessors and, thus, closer to the nuclear button than any U.S. general in history.

He will become, instead, Jack Vessey of Crow Wing County, Minn., fisher for walleyes.

"I'm looking forward to getting back up there," Vessey said during a rare interview in his Pentagon office last week. He confessed a special affection for his native state and reflected on his three years as chairman of the Joint Chiefs of Staff and his 46 years in the Army.

Among his sentiments are sadness and regret over the deaths two years ago of 241 Americans in the bombing of a marine barracks in Lebanon, and acknowledgment that sending troops to the Beirut airport may have been a mistake, that the chiefs "knew that in advance."

Vessey, 63, is retiring more than eight months early. He had wanted to depart last June to keep a promise to his wife, Avis, who long has hoped for a retreat from official Washington to a full-time retirement at their lakeside home.

But the TWA hostage crisis intervened. Now, by the time the bags are unpacked, the leaves will have begun to change and the winds will be chilly off Little Whitefish Lake. Still there will be fish to catch and grass to cut and a future to ponder.

Vessey leaves Washington with high marks, even from some of the Pentagon's stiffest critics. He's viewed with "very high respect," said Rep. Les Aspin, D-Wis., one of Congress' top military experts.

But Vessey also departs in near anonymity. Few outside the military's top circle know his name or know the tale of his remarkable rise from private to four stars and beyond.

Few realize that he began the rise to the military's highest office with a commission on a bloody Italian beach, not on the parade ground at West Point. Few recall that Vessey fibbed about his age to enlist at 16, and has been in the Army longer than anyone now serving. Or that he will be the last chairman to have fought in World War II.

Few know about the dark morning in South Vietnam when Vessey rallied a demoralized battalion, one that responded to his personal demonstration of bravery by repelling—at some points hand-to-hand—a massive surprise attack, killing 423 enemy soldiers.

"He's been dirty and bloody . . . and he's worked his way up," said Lt. Col. Tony Palermo, a Marine and former aide who finds it hard to disguise his loyalty. "There won't be anymore like him."

Vessey never has flaunted his storybook career. Rather, he has sought to hide it, to seek shelter from any hint of celebrity.

Despite his closeness to President Reagan, Vessey has resolutely avoided partisan politics. His speeches nearly always to friendly audiences, make few headlines. His testimony to Congress has been bland. He has granted few interviews to the press and, even then, has added little meat to the bones of his spare but intriguing one-page Pentagon biography.

"I don't think the American people, particularly in peacetime, want to see their generals splashed around on the front page," he said, smiling broadly, his uniform shirt open at the collar, his blue eyes darting toward the portrait of Gen. Omar Bradley, the "GI's general," that hangs near his desk.

Friends say that Vessey, too, likes to consider himself a soldier's soldier. "He's the most honest, real, down-to-earth person I've ever met," said Gen. Charles Gabriel, the Air Force chief of staff. "That's one of the beauties of Jack Vessey. From the time he was a sergeant, I'm sure he has been the same Jack."

Another friend compared Vessey's classic Minnesota stoicism and subtle humor to that of Bud Grant, the Vikings football coach. "He's like Bud, only with a better team."

Although entitled to wear nine rows of ribbons, including the Distinguished Service Cross, the military's second-highest award, Vessey often wears only one. Once, when a kid asked where he got his medals, Vessey replied, "In a Crackerjack box."

Vessey described his attitude with a chuckle: "If by the time we leave, we've built our defensive wall a little higher and stronger, then we will have done our thing, and we should just do it and shut up."

Vessey has needed his humor and his cool attitude over the past few years and, associates say, has displayed them at tense moments. There have been many.

He oversaw a massive infusion of money aimed at restoring muscle and pride to the military. He fought for the MX missile and "Star Wars." He insisted that the Pentagon, not the White House, direct the Grenada invasion. Despite criticism that the operation lacked coordination, he is gratified, given the haste of the venture.

During Vessey's tenure, terrorists bombed U.S. troops in Lebanon and West Germany. The Soviets shot down a Korean airliner and killed a U.S. Army observer in East Germany. Spies were discovered in the Navy. The Pentagon was found to be paying hundreds of dollars for toilet seats and ashtrays, which, in turn, exposed wider scandals involving wasteful and fraudulent defense contracts. Critics grumbled about Vessey's cautiousness and lack of innovation.

Vessey appears stoic about all that. "We don't learn new lessons," he said. "We relearn old lessons that we haven't paid attention to."

His head bows and his voice quiets when he is questioned further about Lebanon. It was the low point of his tenure.

Most often it's a mistake to use superpower troops as part of a peacekeeping force, he said. "As a general rule, we knew that in advance . . . and this is not the first time that lesson has been learned."

But the administration had "great expectations" for peace in Lebanon, he said. And

the Marines represented an investment, a deposit of "earnest" in hopes of fostering confidence within the Lebanese army and government.

In the end, however, "We had a peacekeeping force where there was no peace . . . and we were caught in the middle of it," he said.

Did he advise Reagan against sending U.S. troops? He won't say. It wouldn't be professional to disclose his private advice. Highly placed associates, however, confirmed that Vessey advised against the Lebanon venture.

Indeed, much of his counsel has been for restraint. Often during the Reagan years, traditional roles have been reversed, military advisers arguing for caution against more adventuresome views from civilians on the right.

Vessey and the chiefs, for example, also argued against scrapping the SALT II treaty, or expanding the U.S. role in Central America beyond maneuvers or against any imprudent deployment of U.S. forces in the Persian Gulf.

"I am absolutely, unalterably opposed to risking American lives for some phony sort of military and political objectives that we don't understand," he said two years ago.

Vessey was born June 29, 1922. His mother, Katherine Roche, came from an old Irish family in St. Paul. His father, Jack, was of English and Scottish stock, and worked as an agent for the Minneapolis, Northfield and Southern railway.

Young Jack, as he was called, was the first of seven children. The family lived in Lakeville until he was 13, then moved into a two-story stucco house on Weenonah Place, a small, tidy street just off 50th St. and 34th Av. in south Minneapolis.

"It was the nicest little street in the country," said Vessey's mother, 83, who since has moved into a retirement home not far away. "It was only one long block, and so quiet. The kids played ball in the street. It was just like the kids were growing up in a small town."

Friends remember Vessey as a Tom Sawyer figure—entertaining younger kids by pretending to swallow goldfish, holding the rope while older boys hoisted a cow onto the roof of the Lakeville school, playing "America" on the harmonica while standing on his head.

A few at Roosevelt High School thought Jack Vessey had "too much vinegar." But he was popular and had a serious side, too. "He didn't waste time hanging around street corners," recalled Howard Olson, a longtime friend. "Most of the time he was a no-nonsense guy."

He worked on the yearbook and in student government, was captain of the swim team and manager of the stage crew. He took keen interest in Boy Scouts and in the activities at nearby Lake Nokomis Lutheran Church. His mother recalls giving up serving Sunday night dinner to her family because the house was mobbed with teen-agers stopping over on the way to church youth meetings.

He also took a keen interest in Avis Funk, a striking blond girl with a bent toward art. He would correspond with her throughout the coming war and marry her afterward.

Vessey adored his father. They shared the same dead-pan humor and repeated the same corny jokes nearly every night at dinner. By the late 1930s, however, his father's health began to fail. His kidneys had not been right since the damp and muddy trenches of France in World War I. He was developing diabetes.

Together, they took a car trip to Oregon, along the way sharing what fathers and sons share. The father showed his boy the Army post where he had signed up to become a Doughboy in 1917.

He thought it was fine that Young Jack had joined the Minnesota National Guard, despite lying about his age. No one quite knows what motivated Young Jack to sign up, although one could envision him in 1939, a kid off the Wheaties box, hair slicked down, a giant gold R on his maroon letter sweater, sipping a chocalate malted at the Nickle Nook and telling his buddies, "Gosh, wouldn't it be swell to give those Nazis what they deserve?"

Eventually, on a cold February morning in 1941, Vessey marched off to prepare for war. He was home on leave when Pearl Harbor was attacked, and had to depart again, quickly.

"We were all out in the front yard saying goodbye," said his sister, Pat Vessey. "I looked around and my Dad was missing. I went into the house and he was sitting in a chair, tears rolling down his face. I'd never seen him cry before. He told my Mom, 'I'll never see that boy again.' "

He died as Young Jack headed toward the fighting in North Africa. The 34th Division, made up largely of Minnesota and Iowa boys, helped push the retreating Germans out of the desert and into Italy.

By the time their "Red Bull" division reached the beaches at Anzio, just south of Rome, Vessey had risen to first sergeant. "He was fair and firm and always stood up for his men," recalled Jim Gregg, mess sergeant in Vessey's artillery outfit.

"Once he came and told us that the captain was worried that the men would climb out of the foxholes and start running when the shelling got bad again. He said we should stay in our foxholes, but if anyone looked nervous, he could get them sent farther back. Then he said to me, 'If anybody says we're not *all* scared, he's a damn liar.' "

Days later, the Germans launched a counterattack. Hitler instructed his generals that "The men will fight with a solemn hatred . . . The battle must be hard and without pity (and Anzio) will drown in the blood of the Anglo-Saxon soldiers."

Bodies piled up. The U.S. 5th Army suffered 70,000 casualties in the first four months of 1944. Vessey's mother received word that "Of the 14 or 18 men closest to Jack, only six were left."

Suffering attrition, the Army commissioned Vessey a lieutenant and sent him to the front lines to direct artillery fire. An Army doctor sent Vessey's mother a photo. Jack was dancing a jig. "Later," she said, "I asked the doctor if that's how Jack got his commission, and he got real upset. He said Jack was just so happy after what he had been through."

After the war, Vessey considered entering the seminary. He remains a devout Lutheran, reading the Bible daily and occasionally attending Bible study sessions in the Pentagon.

He admits that it's a struggle to reconcile his religious beliefs and his job. Killing and starting wars are probably immoral, he has said, but there's probably no immorality in hoping to deter war by preparing for it.

Indeed, he has championed Reagan's military buildup.

As for assigning a special immorality to nuclear weapons, Vessey says that nations cannot uninvent them. "God invented golf to teach us something about life," he has said. "The ball is where it lies."

One of his toughest moments as a soldier came on an early March morning in 1967, when he rallied his battalion against an attack by 2,000 enemy troops against his force of 300 in Vietnam. Despite his wounds, he assisted as a cannoneer as the six-hour battle raged, lowering the barrels of the howitzers and firing point blank into the onrushing attackers, sometimes as they clung to the guns.

Vessey, of course, doesn't talk of the incident. Even close friends and relatives never have heard the details. According to Army records, Vessey finally spotted a group of enemy rocket launchers that were inflicting severe damage. "He seized a grenade launcher, moved into an open area and knocked out three of the insurgents' weapons," the citation states.

"He told me that that was the first time he thought it was time to get out of the Army," his mother recalled. "It was probably his closet call."

Ten years after the war's end, Vessey concedes mixed feelings over Vietnam. Those who consider the war a tragic misadventure might be "a little bit right," he said. But so might those who believe that politicians kept the U.S. from a victory that could have—and should have—been won.

He told of a recent trip to Thailand, knowing he would meet some of the Thai troops that fought with him in the futile battle for Laos. "I went there with a little fear and trepidation," he said. "One of the ones I saw was a lieutenant. I remembered when he lost his leg. He came out on his peg leg and greeted me and put his arms around me and talked about the war in Laos, 'Laos was Communist now (he told me), but I wasn't fighting for Laos, I was fighting for Thailand.'

'So, it wasn't all a failure," Vessey said, "it wasn't all in vain."

He has risen through the ranks by blending his experience as a mud soldier with his obvious savvy for command and his subtle talent for military politics. He became a lieutenant colonel without a college degree, then got a diploma from the University of Maryland when he was 41 and a master's from George Washington University at 45. He was 49 when he decided to become a helicopter pilot.

He's 5-9 and a trim 160 pounds. He runs nearly every morning, plays a solid game of handball despite two game knees, has a passion for golf and talks expertly about the migration of walleyes between Mille Lacs and Little Whitefish.

He learned to speak and write Korean when he commanded U.S. forces in South Korea in the 1970s and retains a keen interest in Korea. When President Carter proposed to remove U.S. troops from South Korea in 1977, Vessey warned that war could result. One of his deputies used harsher words. Carter fired him, but eventually changed his mind on pulling out the troops.

Vessey's career suffered its first real setback in 1979. Carter passed him over, selecting one of Vessey's former deputies as Army chief of staff. The military establishment was stunned. But the young officer, Gen. Edward Meyer, named Vessey as his assistant, and Vessey got his first taste of high level Pentagon duty.

By 1982, his lake home was finished and he and Avis were eager to retire. But Defense Secretary Caspar Weinberger met him as he returned from a trip to South America, telling him that the president wanted to see him right away. Vessey wondered what had gone wrong in South America. He was

manner and to the same extent as in the case of any other rule of that House.

"(i) Except as provided in subsection (1) of this section, joint resolutions shall, upon introduction or receipt from the other House of Congress, be immediately referred by the presiding officer of the Senate or the House of Representatives to the appropriate committee of the Senate or the House of Representatives, as the case may be.

"(j)(1)(A) Except as provided in subparagraph (B) of this paragraph if the committee to which a joint resolution has been referred does not report such resolution within thirty days of continuous session of Congress after the date of transmittal to the Congress of the recommended rule to which such joint resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution.

"(B) If the committee to which a joint resolution transmitted from the other House has been referred does not report such resolution within thirty days after the date of transmittal of such resolution from the other House, it shall be in order to move to discharge such committee from further consideration of such resolution.

"(2) Any motion to discharge under paragraph (1) of this subsection must be supported in the House in writing by one-fifth of the Members, duly chosen and sworn, and in the Senate by motion of the majority leader supported by the minority leader, and is highly privileged in the House and privileged in the Senate (except that it may not be made after a joint resolution has been reported with respect to the same rule); and debate thereon shall be limited to not more than one hour, the time to be divided in the House of Representatives equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader, or their designees.

"(k)(1) Except as provided in paragraphs (2) and (3) of this subsection, consideration of a joint resolution shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(2) When a committee has reported or has been discharged from further consideration of a joint resolution, or when the companion joint resolution from the other House has been placed on the calendar of the first House, it shall be in order, notwithstanding any rule of the Standing Rules of the Senate (except rule XXII) or any rule of the House of Representatives, at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of either such joint resolution. The motion is highly privileged in the House and privileged in the Senate and is not debatable.

"(3) Debate on a joint resolution shall be limited to not more than ten hours (except that when one House has debated the joint resolution of that House, the companion joint resolution of the other House shall not be debatable), which shall be divided in the House of Representatives equally between those favoring and those opposing the resolution and which shall be divided in the Senate equally between, and controlled by, the majority leader and the minority leader, or their designees. An amendment to, or motion to recommit, the joint resolution is not in order. Any other motions shall be decided without debate, except that no motion to proceed to the consideration of any other matter shall be in order.

"(l) If a joint resolution has been reported or discharged from the committee of the House to which it was referred, and that House receives a joint resolution with respect to the same rule from the other House, the resolution of disapproval of the other House shall be placed on the appropriate calendar of the first House. If, prior to the disposition of a joint resolution of one House, that House receives a joint resolution with respect to the same rule from the other House, the vote in the first House shall occur on the joint resolution of the other House.".

(b) Section 36 of the Consumer Product Safety Act (15 U.S.C. 2083) is amended to read as follows:

"CONGRESSIONAL REVIEW OF RULES

"SEC. 36. (a) For purposes of this section, the term—

"(1) 'appropriate committee' means either the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Energy and Commerce of the House of Representatives, as the case may be;

"(2) 'joint resolution' means a joint resolution which does not contain a preamble and the matter after the resolving clause of which is as follows: 'That the Senate and the House of Representatives disapprove the rule entitled , transmitted to the Congress by the Federal Trade Commission on , 19 .', the blank spaces being filled with the appropriate title of the rule and the date of transmittal of the rule to the Congress, respectively; and

"(3) 'rule' means any rule promulgated by the Commission pursuant to this Act, other than any rule promulgated under section 18(a)(1)(A) of this Act and any interpretive or procedural rule.

"(b)(1) Except as provided in subsection (g)(1) of this section, on the day the Commission forwards to the Federal Register for publication a recommended rule, the Commission shall transmit a copy of such rule to the Secretary of the Senate and the Clerk of the House of Representatives. The Secretary of the Senate and the Clerk of the House of Representatives are authorized to receive a recommended rule under this subsection whether the appropriate House is in session, stands in adjournment or is in recess.

"(2) On the day on which the Secretary of the Senate and the Clerk of the House of Representatives receive a recommended rule, the Secretary and the Clerk shall transmit a copy of such rule to the appropriate committees.

"(c)(1) Notwithstanding any other provision of law, no recommended rule may become effective until the expiration of a period of ninety days after the date on which such rule is received by the Secretary of the Senate and the Clerk of the House of Representatives, except that such rule may not become effective under this paragraph if within such ninety-day period a joint resolution with respect to such rule has become law.

"(2) For purposes of this subsection—

"(A) the term 'days' means only days of continuous session of Congress;

"(B) continuity of session is broken only by an adjournment sine die at the end of a Congress; and

"(C) the days on which either House is not in session because of an adjournment or recess to a day certain shall be excluded in the computation of days of continuous session of Congress for the ninety-day period referred to in this subsection if the adjournment is for more than five days.

"(d) Notwithstanding any other provision of law, any rule subject to this section shall be considered a recommendation of the Commission to the Congress and shall have no force and effect as a rule unless such rule has become effective in accordance with this section.

"(e) Whenever an appropriate committee reports a joint resolution pursuant to this section, the resolution shall be accompanied by a committee report specifying the reasons for the committee's action.

"(f) Congressional inaction on, or rejection of, any joint resolution shall not be deemed an expression of approval of the rule involved. The compliance of the Commission with the requirements of this section, including any determination by the Commission under this section, shall not be subject to judicial review of any kind.

"(g)(1) If a recommended rule of the Commission does not become effective because of an adjournment of Congress sine die before the expiration of the period specified in subsection (c)(1) of this section, the Commission may resubmit the recommended rule at the beginning of the next regular session of Congress. The ninety-day period specified in the first sentence of section (c)(1) shall begin on the date of such resubmission, and such rule may only become effective in accordance with this section. The Commission shall not be required to forward such rule to the Federal Register for publication, if such rule is identical to the rule transmitted during the previous session of Congress.

"(2) If a recommended rule of the Commission is disapproved under this section, the Commission may issue a recommended rule which relates to the same acts or practices as the disapproved rule. Such recommended rule—

"(A) shall be based upon—

"(i) the rulemaking record of the recommended rule disapproved by the Congress; or

"(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Commission, in accordance with section 553 of title 5, United States Code, in any case in which the Commission determines that it is necessary to supplement the existing rulemaking record; and

"(B) may reflect such changes as the Commission considers necessary or appropriate, including such changes as may be appropriate in light of congressional debate and consideration of the joint resolution with respect to the rule.

"(3) After issuing a recommended rule under this subsection, the Commission shall transmit such rule to the Secretary of the Senate and the Clerk of the House of Representatives, in accordance with subsection (b)(1) of this section, and such rule shall only become effective in accordance with this section.

"(h) The provisions of this subsection, subsection (a) (1) and (2), subsection (e), and subsections (i) through (l) of this section are enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of joint resolutions, and they supersede other rules only

to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(i) Except as provided in subsection (l) of this section, joint resolutions shall, upon introduction or receipt from the other House of Congress, be immediately referred by the presiding officer of the Senate or the House of Representatives to the appropriate committee of the Senate or the House of Representatives, as the case may be.

"(j)(1)(A) Except as provided in subparagraph (B) of this paragraph, if the committee to which a joint resolution has been referred does not report such resolution within thirty days of continuous session of Congress after the date of transmittal to the Congress of the recommended rule to which such joint resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution.

"(B) If the committee to which a joint resolution transmitted from the other House has been referred does not report such resolution within thirty days after the date of transmittal of such resolution from the other House, it shall be in order to move to discharge such committee from further consideration of such resolution.

"(2) Any motion to discharge under paragraph (1) of this subsection must be supported in the House in writing by one-fifth of the Members, duly chosen and sworn, and in the Senate by motion of the majority leader supported by the minority leader, and is highly privileged in the House and privileged in the Senate (except that it may not be made after a joint resolution has been reported with respect to the same rule); and debate thereon shall be limited to not more than one hour, the time to be divided in the House of Representatives equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader, or their designees.

"(k)(1) Except as provided in paragraphs (2) and (3) of this subsection, consideration of a joint resolution shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(2) when a committee has reported or has been discharged from further consideration of a joint resolution, or when the companion joint resolution from the other House has been placed on the calendar of the first House, it shall be in order, notwithstanding any rule of the Standing Rules of the Senate (except rule XXII) or any rule of the House of Representatives, at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of either such joint resolution. The motion is highly privileged in the House and privileged in the Senate and is not debatable.

"(3) Debate on a joint resolution shall be limited to not more than ten hours (except that when one House has debated the joint resolution of that House, the companion joint resolution of the other House shall not be debatable), which shall be divided in the House of Representatives equally between those favoring and those opposing the resolution and which shall be divided in the Senate equally between, and controlled by, the majority leader and the minority leader, or their designees. An amendment to, or motion to recommit, the joint resolution is not in order. Any other motions shall be decided without debate, except that no motion to proceed to the consideration of any other matter shall be in order.

(l) If a joint resolution has been reported or discharged from the committee of the House to which it was referred, and that House receives a joint resolution with respect to the same rule from the other House, the resolution of disapproval of the other House shall be placed on the appropriate calendar of the first House. If, prior to the disposition of a joint resolution of one House, that House receives a joint resolution with respect to the same rule from the other House, the vote in the first House shall occur on the joint resolution of the other House.".

(c) Section 17 of the Flammable Fabrics Act (15 U.S.C. 1204) is amended to read as follows:

"CONGRESSIONAL REVIEW OF RULES

"SEC. 17. (a) For purposes of this section, the term—

"(1) 'appropriate committee' means either the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Energy and Commerce of the House of Representatives, as the case may be;

"(2) 'joint resolution' means a joint resolution which does not contain a preamble and the matter after the resolving clause of which is as follows: 'That the Senate and the House of Representatives disapprove the regulation entitled , transmitted to the Congress by the Federal Trade Commission on , 19 .', the blank spaces being filled with the appropriate title of the regulation and the date of transmittal of the regulation to the Congress, respectively; and

"(3) 'regulation' means any regulation promulgated by the Commission pursuant to this Act, other than any regulation promulgated under section 18(a)(1)(A) of this Act and any interpretive or procedural regulation.

"(b)(1) Except as provided in subsection (g)(1) of this section, on the day the Commission forwards to the Federal Register for publication a recommended regulation, the Commission shall transmit a copy of such regulation to the Secretary of the Senate and the Clerk of the House of Representatives. The Secretary of the Senate and the Clerk of the House of Representatives are authorized to receive a recommended regulation under this subsection whether the appropriate House is in session, stands in adjournment or is in recess.

"(2) On the day on which the Secretary of the Senate and the Clerk of the House of Representatives receive a recommended regulation, the Secretary of the Clerk shall transmit a copy of such regulation to the appropriate committees.

"(c)(1) Notwithstanding any other provision of law, no recommended regulation may become effective until the expiration of a period of ninety days after the date on which such regulation is received by the Secretary of the Senate and the Clerk of the House of Representatives, except that such regulation may not become effective under this paragraph if within such ninety-day period a joint resolution with respect to such regulation has become law.

"(2) For purposes of this subsection—

"(A) the term 'days' means only days of continuous session of Congress;

"(B) continuity of session is broken only an an adjournment sine die at the end of a Congress; and

"(C) the days on which either House is not in session because of an adjournment or recess to a day certain shall be excluded in the computation of days of continuous session of Congress for the ninety-day period referred to in this subsection if the adjournment is for more than five days.

"(d) Notwithstanding any other provision of law, any regulation subject to this section shall be considered a recommendation of the Commission to the Congress and shall have no force and effect as a regulation unless such regulation has become effective in accordance with this section.

"(e) Whenever an appropriate committee reports a joint resolution pursuant to this section, the resolution shall be accompanied by a committee report specifying the reasons for the committee's action.

"(f) Congressional inaction on, or rejection of, any joint resolution shall not be deemed an expression of approval of the regulation involved. The compliance of the Commission with the requirements of this section, including any determination by the Commission under this section, shall not be subject to judicial review of any kind.

"(g)(1) If a recommended regulation of the Commission does not become effective because of an adjournment of Congress sine die before the expiration of the period specified in subsection (c)(1) of this section, the Commission may resubmit the recommended regulation at the beginning of the next regular session of Congress. The ninety-day period specified in the first sentence of section (c)(1) shall begin on the date of such resubmission, and such regulation may only become effective in accordance with this section. The Commission shall not be required to forward such regulation to the Federal Register for publication, if such regulation is identical to the regulation transmitted during the previous session of Congress.

"(2) If a recommended regulation of the Commission is disapproved under this section, the Commission may issue a recommended regulation which relates to the same acts or practices as the disapproved regulation. Such recommended regulation—

"(A) shall be based upon—

"(i) the regulation-making record of the recommended regulation disapproved by the Congress; or

"(ii) such regulation-making record and the record established in supplemental regulation-making proceedings conducted by the Commission, in accordance with section 553 of title 5, United States Code, in any case in which the Commission determines that it is necessary to supplement the existing regulation-making record; and

"(B) may reflect such changes as the Commission considers necessary or appropriate, including such changes as may be appropriate in light of congressional debate and consideration of the joint resolution with respect to the regulation.

"(3) After issuing a recommended regulation under this subsection, the Commission shall transmit such regulation to the Secretary of the Senate and the Clerk of the House of Representatives, in accordance with subsection (b)(1) of this section, and such regulation shall only become effective in accordance with this section.

"(h) The provisions of this subsection, subsection (a) (1) and (2), subsection (e), and subsections (i) through (l) of this section are enacted by Congress—

each hazardous substance for the calendar year immediately preceding the submission of the Hazardous Substances Inventory form:

"(i) the stack or point-source emissions;

"(ii) the estimated fugitive or non point-source emissions of the hazardous substances;

"(iii) the discharge into the surface water or groundwater, the treatment methods, and the raw wastewater volumes and loadings; and

"(iv) the discharge into publicly-owned treatment works;

"(D) the quantity and methods of disposal of any wastes containing the hazardous substance, the method of onsite storage of such wastes, the location or locations of the final disposal site of such wastes, and the identity of the transporter of such wastes;

"(E) the month and year that the information on the Hazardous Substances Inventory was compiled and the name, address, and emergency telephone number of the person responsible for preparing the information.

For the purposes of this paragraph, facility owners and operators may utilize readily available data collected pursuant to other State and Federal environmental laws.

"(4) Each person who submits a form pursuant to the requirements of this subsection shall attach thereto a copy of the Material Safety Data Sheet, required pursuant to the Occupational Safety and Health Act, pertaining to the hazardous substance that is reported in the form.

"(5) The Hazardous Substances Inventory shall be distributed by the facility owner or operator to, at a minimum, the President; State and local emergency and medical response personnel; the State police, health and environmental departments; area police and fire departments; area emergency medical services; area hospitals; and area libraries.

"(6) The President, for the purposes of this subsection, shall establish a toll-free telephone number, operating twenty-four hours per day, that is computer accessible, to respond to telephone inquiries concerning the Hazardous Substances Inventory and the information contained therein. Within sixty days of establishment of such a telephone line, the President shall inform appropriate State and local officials.

"(7)(A) The President may verify the data contained in the Hazardous Substances Inventory form using the authority of section 104(e) of this Act.

"(B) Information submitted under this subsection shall be treated as information submitted under section 104(e) and shall be subject to the provisions of section 104(e)(2).

"(8) Any person who knowingly omits material information or makes any false material statement or representation in the Hazardous Substances Inventory, shall, upon conviction, be fined not more than $25,000 or imprisoned for not more than one year, or both.

"(9) Nothing in this subsection shall be construed to limit the ability of any State to require submission of information related to hazardous substances, or to require additional distribution of the Hazardous Substances Inventory form from facilities operating within its borders.

"(i)(1) Every two years after the date of enactment of the Superfund Improvement Act of 1985, the National Toxicology Program, in consultation with appropriate Federal agencies, shall review new and existing chemicals and compile a list of substances to supplement those referred to in subsection (h), taking into account, at a minimum, the reactivity, toxicity, volatility, carcinogenicity, mutagenicity, teratogenicity, neurotoxicity, and production levels of the chemical.

"(2) Within one hundred and eighty days after publication of the list compiled by the National Toxicology Program, the President shall promulgate such list of substances as those requiring preparation and distribution of the Hazardous Substances Inventory under this Act, unless the President demonstrates that a particular hazardous substance does not present a risk equal to or greater than those substances referred to in subsection (h)(1). In the event that the President decides not to list a hazardous substance, the President shall, with opportunity for public notice and comment, state the basis on which the hazardous substance was not considered to present a risk sufficient to warrant preparation and distribution of the Hazardous Substances Inventory.".

SCOPE OF PROGRAM

SEC. 107. (a) Section 104(a)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking that language between the word "environment" the third time it appears and the period and inserting in lieu thereof a period and the following: "The President shall give primary attention to those releases which may present a public health threat. The President may authorize the owner or operator of the vessel or facility from which the release or threat of release emanates, or any other responsible party, to perform the removal or remedial action if the President determines that such action will be done properly by the owner, operator, or responsible party".

(b) Section 104(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraphs:

"(3) The President shall not provide for a removal or remedial action under this section in response to a release or threat of release—

"(A) of a naturally occurring substance in its unaltered form, or altered solely through naturally occurring processes or phenomena, from a location where it is naturally found;

"(B) from products which are part of the structure of, and result in exposure within, a facility; or

"(C) into public or private drinking water supplies due to deterioration of the system through ordinary use.

"(4) Notwithstanding paragraph (3) of this subsection, to the extent authorized by this section the President may respond to any release or threat of release if in the President's discretion it constitutes a public health or environmental emergency and no other person with the authority and capability to respond to the emergency will do so in a timely manner.".

STATUTORY LIMITS ON REMOVALS

SEC. 108. Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "six months" and inserting "one year" in lieu thereof and inserting before "obligations" the following: "or (C) continued response action is otherwise appropriate and consistent with permanent remedy,".

STATE CREDIT

SEC. 109. (a) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "The President shall grant the State a credit against the share" and all that follows down through the end of such section 104(c)(3) and inserting in lieu thereof the following: "In determining the portion of the costs referred to in this section which is required to be paid by a participating State, the President shall grant the State a credit for amounts expended or obligated by such State or by a political subdivision thereof after January 1, 1978, and before December 11, 1980, for any response action costs which are covered by section 111(a) (1) or (2) and which are incurred at a facility or release listed pursuant to section 105(8). Such credit shall have the effect of reducing the amount which the State would otherwise be required to pay in connection with assistance under this section.".

(b)(1) Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new sentence: "For the purposes of the last sentence of subsection (c)(3) of this section, the President may enter into a contract or cooperative agreement with a State under this paragraph under which such State will take response actions in connection with releases listed pursuant to section 105(8)(B), using non-Federal funds for such response actions, in advance of and without any obligation by the President of amounts from the Fund for such response actions.".

(2) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended by adding the following sentence: "The President shall grant the State a credit against the share of costs for which it is responsible under this paragraph for any reasonable, documented, direct out-of-pocket non-Federal funds expended or obligated by the State under a contract or cooperative agreement under the last sentence of subsection (d)(1).".

FUNDING OF REMEDIAL ACTION AT FACILITY OPERATED BY A STATE OR POLITICAL SUBDIVISION

SEC. 110. Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by amending section 104(c)(3)(C)(ii) to read as follows:

"(ii) 50 per centum (or such greater amount as the President may determine appropriate, taking into account the degree of responsibility of the State or political subdivision for the release) of any sums expended in response to a release at a facility, that was operated by the State or a political subdivision thereof, either directly or through a contractual relationship or otherwise, at the time of any disposal of hazardous substances therein. For the purpose of subparagraph (C)(ii) of this paragraph, the term 'facility' does not include navigable waters or the beds underlying those waters."; and

(2) by adding at the end thereof the following: "In the case of any State which has paid, at any time after the date of the enactment of the Superfund Improvement Act of 1985, in excess of 10 per centum of the costs of remedial action at a facility owned but not operated by such State or by a political subdivision thereof, the President shall use money in the Fund to provide reimbursement to such State for the amount of such excess.".

SELECTION OF REMEDIAL ACTIONS

SEC. 111. Section 104(c)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(4)(A) The President shall select appropriate remedial actions determined to be necessary to carry out this section which, to the extent practicable, are in accordance with the national contingency plan and which provide for cost-effective response. In evaluating the cost-effectiveness of proposed alternative remedial actions, the President shall take into account the total short- and long-term costs of such actions, including the costs of operation and maintenance for the entire period during which such activities will be required.

"(B) Remedial actions in which treatment which significantly reduces the volume, toxicity or mobility of the hazardous substances is a principal element, are to be preferred over remedial actions not involving such treatment. The offsite transport and disposal of hazardous substances or contaminated materials without such treatment should be the least favored alternative remedial action, where practicable treatment technologies are available.

"(C) Remedial actions selected under this paragraph or otherwise required or agreed to by the President under this Act shall attain a degree of cleanup of hazardous substances, pollutants, and contaminants from the environment and of control of further release at a minimum which assures protection of human health and the environment. Such remedial actions shall be relevant and appropriate under the circumstances presented by the release or threatened release of such substance, pollutant, or contaminant.

"(D) No permit shall be required under subtitle C of the Solid Waste Disposal Act, section 402 or 404 of the Clean Water Act, or section 10 of the Rivers and Harbors Act of 1899, for the portion of any removal or remedial action conducted pursuant to this Act entirely onsite: Provided, That any onsite treatment, storage, or disposal of hazardous substances, pollutants, or contaminants shall comply with the requirements of subparagraph (C).

"(E) Subject to the requirements of this paragraph, the President shall select the appropriate remedial action which provides a balance between the need for protection of public health and welfare and the environment at the facility under consideration, and the availability of amounts from the Fund to respond to other sites which present or may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of such threats.".

STATE AND FEDERAL CONTRIBUTIONS TO OPERATION AND MAINTENANCE

SEC. 112. Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraphs:

"(5) For the purposes of paragraph (3) of this subsection, in the case of ground or surface water contamination, completed remedial action includes the completion of treatment or other measures, whether taken onsite or offsite, necessary to restore ground and surface water quality to a level that assures protection of human health and the environment. With respect to such measures, the operation of such measures for a period up to five years after the construction or installation and commencement of operation shall be considered remedial action. Activities required to maintain the effectiveness of such measures following such period or the completion of remedial action, whichever is earlier, shall be considered operation or maintenance.

"(6) During any period after the availability of funds received by the Trust Fund under sections 4611 and 4661 of the Internal Revenue Code of 1954 or section 221(b)(2) or section 303(b) of this Act, the Federal share of the payment of costs for operation and maintenance pursuant to paragraph (3)(C)(i) or paragraph (5) of this subsection shall be from funds received by the Trust Fund under section 221(b)(1)(B).".

SITING OF HAZARDOUS WASTE FACILITIES

SEC. 113. Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraph:

"(7) Effective three years after the date of enactment of the Superfund Improvement Act of 1985, the President shall not provide any remedial actions pursuant to this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the President providing assurances deemed adequate by the President that the State will assure the availability of hazardous waste treatment or disposal facilities acceptable to the President and in compliance with the requirements of subtitle C of the Solid Waste Disposal Act with adequate capacity for the destruction, treatment, or secure disposition of all hazardous wastes that are reasonably expected to be generated within the State during the twenty-year period following the date of such contract or cooperative agreement and to be disposed of, treated, or destroyed.".

COOPERATIVE AGREEMENTS

SEC. 114. Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking all of the existing paragraph (other than that added by this Act) and substituting the following:

"(d)(1) Where the President determines that a State or political subdivision has the capability to carry out any or all of the actions authorized in this section, the President may, in the discretion of the President and subject to such terms as the President may prescribe, enter into a contract or cooperative agreement and combine any existing cooperative agreements with such State or political subdivision (which may cover a specific facility or facilities) to take such actions in accordance with criteria and priorities established pursuant to section 105(8) of this title and to be reimbursed from the Fund for the reasonable response costs and related activities associated with the overall implementation, coordination, enforcement, training, community relations, site inventory and assessment efforts, and administration of remedial activities authorized by this Act. Any contract made hereunder shall be subject to the cost-sharing provisions of subsection (c) of this section.".

ACCESS AND INFORMATION GATHERING

SEC. 115. Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by striking "(2)" and inserting "(5)" in lieu thereof and by striking all of existing paragraph (1) and inserting in lieu thereof the following:

"(1) For the purposes of determining the need for response, or choosing or taking any response action under this title, or otherwise enforcing the provisions of this title, any officer, employee, or representative of the President, duly designated by the President, or any duly designated officer, employee, or representative of a State, is authorized where there is a reasonable basis to believe there may be a release or threat of release of a hazardous substance—

"(A) to require any person who has or may have information relevant to (i) the identification or nature of materials generated, treated, stored, transported to, or disposed of at a facility, or (ii) the nature or extent of a release or threatened release of a hazardous substance at or from a facility, to furnish, upon reasonable notice, information or documents relating to such matters. In addition, upon reasonable notice, such person either shall grant to appropriate representatives access at all reasonable times to inspect all documents or records relating to such matters or shall copy and furnish to the representatives all such documents or records, at the option of such person;

"(B) to enter at reasonable times any establishment or other place or property (i) where hazardous substances are, may be, or have been generated, stored, treated, disposed of, or transported from, (ii) from which or to which hazardous substances have been or may have been released, (iii) where such release is or may be threatened, or (iv) where entry is needed to determine the need for response or the appropriate response or to effectuate a response action under this title; and

"(C) to inspect and obtain samples from such establishment or other place or property or location of any suspected hazardous substance and to inspect and obtain samples of any containers or labeling for suspected hazardous substances. Each such inspection shall be completed with reasonable promptness. If the officer, employee, or representative obtains any samples, prior to leaving the premises, he shall give to the owner, operator, tenant, or other person in charge of the place from which the samples were obtained a receipt describing the sample obtained and, if requested, a portion of each such sample. If any analysis is made of such samples, a copy of the results of the analysis shall be furnished promptly to the owner, operator, tenant, or other person in charge, if such person can be located.

"(2)(A) If consent is not granted regarding a request made by a duly designated officer, employee, or representative under paragraph (1), the President, upon such notice and an opportunity for consultation as is reasonably appropriate under the circumstances, may issue an order to such person directing compliance with the request, and the President may ask the Attorney General to commence a civil action to compel compliance.

"(B) In any civil action brought to obtain compliance with the order, the court shall, where there is a reasonable basis to believe there may be a release or threat of a release of a hazardous substance: (i) in the case of interference with entry or inspection, enjoin such interference or direct compliance with orders to prohibit interference with entry or inspection, unless under the circumstances of the case the demand for entry or inspection is arbitrary and capricious, an abuse of discretion, or not in accordance with law; and (ii) in the case of information or document requests, enjoin interference with such information or document requests or direct compliance with orders to provide such information or documents, unless under the circumstances of the case the demand for information or documents is arbitrary and capricious, an abuse of discretion, or not in accordance with law. The court may assess a civil penalty not to exceed $10,000 against any person who unreasonably fails to comply with the provisions of paragraph (1) or an order issued pursuant to paragraph (2).

issued, or a rule which was promulgated, before the date of enactment of this Act. These amendments shall not be construed to affect in any manner a cease-and-desist order issued after the date of enactment of this Act, if such order was issued pursuant to remand from a court of appeals or the Supreme Court of an order issued by the Commission before the date of enactment of this Act.

(c) The provisions of section 24(c) of the Federal Trade Commission Act, as added by section 3 of this Act, shall apply only to complaints issued by the Federal Trade Commission under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) on or after the date of enactment of this Act.

(d) The amendments made by sections 6 and 12 of this Act shall apply only to rulemaking proceedings initiated after the date of enactment of this Act. These amendments shall not be construed to affect in any manner a rulemaking proceeding which was initiated before the date of enactment of this Act.

MOTION OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLORIO moves to strike out all after the enacting clause of the Senate bill, S. 1078, and to insert in lieu thereof the provisions of H.R. 2385, as passed by the House.

The motion was agreed to.

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

The title of the Senate bill was amended so as to read: "An act to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such Act, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 2385, was laid on the table.

GENERAL LEAVE

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

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

There was no objection.

AMTRAK REAUTHORIZATION

The SPEAKER pro tempore. Pursuant to House Resolution 263 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2266.

The Chair designates the gentleman from Michigan [Mr. KILDEE] as Chairman of the Committee of the Whole and requests the gentleman from California [Mr. MINETA] to assume the chair temporarily.

□ 1410

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2266) authorizing appropriations for Amtrak for fiscal years 1986 and 1987, establishing a Commission to study the financial status of Amtrak, and for other purposes, with Mr. MINETA (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from New Jersey [Mr. FLORIO] will be recognized for 30 minutes and the gentleman from New York [Mr. LENT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2266, legislation that would reauthorize Amtrak, our nation's passenger railroad.

This is an important piece of legislation for it allows Amtrak to maintain its existing level of service while encouraging the railroad to continue to improve its efficiency.

The administration initially proposed to eliminate all Federal funding for Amtrak. The practical effect of this proposal would be the elimination of all rail passenger service in the United States on October 1. The administration has argued that States and localities, or the private sector, would take over Amtrak's profitable lines.

There is no evidence to justify support for the administration's claim. The President of the Association of American Railroads has stated that he knows of "no interest expressed by any freight railroad" and that it would be "hard to believe that any freight railroad would be interested in getting back into that service."

Similarly, the Northeast Corridor Commuter Rail Authorities Committee announced that its members have neither the physical assets nor the financial resources to pick up any service on the Northeast Corridor.

Fortunately, the administration recognized the need to continue rail passenger service in the agreement it reached with the Senate on the budget. That agreement assumes a funding level for Amtrak adequate to maintain all existing routes.

It is important to understand why we need Amtrak. Twenty million passengers ride the railroad.

In the Northeast, for instance, the loss of Amtrak will result in unmitigated disaster in the region. Amtrak carries 17,500 people a day between Washington and New York. All the airlines combined carry only 12,000 people daily. The highways and airports of the Northeast are already packed, and 17,500 additional passengers a day would make a bad situation impossible to bear.

Additionally, the commuter authorities of the Northeast would have to assume tremendous costs to cover maintenance previously shared with Amtrak. For example, New Jersey Transit would have to pay an additional $47 million a year to maintain the portion of the Northeast Corridor that it uses.

Outside the Northeast, about half of all Amtrak passengers earn a family income of less than $20,000 annually and more than one-third of all non-Northeast passengers are over 55 years of age. Without Amtrak, these citizens would be forced to take either more costly, more frightening or less comfortable modes of transportation. Moreover, Amtrak is often the only mode of transportation that can operate during huge snowstorms, saving many communities, particularly in the West, from being isolated.

By all standards, Amtrak's financial performance has improved greatly in recent years—ridership is up and the railroad's subsidy, in constant dollars, is 26.6 percent less this year than that for fiscal year 1981. Furthermore, Amtrak's revenue to cost ratio has increased from 48 percent to 56 percent in the last few years. This legislation requires Amtrak to improve its revenue to cost ratio to 61 percent by the end of fiscal year 1986.

This bill reauthorizes Amtrak at a level 10 percent below Amtrak's fiscal year 1985 funding level.

To ensure continued levels of service and safety, the bill includes an important provision. Unless funds are otherwise available to operate the Amtrak system at present levels of service, maintenance, and equipment overhauls, Amtrak is required to use funds designated for nonoperational capital projects to maintain the system. Maintaining safe and efficient service is obviously the backbone of Amtrak's continued success. Taking too large a bite out of Amtrak will force the railroad to defer maintenance on many of its facilities, such as its track and equipment. The result of this deferral will mean greater safety hazards and less efficient service for Amtrak's passengers. If we allow this to happen, the railroad will be paralyzed and the long term effects will be devastating. This provision is designed to prevent this vicious cycle of deferred maintenance from occurring.

Furthermore, there is another provision which makes clear that this bill should not result in reduction of frequency of service on those lines which have three or fewer trains running in either direction each week, as long as

the trains meet the statutory criteria for continuation.

I should note that the bill had strong bipartisan support in the committee.

Amtrak is a critical part of our national transportation system. If Amtrak were eliminated, the disastrous effects would be felt throughout the United States. This is a good bill for it allows Amtrak to provide its important service yet it also recognizes the need to reduce the deficit by reducing Amtrak's authorization.

I urge my colleagues to vote in support of this bill.

□ 1415

Mr. LENT. Mr. Chairman, I yield myself such time as I shall consume.

Mr. Chairman, I rise in support of H.R. 2266 which reauthorizes Amtrak for fiscal year 1986 and commend the gentleman from New Jersey, the chairman of the Subcommittee on Commerce, Transportation, and Tourism.

This bill authorizes $616 million for Amtrak for fiscal year 1986. This level of authorization represents a 10-percent reduction from the level of Federal funding Amtrak received in fiscal year 1985. On Wednesday of last week, the House passed the Department of Transportation fiscal year 1986 appropriations bill. That bill reduced Amtrak's appropriation by 11.4 percent of the appropriations which Amtrak received in 1985. It is my understanding that an amendment will be offered to bring H.R. 2266 in line with the appropriations bill.

This year, when the Federal deficit is of such major importance and concern, Congress has been carefully scrutinizing all federally funded programs, looking for ways to improve their efficiency, reduce their expenditures and, thereby, save the taxpayers' money. For this reason, Amtrak must shoulder its fair share in our effort to reduce the deficit.

During hearings before the Subcommittee on Commerce, Transportation, and Tourism, the Secretary of Transportation, Mrs. Dole, outlined a number of steps that could be taken to further increase Amtrak's efficiency and to reduce its reliance on Federal funding. Suggestions to increase Amtrak's efficiency were also put forward by Graham Claytor, the President of Amtrak, in Amtrak's 1985 legislative report.

H.R. 2266 includes some of the suggestions which were made for increasing Amtrak's revenues. For example, section 4 of the bill allows Amtrak to compete for preferred contract carrier status in the Federal Government's discount program for Federal employees traveling on official business. Amtrak's inclusion in this program should result in additional revenues for Amtrak and considerable savings to the Government.

A number of other suggestions have also been made which would make savings in Amtrak's operational costs. I feel that some of these suggestions have great benefit. One example, which was submitted to the subcommittee as a method by which Amtrak could reduce its costs, would be for Amtrak to employ all of its own workers.

Presently, Amtrak directly employs workers only on the Northeast Corridor and on its auto train service. These workers are paid on an hourly basis. On Amtrak's other routes, it contracts with private carriers, utilizing selected maintenance and crew services of those private carriers. Amtrak reimburses the carriers for the costs of providing these services. Most of the private carriers' crews are paid according to the miles they travel, instead of the hours they work. If Amtrak directly employed these crews, it could save $30 million per year.

This is just one of many examples of changes which could be made to further improve Amtrak's financial performance. I hope that Amtrak and members of the appropriate rail labor organizations will give this change serious consideration.

Finally this bill establishes a Commission to study—

First, the ability of Amtrak to continue to improve, or accelerate the improvement of its financial performance;

Second, the short-term and long-term needs of Amtrak; and

Third, alternative methods of funding Amtrak.

The study commission is required to report back to Congress on March 30, 1986. This report is to contain a detailed statement of the findings and conclusions of the commission, together with the commission's recommendations for such legislation as it considers appropriate. This study should help Congress to work with Amtrak in order to provide legislation so that Amtrak can become less reliant on Federal taxpayers' dollars.

The record of Amtrak shows that Graham Claytor, President of Amtrak, is doing a truly outstanding job in running this Nation's passenger railroad. In the last few years, Amtrak has consistently improved its revenue to cost ratio. That ratio improved from 48 to 56 percent in 1984 and is anticipated to improve to 58 percent this year and 60 percent in 1986. This performance should be commended and encouraged to continue. Yet, given the huge Federal deficit the United States is presently facing, it is essential for Amtrak to have tools needed to become an even more efficient operation.

In conclusion, Mr. Chairman, I support H.R. 2266 because I believe that it achieves our goal of reducing the Federal deficit while at the same time maintaining the most efficient nationwide rail passenger service possible.

Thank you, Mr. Chairman.

Mr. FLORIO. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Maryland [Mr. MITCHELL].

Mr. MITCHELL. Mr. Chairman, I thank the chairman of the committee for yielding time to me and I rise in very firm support of H.R. 2226.

The original plan which would have called for just dropping Amtrak altogether, hoping that somebody would buy it, would have been a disaster because it would have meant that America would have been the only developed country in the world with no intercity rail passenger transportation. It would have been a disaster simply because of the heavy impact on low-income and elderly passengers.

Forty-seven percent of long-distance commuters have family incomes of under $20,000, and 36 percent of long-distance commuters are 55 years old or older.

Had this plan gone through—and I thank the members of the committee for their perseverance in getting us this authorization—had it gone through, we would have eliminated the sole mode of transportation for 22 million passengers in 500 communities in this Nation.

Those who proposed just dismantling Amtrak by offering it out for sale with no bidders evidently did not take into account that it would have placed excessive burdens on the airports had this kind of proposition gone through.

And most importantly, if it were not for Amtrak, we would have 25,000 more people joining 8½ million people who are unemployed.

I am in strong support of this legislation. I would not have supported the cuts to the extent that they are made, but nevertheless we are preserving a very effective system.

I have two interesting comments from constituents that I wanted to put into the RECORD. One says "Government officials may not ride Amtrak, but many Americans do, not only in the Northeast Corridor but throughout this land."

Then another says, "To destroy Amtrak, a going concern that has taken 14 years to build, once dismantled it probably can never be replaced."

There is a big difference between holding down expenses and liquidating a program concerned with over $3 billion in capital investments and over 30,000 skilled employees. I commend the members of the committee for getting this authorization bill through.

Let me just end up with this one quote that I thought was simply fascinating because it begins to put our priorities in order:

"(2) The United States district court for the district in which the release has occurred or threatens to occur shall have jurisdiction to enforce the order, and any person who violates or fails to obey such an order shall be liable to the United States for a civil penalty of not more than $10,000 for each day in which such violation occurs or such failure to comply continues.".

NATIONAL CONTINGENCY PLAN—HAZARD RANKING SYSTEM

SEC. 120. Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(a)" immedately following "105." and by adding the following at the end thereof:

"(b) Not later than twelve months after the date of enactment of the Superfund Improvement Act of 1985, the President shall revise the National Contingency Plan to reflect the requirements of such amendments. The portion of such Plan known as 'the National Hazardous Substance Response Plan' shall be revised to provide procedures and standards for remedial actions undertaken pursuant to this Act which are consistent with amendments made by the Superfund Improvement Act of 1985 relating to the selection of remedial action.

"(c) Not later than twelve months after the date of enactment of the Superfund Improvement Act of 1985 and after publication of notice and opportunity for submission of comments in accordance with section 553 of title 5, United States Code, the President shall by rule promulgate amendments to the hazard ranking system in effect on September 1, 1984. Such amendments shall assure, to the maximum extent feasible, that the hazard ranking system accurately assesses the relative degree of risk to human health and the environment posed by sites and facilities subject to review. The President shall establish an effective date for the amended hazard ranking system which is not later than eighteen months after the date of enactment of the Superfund Improvement Act of 1985 and such amended hazard ranking system shall be applied to any site or facility to be newly listed on the National Priority List after the effective date established by the President. Until such effective date of the regulations, the hazard ranking system in effect on September 1, 1984, shall continue to full force and effect.".

NATIONAL CONTINGENCY PLAN

SEC. 121. (a) Section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as redesignated by this Act, is amended by striking "at least four hundred of" when it appears.

(b) Section 105(8)(B) is further amended by striking the phrase "at least" following the word "facilities" the second time it appears and by inserting "A State shall be allowed to designate its highest priority facility only once." after the third full sentence thereof.

FOREIGN VESSELS

SEC. 122. Section 107(a)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by striking "(otherwise subject to the jurisdiction of the United States)".

STATE AND LOCAL GOVERNMENT LIABILITY

SEC. 123. Section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(1)" after "(d)" and adding the following new language:

"(2) No State or local government shall be liable under this title for costs or damages as a result of non-negligent actions taken in response to an emergency created by the release of a hazardous substance, pollutant, or contaminant generated by or from a facility owned by another person.".

CONTRACTOR INDEMNIFICATION

SEC. 124. Section 107(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting after paragraph (1) the following new paragraph and redesignating the succeeding paragraph accordingly:

"(2) The Administrator may, in contracting or arranging for response action to be undertaken under this Act, agree to hold harmless and indemnify a contracting party against claims, including the expenses of litigation or settlement, by third persons for death, bodily injury or loss of or damage to property arising out of performance of a cleanup agreement to the extent that such claim does not arise out of the negligence of the contracting party.".

NATURAL RESOURCE DAMAGE CLAIMS

SEC. 125. (a) Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(1)" after "(f)" and by adding at the end thereof the following new paragraphs:

"(2)(A) The President shall designate in the National Contingency Plan published under section 105 of this Act the Federal officials who shall act on behalf of the public as trustees for natural resources under this Act and section 311 of the Clean Water Act. Such officials shall assess damages to natural resources for the purposes of this Act and section 311 of the Clean Water Act for those resources under their trusteeship, and may upon request of and reimbursement from a State and at the Federal officials' discretion, assess damages for those natural resources under a State's trusteeship.

"(B) The Governor of each State shall designate the State officials who may act on behalf of the public as trustees for natural resources under this Act and section 311 of the Clean Water Act and shall notify the President of such designations. Such State officials shall assess damages to natural resources for the purposes of this Act and section 311 of the Clean Water Act for those resources under their trusteeship.

"(C) Any determination or assessment of damages to natural resources for the purposes of this Act and section 311 of the Clean Water Act made by a Federal or State trustee in accordance with the regulations promulgated under section 301(c) of this Act shall have the force and effect of a rebuttable presumption on behalf of the trustee in any judicial proceeding under this Act or section 311 of the Clean Water Act.

"(D) The President shall promulgate the regulations required under section 301 of this Act not later than six months after the enactment of the Superfund Improvement Act of 1985.".

(b) Section 111(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following: "No money in the Fund may be used for the payment of any claim under subsection (a)(3) or subsection (b) of this section in any fiscal year for which the President determines that all of the Fund is needed for response to threats to public health from releases or threatened releases of hazardous substances.".

(c) Section 111(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is repealed.

CONTRIBUTION AND PARTIES TO LITIGATION

SEC. 126. Section 107, of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding a new subsection to read as follows:

"(l)(1) In any civil or administrative action under this section or section 106, no claim for contribution or indemnification may be brought until after entry of judgment or date of settlement in good faith. Nothing in this subsection shall diminish the right of any person to bring an action for contribution or indemnification in the absence of a civil or administrative action under this section or section 106.

"(2) After judgment in any civil action under section 106 or under subsection (a) of this section, any defendant held liable in the action may bring a separate action for contribution against any other person liable or potentially liable under subsection (a). Such an action shall be brought in accordance with section 113. Except as provided in paragraph (4) of the subsection, this subsection shall not impair any right of indemnity under existing law.

"(3) When a person has resolved its liability to the United States or a State in a judicially approved good faith settlement, such person shall not be liable for claims for contribution under paragraph (2) of this subsection regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially liable persons unless its terms so provide, but it reduces the potential liability of the others to the extent of any amount stipulated by the settlement.

"(4) Where the United States or a State has obtained less than complete relief from a person who has resolved its liability to the United States or the State in a good faith settlement, the United States or the State may bring an action for the remainder of the relief sought against any person who has not so resolved its liability. A person that has resolved its liability to the United States or a State in a good faith settlement may, where appropriate, maintain an action for contribution or indemnification against any person that was not a party to the settlement. In any action under this paragraph, the rights of a State or any person that has resolved its liability to the United States or a State shall be subordinate to the rights of the United States. Any contribution action brought under this paragraph shall be brought in accordance with section 113.".

FEDERAL LIEN

SEC. 127. Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(m)(1) All costs and damages for which a person is liable to the United States under subsection (a) of this section shall constitute a lien in favor of the United States upon all real property and rights to such property belonging to such person that are subject to or affected by a removal or remedial action.

"(2) The lien imposed by this subsection shall arise at the time costs are first incurred by the United States with respect to a response action under this Act and shall continue until the liability for the costs (or a judgment against the person arising out of such liability) is satisfied or becomes unenforceable through operation of the statute of limitations provided in section 113(e).

"(3) The lien imposed by this subsection shall not be valid as against any purchaser, holder of a security interest, or judgment

lien creditor until notice of the lien has been filed in the appropriate office within the State (or county or other governmental subdivision), as designated by State law, in which the real property subject to the lien is physically located. If the State has not by law designated one office for the receipt of such notices of liens, the notice shall be filed in the office of the clerk of the United States district court for the district in which the real property is physically located. For purposes of this subsection, the terms "purchaser" and "security interest" shall have the definitions provided in section 6323(h) of title 26, United States Code. This paragraph does not apply with respect to any person who has or reasonably should have actual notice or knowledge that the United States has incurred costs giving rise to a lien under paragraph (1) of this subsection.

"(4) The costs constituting the lien may be recovered in an action in rem in the United States district court for the district in which the removal or remedial action is occurring or has occurred. Nothing in this subsection shall affect the right of the United States to bring an action against any person to recover all costs and damages for which such person is liable under subsection (a) of this section.".

DIRECT ACTION

SEC. 128. (a) Section 108 (c) and (d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(c) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in the Federal courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim authorized by section 107 or 111 may be asserted directly against the guarantor providing evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

"(d) The total liability under this Act of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this Act: Provided, That nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim: Provided further, That nothing in this subsection shall be construed, interpreted or applied to diminish the liability of any person under section 107 or 111 of this Act or other applicable law.".

(b) Section 108(b)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following: "Financial responsibility may be established by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this section, the President is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this Act.".

VICTIM ASSISTANCE DEMONSTRATION PROGRAM

SEC. 129. (a) Section 111(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "and" at the end of the paragraph (5); by striking the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and by adding the following new paragraph:

"(7) the costs of grants under subsection (m), not to exceed a total of $30,000,000 per fiscal year, to be provided out of funds received by the Trust Fund under section 303(b).".

(b) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(m)(1) In the case of any geographic area (as identified by the Agency for Toxic Substances and Disease Registry) for which a health assessment or other health study performed under section 104(i) indicates that—

"(A) there is a disease or injury for which the population of such area is placed at significantly increased risk as a result of a release of a hazardous substance;

"(B) such disease or injury has been demonstrated by peer reviewed studies to be associated (using sound scientific and medical criteria) with exposure to a hazardous substance; and

"(C) the geographical area contains individuals within the population who have been exposed to a hazardous substance in a release,

the State in which such area is located may apply to the Administrator of the Environmental Protection Agency to operate an experimental demonstration assistance program under this subsection.

"(2) From areas nominated under paragraph (1) the President shall select, during each of fiscal years 1986 and 1987, no less than five or more than ten areas for demonstration assistance programs under this subsection. Such selections shall be made in the discretion of the President, taking into account—

"(A) the experience of State and local governments in administering programs which deal with the regulation of toxic chemicals and hazardous substances; and

"(B) the representative nature of the hazardous substance releases and exposures in terms of the identities and toxic characteristics of the substances found, the manner and degree of exposure, the scientific and medical method used to determine such exposure, and the seriousness and duration of the diseases or illnesses caused.

"(3) For each area selected under paragraph (2) the State shall establish and operate for a period of not less than three years or more than five years a program of medical assistance to individuals who, according to health assessments or other studies done under section 104(i) have been placed at significantly increased risk of disease or injury due to exposure to a hazardous substance from a release. The President shall make a grant for each such area in an amount of not less than $1,000,000 nor more than $10,000,000 per fiscal year (and a total for all such grants of not more than $30,000,000 per fiscal year), but in no event shall grants be made in fewer than five States.

"(4) Programs funded pursuant to this subsection shall not provide assistance in the case of any area or class of individuals in which a solvent responsible party who may be liable under section 107 is paying compensation for claims or otherwise providing medical assistance, comparable (though not necessarily identical in scope or duration) to assistance under this subsection. If a party has accepted liability for such claims or assistance, no assistance shall be available under this subsection even though the party may not have commenced assistance at the time of an application by a State.

"(5) A program established and operated under this subsection shall provide the following assistance:

"(A) appropriate medical screening, examination and testing (in accordance with sound medical procedures) as necessary to determine the presence in individuals of the disease or injury for which the population of the geographic area is at significantly increased risk;

"(B) for individuals with no present symptoms of such disease or injury, a group medical benefits policy providing the reasonable costs of periodic medical screening, testing or examination (in accordance with sound medical procedures), as necessary to determine the presence of such symptoms; and

"(C) for individuals with present symptoms of such disease or injury (or who develop such symptoms)—

"(i) reimbursement of the out-of-pocket costs of related medical expenses in connection with such disease or injury previously incurred and not recovered from any other public or private source, and

"(ii) a group medical benefits insurance policy providing the reasonable costs of sound medical and surgical treatment and hospitalization resulting from such disease or injury (which according to health assessments or other health studies under section 104(i), is associated with exposure to a hazardous substance in a release in the geographical area). Such a policy shall be subject to an annual deductible of $500, with no copayment requirement or annual or lifetime limitation on expenditures other than those referred to in paragraph (3).

"(D) Such policies provided under subparagraphs (B) and (C) shall be secondary to, and provide for nonduplication of benefits with, any other policy or coverage, public or private, for which such individual is eligible. The benefits or coverage of such other policy shall be those determined to be in force as of thirty days prior to the date the State applies for area designation.

"(E) Assistance under this subsection shall be provided on the condition that the costs thereof in connection with any individual pursuing a claim against a potentially responsible party shall be repaid to the Fund out of the proceeds of any award (including punitive damages) or settlement of such claim.

"(6)(A) The President, with the assistance of the Agency for Toxic Substances and Disease Registry, beginning January 1, 1987, shall submit annual reports to the Congress on the implementation and effectiveness of this victim assistance demonstration program, including an evaluation of the effectiveness of each of the State programs established under the subsection. The final report shall also address the relationship of this demonstration program to other public and private mechanisms that may exist to carry out the same or similar functions.

"(B) Each State selected to operate a demonstration program under this subsection shall submit to the President and the Congress, not later than January 1, 1990, a

hardly enough to make a dent in the soaring merchandise trade deficit, which rose $3.5 billion in the second quarter to a record $33 billion.

For years, the service sector has been able to carry larger merchandise trade deficits, but this year's record imbalance is far too high to be offset by the service sector.

Last year's current account deficit was $101.5 billion, while the figure for 1985 is expected to reach $120 billion. It has already reached $62.1 billion in the first six months of the year.

With the heavy debt to foreigners, the United States can no longer look to the inflow of interest payments from America's overseas investments to cover the trade balances. Instead, economists are concerned that U.S. interest payments to overseas investors will make it as hard to bring down the balance-of-payments deficit as it is to lower the merchandise trade deficit.

Commerce Secretary Malcolm Baldrige said in June that it appeared the United States had become a debtor nation for the first time since 1914, and yesterday's figures confirmed that. But the Commerce Department said no official confirmation will be available until the end of the year.

THE FREEDOM OF INFORMATION PUBLIC IMPROVEMENTS ACT OF 1985

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

Mr. ENGLISH. Mr. Speaker, I am pleased to join my colleague, JERRY KLECZKA, in sponsoring the Freedom of Information Public Improvements Act of 1985, a set of FOIA amendments drafted by the Society of Professional Journalists.

As chairman of the Subcommittee on Government Information, Justice, and Agriculture, I have been actively involved with proposals to amend the FOIA. The history of FOIA legislation during the last two Congresses shows that there is tremendous controversy surrounding the FOIA. The subcommittee's hearings last year demonstrated that there is little agreement on the nature of the problems with the act. Despite this lack of agreement, I think there is some common ground and that compromise is possible.

This bill, prepared by the Society of Professional Journalists, fills an important gap in the debates over the FOIA. None of the current bills deals adequately with the problems faced by those who use the FOIA to request documents. Proposals from the Reagan administration are principally designed to allow agencies to limit the availability of government information. The business community has presented useful amendments, but these only address the procedural problems faced by submitters of confidential business information.

Some existing bills—including my own bill (H.R. 1882)—do contain provisions that would make it easier for requesters to use the FOIA. But no comprehensive package of changes to help requesters has been offered. Now with the Freedom of Information Public Improvements Act of 1985, we have a set of amendments designed to address the shortcomings of the act as viewed from the perspective of active users of the law.

I do not mean to suggest that this bill is perfect. It needs study and review as do other bills. But this proposal will provide some balance to the legislative debates and will help us to fashion a workable compromise.

I intend to begin more active consideration of FOIA legislation immediately. I will work with all interested parties to develop compromise legislation that will be acceptable to all. Hearings will be held on proposed legislation before any formal subcommittee action, but no hearings are scheduled at this time.

CODIFICATION OF TITLE 8, UNITED STATES CODE, "ALIENS AND NATIONALITY"

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

Mr. RODINO. Mr. Speaker, I am today introducing a bill to revise, codify, and enact without substantive change certain general and permanent laws, related to aliens and nationality, as title 8, United States Code. This bill has been prepared by the Office of the Law Revision Counsel as a part of the program of the office to prepare and submit to the Judiciary Committee of the House of Representatives, for enactment into positive law, all titles of the United States Code.

This bill makes no change in the substance of existing law.

Anyone interested in obtaining a copy of the bill and a copy of the draft report to accompany the bill should contact: Edward F. Willett, Jr., Law Revision Counsel, House of Representatives, H2-304, House Annex No. 2, Washington, DC 20515.

Persons wishing to comment on the bill should submit those comments to the Office of the Law Revision Counsel not later than October 31, 1985.

THE ARMENIAN GENOCIDE AND AMERICA'S OUTCRY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 60 minutes.

Mrs. JOHNSON. Mr. Speaker, there have been few events in history that have evoked American sympathy and concern as did the Armenian genocide in Ottoman Turkey 70 years ago. But what is generally not known by our citizens or indeed by our colleagues in the Congress is the extent of American involvement in this tragedy as early as 35 years prior to the most brutal massacres of 1915-23.

It is for the purpose of reacquainting ourselves with this forgotten period of American history that I have requested this time on the House floor. The theme of this special order—the Armenian Genocide and America's outcry—stresses the efforts of the Congress over a period of 24 years to bring about an end to the killings and offer relief to the suffering.

House Joint Resolution 192, a resolution still pending before us, would commemorate the deaths of some 1.5 million Armenians during this period. To the dismay of many of us in the Congress, there has been a concerted attempt by the present Government of Turkey to see to it that the Armenian genocide be unremembered and that this commemorative resolution be defeated.

It goes without saying that the present Republic of Turkey is a valued NATO ally and that our two countries enjoy good relations with one another. This resolution is not in any way intended to slight Turkey or even to imply that modern Turkey had any involvement whatsoever in the tragic events under the Ottoman regime. For this very reason, it is unfortunate that modern Turkey has chosen to read into the resolution that which is not there.

Those who oppose the resolution claim that it is not the role of U.S. Congress to involve itself in writing history. Mr. Speaker, our Government has a proud record of speaking out repeatedly against the crimes committed under the Ottoman regime. Dating back at least to 1880, U.S. State Department officials in the Ottoman empire witnessed the excesses visited upon the Armenian population and cabled this information back to Washington. Our own ambassadors pleaded with Ottoman officials to stop the massacres. Our Secretaries of State were constantly expressing concern about these events. Seven U.S. Presidents during three decades offered America's sympathy to the Armenian sufferers. A U.S. Federal agency—Near East Relief—was formed to channel American humanitarian relief into this troubled region.

Most importantly for our purposes, the 54th and 66th Congresses adopted resolutions expressing outrage at the atrocities and calling for relief to the stricken. The rediscovery of these resolutions is extremely important to all of us in the Congress. A vote in favor of House Joint Resolution 192 this year can now be based on precedent—the historical precedent set by those of our antecedents in this body who lived during this tragic period and were made aware on a daily basis of the events unfolding in Asia Minor.

At the time these events were taking place, it would have been unthinkable to suggest that the Armenian population of Ottoman Turkey had not been specifically targeted for mass slaughter. Yet, there are those presently in the U.S. Government who are substituting their own judgment for that of eyewitnesses and contemporaneous of-

ficials and who now declare that the history of these events is ambiguous. In 1982, the U.S. State Department issued this statement: "Because the historical record of the 1915 events in Asia Minor is ambiguous, the Department of State does not endorse allegations that the Turkish Government committed a genocide against the Armenian people." After 9 months of pressure, the Department finally said that the statement was not intended as a statement of policy, and that U.S. policy on the matter had not changed. The problem we still face is that we are left guessing as to what the U.S. policy is on this matter.

Just 2 weeks ago a U.N. Human Rights Subcommission accepted a new study which recognized the Armenian genocide. The study, entitled "Revised and Updated Report on the Question of the Prevention and Punishment of the Crime of Genocide," was opposed by the Government of Turkey because of the Armenian reference. Nonetheless, by a vote of 14 to 1 with 4 abstentions, the report was received with the Armenian genocide reference intact. The most significant aspect of the U.N. subcommittee vote was that the delegate from the United States voted in favor of accepting the report. I am encouraged that the United States gave its endorsement and I interpret this as a departure from previous attempts to cloud the history of the Armenian genocide.

There is nothing ambiguous about the Armenian genocide. The issue here is simply one of fact, and we in the Congress are seeking to affirm that which was established by prior Congresses in 1896 and 1920. We are trying to remember a very important period for all Americans. As I stated on June 4 prior to a suspension vote on House Joint Resolution 192, our ally relationship with modern Turkey must not require us to deny what is very real in the lives of our own people as a fact. We have a duty to maintain the integrity of our history and to shape U.S. policy according to that record.

Earlier this year we were shaken by the visit to the Bitburg Cemetery and its implications regarding the rewriting of history at the request of a NATO ally. We should be equally troubled by the revisionism taking place surrounding the Armenian genocide. The Congress can ill afford to be viewed as willing to denigrate the judgment of two prior Congresses and to deny American history. On the contrary, we should take great pride in the unprecedented outpouring of sympathy and material support for those Armenians who suffered, just as we have embraced the causes of the African famine and the Cambodian tragedy in recent years.

Above all, we have an obligation to remember events such as the Armenian genocide, so that future perpetrators do not read our unremembering as a willingness to turn a blind eye toward mass human destruction.

Mr. Speaker, at this time I yield to my colleague from California [Mr. PASHAYAN].

Mr. PASHAYAN. I thank the gentlewoman for yielding and for her remarks on this whole subject. Mr. Speaker, I thank Congresswoman JOHNSON for reserving the time for this special order today. I think it is critical that our colleagues be made aware of the level of congressional involvement in the issue of the Armenian genocide prior to and at the time the atrocities were taking place. In order for us to vote responsibly on the resolution before us in this Congress, we must take into account the actions taken by the Congresses in place then.

I am struck by the revelation today that the 54th Congress adopted a resolution in 1896 deploring what it referred to as the Armenian outrages by Ottoman Turkey. The rediscovery of this resolution is historic. It proves what many of us have been saying all along—that the U.S. Congress recognized the atrocities committed against the Armenian people at the time they were taking place. This recognition is underscored by the clause in the resolution that reads: "Whereas the American people, in common with all Christian people everywhere, have beheld with horror the recent appalling outrages and massacres of which the Christian population of Turkey have been made victims". The 54th Congress went even further by calling for decisive measures to be taken "to stay the hand of fanaticism and lawless violence."

Twenty-four years later, the Congress was still profoundly concerned about the fate of the Armenians in Ottoman Turkey. The 5 years from 1915 to 1920, during which the greatest destruction of the Armenian population took place, moved the Senate to adopt Senate Resolution 359, introduced by then-Senator Warren G. Harding. While the resolved clause of the resolution extends congratulations to the newly formed independent Armenian republic that had been formed after the war, the first two whereas clauses demonstrate recognition by the Senate of the atrocities that had taken place. Those clauses read:

Whereas the testimony adduced at the hearings conducted by the subcommittee of the Senate Committee on Foreign Relations have clearly established the truth of the reported massacres and other atrocities from which Armenian people have suffered; and

Whereas the people of the United States are deeply impressed by the deplorable conditions of insecurity, starvation, and misery now prevalent in Armenia; and

Whereas the independence of the Republic of Armenia has been duly recognized by the Supreme Council of the Peace Conference and by the Government of the United States of America: Therefore be it

Resolved, That the sincere congratulations of the Senate of the United States are hereby extended to the people of Armenia on the recognition of the independence of the Republic of Armenia, without prejudice respecting the territorial boundaries involved; and be it further

Resolved, That the Senate of the United States hereby expresses the hope that stable government, proper protection of individual liberties and rights, and the full realization of nationalistic aspirations may soon be attained by the Armenian people; and be it further

Resolved, That in order to afford necessary protection for the lives and property of citizens of the United States at the port of Batum and along the line of the railroad leading to Baku, the President is hereby requested, if not incompatible with the public interest, to cause a United States warship and force of Marines to be dispatched to such port with instructions to such Marines to disembark and to protect American lives and property.

This year, some 89 years after Congress first recognized the destruction of the Armenians, we are asked simply to commemorate this event by passing House Joint Resolution 192. Amazingly, there are a few individuals in the Congress who say we should defeat this resolution because these events did not take place. There are some in Congress who say we should defeat this resolution because Congress should not write history. We say to those Members that passage of House Joint Resolution 192 would in fact be an affirmation by the Congress of its own record of 89 years. A call for the defeat of House Joint Resolution 192 is in fact a rewriting of our history, the kind we normally associate only with the most undesirable of motivations.

A very important point that needs to be stressed is that House Joint Resolution 192 deals only with a fact of Armenian history. It is not an attempt to change history in any way. Nor is it an attempt to allocate blame. The amendment I introduced to clarify that the Armenian genocide took place during the Ottoman regime was an effort to make clear that the present Government of Turkey had nothing to do with the atrocities.

We have an obligation to listen to the voices of our predecessors in the 54th and 66th Congresses. We are obligated to respect their contemporaneous judgment and to remember with pride and gratitude their attempts to raise national consciousness about the atrocities against the Armenian people. If we are to maintain our credibility as a body of fair-minded individuals we must not turn our backs on our own congressional history. We must approve House Joint Resolution 192 when it returns to the floor for a vote.

Mr. Speaker, I would ask the gentlewoman whether, in her opinion, the resolution in any way would damage the defense structure of NATO?

ment, or order to take such action as may be necessary to correct the violation or to apply appropriate civil penalties under this Act: Provided, however, That no district court shall have jurisdiction under this section to review any challenges to response action selected under section 104 or any order issued under section 104, or to review any order issued under section 106(a).

"(b) No action may be commenced under subsection (a) of this section (1) prior to ninety days after the plaintiff has given notice of the violation or disposal (A) to the President; or (B) to the State in which the alleged violation or disposal occurs; and (C) to any alleged violator of a standard, regulation, condition, requirement, or order; or (2) if the President or State has commenced and is diligently prosecuting an action under this Act or the Solid Waste Disposal Act to require compliance with such standard, regulation, condition, requirement, or order.

"(c) In any action commenced by the President or a State, under this Act or under the Solid Waste Disposal Act, in a court of the United States, any person may intervene as a matter of right when the applicant claims an interest relating to the subject of the action and such applicant is so situated that the disposition of the action may, as a practical matter, impair or impede such applicant's ability to protect that interest, unless the President or the State shows that the applicant's interest is adequately represented by existing parties.

"(d) In any action under this section, the United States or the State may intervene as a matter of right.

"(e) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or the substantially prevailing party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(f) Nothing in this Act shall restrict or expand any right which any person (or class of persons) may have under any Federal or State statute or common law to seek enforcement of any standard or requirement relating to hazardous substances or to seek any other relief (including relief against the President or a State agency).".

ADMINISTRATIVE CONFERENCE RECOMMENDATION

SEC. 139. The Congress finds that recommendation 84-4 of the Administrative Conference of the United States (adopted June 29, 1984) is generally consistent with the goals and purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and that the Administrator should consider such recommendation and implement it to the extent that the Administrator determines that such implementation will expedite the cleanup of hazardous substances which have been released into the environment.

[*AUTHORIZATION OF APPROPRIATIONS*

[*SEC. 140. (a) Section 221 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "as provided in this section" in subsection (a); striking paragraphs (2) and (3) of subsection (b); and by striking subsection (c).*

[*(b) Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:*

[*"AUTHORIZATION OF APPROPRIATIONS*

[*"SEC. 303. (a) The authority to collect taxes under chapter 38 of the Internal Revenue Code of 1954, together with the sums authorized to be appropriated under subsection (b), shall total $7,500,000,000 during the five-fiscal-year period beginning October 1, 1985.*

[*"(b) There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Response Trust Fund for fiscal year—*

[*"(A) 1981, $44,000,000,*

[*"(B) 1982, $44,000,000,*

[*"(C) 1983, $44,000,000,*

[*"(D) 1984, $44,000,000,*

[*"(E) 1985, $44,000,000,*

[*"(F) 1986, $206,000,000,*

[*"(G) 1987, $206,000,000,*

[*"(H) 1988, $206,000,000,*

[*"(I) 1989, $206,000,000, and*

[*"(J) 1990, $206,000,000,*

plus for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under subparagraphs (A) through (I) as has not been appropriated before the beginning of the fiscal year involved.".

[*"(b) TRANSFER OF FUNDS.—There shall be transferred to the Response Trust Fund—*

[*"(1) one-half of the unobligated balance remaining before the date of the enactment of this Act under the Fund in section 311 of the Clean Water Act, and*

[*"(2) the amounts appropriated under section 504(b) of the Clean Water Act during any fiscal year.*

[*"(c) EXPENDITURES FROM RESPONSE TRUST FUND.—*

[*"(1) IN GENERAL.—Amounts in the Response Trust Fund shall be available in connection with releases or threats of releases of hazardous substances into the environment only for purposes of making expenditures which are described in section 111 (other than subsection (j) thereof of this Act) as in effect on the date of the enactment of the Superfund Improvement Act of 1985, including—*

[*"(A) response costs,*

[*"(B) claims asserted and compensable but unsatisfied under section 311 of the Clean Water Act,*

[*"(C) claims for injury to, or destruction or loss of, natural resources, and*

[*"(D) related costs described in section 111(c) of this Act.*

[*"(2) LIMITATIONS ON EXPENDITURES.—At least 85 per centum of the amounts appropriated to the Response Trust Fund shall be reserved—*

[*"(A) for the purposes specified in paragraphs (1), (2), and (4) of section 111(a) of this Act, and*

[*"(B) for the repayment of advances made under section 223(c), other than advances subject to the limitation of section 223(c)(2)(C).".*]

TITLE II

[*TAX EXEMPTION FOR ANIMAL FEED SUBSTANCES*

[*SEC. 201. (a) EXEMPTION FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (b) of section 4662 of the Internal Revenue Code of 1954 (relating to definitions and special rules with respect to the tax on certain chemicals) is amended by adding at the end thereof the following paragraph:*

[*"(5) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—*

[*"(A) IN GENERAL.—In the case of nitric acid, sulfuric acid, phosphoric acid, ammonia, or methane used to produce ammonia, which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).*

[*"(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—*

[*"(i) used in a qualified animal feed use by the manufacturer, producer or importer,*

[*"(ii) sold for use by any purchaser in a qualified animal feed use, or*

[*"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.*

[*"(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.*

[*"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.".*

[*(b) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:*

[*"(3) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—*

[*"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, phosphoric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(5), and*

[*"(B) any person uses such substance as a qualified animal feed substance,*

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(5) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.".

[*(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) of this section shall take effect upon the date of enactment of this Act.*]

AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954

SEC. 201. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This title may be cited as the "Superfund Revenue Act of 1985".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. 5-YEAR EXTENSION OF TAX ON PETROLEUM AND CERTAIN CHEMICALS; CERTAIN EXEMPTIONS.

(a) 5-YEAR EXTENSION; TERMINATION IF FUNDS UNSPENT OR $7,500,000,000 COLLECTED.—

(1) IN GENERAL.—Subsection (d) of section 4611 (relating to termination) is amended to read as follows:

"(d) TERMINATION.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the tax imposed by this subsection shall not apply after September 30, 1990.

"(2) NO TAX IF UNOBLIGATED BALANCE IN FUND IS MORE THAN $1,500,000,000.—If, on September 30, 1988, or September 30, 1989—

"(A) the unobligated balance in the Hazardous Substance Superfund exceeds $1,500,000,000, and

"(B) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that such unobligated balance will exceed $1,500,000,000 on September 30, 1989, or September 30, 1990, respectively, if no tax is imposed under section 4001, 4611, or 4661 during calendar year 1989 or 1990, respectively,

then no tax shall be imposed under this section during calendar year 1989 or 1990, as the case may be.

"(3) NO TAX IF AMOUNTS COLLECTED EXCEED $7,500,000,000.—

"(A) ESTIMATES BY SECRETARY.—The Secretary as of the close of each calendar quarter (and at such other times as the Secretary determines appropriate) shall make an estimate of—

"(i) the amount of taxes which will be collected under sections 4001, 4611, and 4661 and credited to the Hazardous Substance Superfund, and

"(ii) the amount of interest which will be credited to such Fund under section 9602(b)(3),

during the period beginning October 1, 1985, and ending September 30, 1990.

"(B) TERMINATION IF $7,500,000,000 CREDITED BEFORE SEPTEMBER 30, 1990.—If the Secretary estimates under subparagraph (A) that more than $7,500,000,000 will be credited to the Fund before September 30, 1990, no tax shall be imposed under this section after the date on which the Secretary estimates $7,500,000,000 will be so credited to the Fund.

"(4) PROCEDURES FOR TERMINATION.—The Secretary shall by regulation provide procedures for the termination under paragraph (2) or (3) of the tax under this section and section 4661.".

(2) CONFORMING AMENDMENT.—Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (relating to expiration of revenue provisions) is repealed.

(b) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

(1) IN GENERAL.—Section 4662 (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

"(1) TAX-FREE SALES.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT REQUIRED.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

"(2) CREDIT OR REFUND WHERE TAX PAID.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) a tax under section 4661 was paid with respect to any taxable chemical, and

"(ii) such chemical was exported by any person,

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION TO ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that such person—

"(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical, or

"(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.".

(2) REFUND OR CREDIT.—Paragraph (1) of section 4662(d) (relating to refund or credit for certain uses) is amended—

(A) by striking out "the sale of which by such person would be taxable under such section" in subparagraph (B) and inserting in lieu thereof "which is a taxable chemical", and

(B) by striking out "imposed by such section on the other substance manufactured or produced" in the last sentence and inserting in lieu thereof "imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (e) of this section)".

(c) EXEMPTION FOR CERTAIN RECYCLED CHEMICALS.—

(1) IN GENERAL.—Section 4662(b) (relating to exceptions and other special rules) is amended by adding at the end thereof the following new paragraph:

"(7) RECYCLED CHROMIUM, COBALT, AND NICKEL.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any chromium, cobalt, or nickel which is diverted or recovered from any solid waste as part of a recycling process (and not as part of the original manufacturing or production process).

"(B) EXCEPTION FOR IMPORTS.—This paragraph shall not apply to the sale of any chromium, cobalt, or nickel which is diverted or recovered outside the United States and then imported into the United States.

"(C) CERTAIN PERSONS NOT ELIGIBLE.—

"(i) IN GENERAL.—This paragraph shall not apply to any taxpayer during any period during which the taxpayer is a potentially responsible party for a site which is listed on the National Priorities List published by the Environmental Protection Agency under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, except that such period shall not begin until the Administrator of the Environmental Protection Agency notifies the taxpayer that the taxpayer is such a party.

"(ii) EXCEPTION WHERE TAXPAYER IS IN COMPLIANCE.—Clause (i) shall not apply to any portion of the period during which the taxpayer is in compliance with each order, decree, or judgment issued against the taxpayer with respect to the site in any action or proceeding under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Solid Waste Disposal Act, or both.

"(D) SOLID WASTE.—For purposes of this paragraph, the term 'solid waste' has the meaning given such term by section 1004 of the Solid Waste Disposal Act, except that such term shall not include any byproduct, coproduct, or other waste from any process of smelting, refining, or otherwise extracting any metal.".

(2) CREDIT OR REFUND.—Paragraph (1) of section 4662(d), as amended by subsection (b)(2), is amended by inserting "(b)(7) or" before "(e)" in the last sentence thereof.

(d) TAX EXEMPTION FOR ANIMAL FEED SUBSTANCES.—

(1) IN GENERAL.—Subsection (b) of section 4662 (relating to definitions and special rules with respect to the tax on certain chemicals), as amended by subsection (c)(1), is amended by adding at the end thereof the following paragraph:

"(8) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

"(A) IN GENERAL.—In the case of nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).

"(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—

"(i) used in a qualified animal feed use by the manufacturer, producer or importer,

"(ii) sold for use by any purchaser in a qualified animal feed use, or

"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

"(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.".

(2) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:

"(3) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(5), and

"(B) any person uses such substance as a qualified animal feed substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(5) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1985.

SEC. 203. IMPOSITION OF SUPERFUND EXCISE TAX.

(a) IN GENERAL.—Subtitle D (relating to miscellaneous excise taxes) is amended by inserting before chapter 31 the following new chapter:

"CHAPTER 30—SUPERFUND EXCISE TAX

"Subchapter A. Imposition of tax.

"Subchapter B. Taxable transaction.

"Subchapter C. Taxable amount; exempt transactions; credit against tax.

"Subchapter D. Administration.

"Subchapter E. Definitions; special rules.

"SUBCHAPTER A—IMPOSITION OF TAX

"Sec. 4001. Imposition of tax.

"Sec. 4002. Termination.

was an act of deliberate sabotage, that some people obviously mad, obviously insane, attempted to poison that whole town.

The implications of this are horrendous. Obviously, a salad bar is a place where anyone can approach the food that other people are going to eat, very easily and without suspicion. If you went into a restaurant kitchen and tried to poison the food in the kitchen, you might be caught and certainly be seen.

Any person can pass through a salad bar, getting their own food, and it would not be difficult to sprinkle salmonella bacteria in the dressing or on the lettuce; and this is obviously what happened.

I asked the FBI for an investigation; I alerted the authorities in the State, and of course the health authorities had done an intensive investigation of it, but had come to no conclusion. As a matter of fact, they thought it was the food handlers. Well, the food handlers, that is nonsense. Salmonella is not passed around by people; it is ingested in food.

I tried to wake the Nation and my State to this terrible situation, because somebody was out there, somebody was out there who was willing to take the lives of an entire town; 10,000 population in their hands and threaten them. Can you imagine?

Can you imagine the poisoning of a city's water supply? Well, this was the same thing. The poisoning of in effect the city's food supply.

Now at the same time that I made that speech on the floor of the House, describing this deliberate poisoning of The Dalles, I put also some paragraphs about a religious cult that has established itself in the southern part of Wasco County in a ranch there, a large ranch called the Big Muddy Ranch. This religious cult is called the Rajneesh, after its guru called the Bagwan Shree Rajneesh, about 3,000 people adherence to the cult live there now.

At the time of the poisoning of The Dalles, the Rajneeshis were bringing in from all over the Nation street people; the poor unfortunates who were here in Washington, DC, for example, living on the streets, nor busing them into Rajneeshpuram—that is the city that they established in the Big Muddy Ranch.

We thought they were bringing them there to vote them in the election; because the Rajneeshis has said they would like to take over the county of Wasco because they were in some arguments and conflicts with the county over building permits and other things; and indeed we think they were going to try to vote these street people, although when it came down to it, such an uproar occurred in Oregon that they ended up not voting the street people, and things quieted down.

There was really warfare between the people of Wasco County and the Rajneeshis at the time. Ma Anand Sheela, their leader, the personal secretary to the Bhagwan, said on the very weekend of the major outbreak of salmonella in The Dalles, was quoted in the press—I have actually seen her on television making these statements—she said: "If one of us goes, we will kill 15 Oregonians." She said: "We will have the heads of 15 Oregonians," and this was repeated.

So there was war between the Rajneeshis and the people of Oregon and the people of Wasco County, and so I thought that was certainly a motive that they would have for poisoning this entire town, as horrendous an act as that was.

I had no concrete evidence, although my investigation led me to believe that it was likely the Rajneeshis had done it; I had no evidence, but I just put in a speech that day last March: "The Goings On in Rajneeshpuram," with the street people and the statements of Ma Anand Sheela, so that the authorities would be alerted.

Can you imagine if this would happen in other towns of our country, if mad people of any stripe decided to do the same thing? It could disrupt our entire society.

□ 1455

So I thought that we should act swiftly. I felt that the information I had I could not live with unless I related it, so I made that speech.

I continued my investigation. I had never had a doubt in my mind that the town of The Dalles was poisoned by salmonella, and I never really had a doubt in my mind that the Rajneeshees or some of them, did it. It would have taken 8, 10, or 12 people to conduct this salmonella poisoning in that week in The Dalles, and I assumed it was probably the leaders of the Rajneesh cult.

So the authorities told me that it was difficult to solve something like this without an informer. I called a press conference shortly after my speech and I said that it would require a stool pigeon to really solve this, what I believe to be, a crime.

Last night, at a press conference in Rajneeshpuram, the leader of the sect—I would never have guessed this—the Bhagwan Shree Rajneesh himself, the guru, accused his followers, some of his followers, who have absconded to Europe just this weekend, with committing the act of salmonella poisoning in The Dalles. He should know. I do not know whether he was a party to it or not, but he should certainly know, and he has accused his followers. So although I never had a doubt in my mind that it was done and that they did it, I can tell you that it is good to be vindicated. I was accused in Oregon of being too rash. I am very careful. I make thorough investigations before I take on anything, particularly of this nature, and I am pretty sure of myself. And now the Bhagwan Shree Rajneesh has accused certain of his cult associates not only of the salmonella poisoning in The Dalles but the bombing in the Hotel Portland that they own, an act that I figured they had done, as well, the burning of an office in the courthouse at The Dalles, an act that we thought they had done as well.

Now, what happened was that this weekend, Ma Anand Sheela, a 35-year-old women, who was a spokesperson for the Rajneeshees, and has been for several years and personal secretary to the Bhagwan, she left, and hurriedly. Her husband and children are already in Europe. And the Bhagwan thinks that she took around $55 million with her or has salted it away in Swiss bank accounts already. That kind of money this cult has. They have invested almost $110 million in the Rajneeshpuram establishment now. So I would not doubt that we are talking about that kind of money. Some people may think that stealing $55 million is a worse crime. And I agree that it is a pretty rough crime. But I have to emphasize that the poisoning of an entire town, think of that vicious act, that horrendous act, how vulnerable we are to people like this. And so I believe it is the salmonella poisoning of The Dalles that we should find the evidence from the Bhagwan, indict, these people who have absconded to Europe, extradite them, prosecute them and, if proven guilty in a court of law, give them severe punishment.

The people who left with Ma Anand Sheela include the Rajneeshpuram Mayor, Swami Krishna Deva. He is a young man who first attracted my attention to this cult. I saw him on television a couple years ago, and he was looking into the camera and he said, "We don't want to take over Oregon, but if we have to, we will take over Oregon." I did not like that statement at all. And instead of just being bemused by this cult that wore red robes and a picture of the Bhagwan around their necks and danced around and threw flowers, I began to see these people as dangerous people.

I wrote the mayor, Swami Krishna Deva, who is one of those who has now absconded to Europe, and I asked him what he meant by, "We don't want to take over Oregon, but we will take over Oregon."

He said, "We already have taken over Oregon. We have done it with joy and love."

Yes, Mayor Krishna Deva, you certainly did. You took over Oregon for a while, with hatred and crime. That is

what you did. And the people of Oregon, who were accused of being bigots and intolerant, have been vindicated, as well, because the people of Oregon saw these people as dangerous and evil, and they were right, they were right. I do not want to see religious intolerance, and I will oppose it at any time. I am one of the most tolerant people that you can find. But when good men refuse to act when they see evil, then we are all in trouble. And I saw evil in this religious cult.

So, among the others who absconded to Europe was the Rajneesh Foundation International treasuer, Ma Shanti Bhadra. I wrote Ma Shanti Bhadra in April and I asked her if she knew anything about the salmonella poisoning in The Dalles. I though I was being fair. I had asked everyone else if they knew anything about it. I did not want to select out the Rajneeshees as if they were already proven quilty, and I said, "If you know anything about it, I would like to know. Help us in our investigation."

I received this letter in return. It is on stationery called Rajneesh Medical Corp.

One of the things I had said in my investigation was that anybody can produce salmonella, just set a couple chickens out in the back yard for a couple of days in the Sun, you will probably get salmonella in them. But it is very helpful to have a medical laboratory and careful measuring devices in order to get just the right amounts and easily transport them and put them in salad bars, to bring down illness upon an entire town.

So I said the Rajneeshees had a medical laboratory, and was it not an interesting coincidence and convenience.

Well, this letter, under the stationery letterhead "Rajneesh Medical Corp., P.O. Box 8, Rajneeshpuram, OR" it says:

JIM WEAVER,
Congressman, Fourth District.

BELOVED MR. WEAVER: Love.

Your letter abounds with the same kind of stupidities as all your other statements on this issue up until now. After accusing persons in this community and this corporation in particular of deliberately poisoning hundreds of people, you have the nerve to write to ask our assistance in uncovering a mystery which has already been investigated by every appropriate county, State and Federal agency. They found no evidence of sabotage.

Well, they should have. I certainly did.

Good for Ma Shanti Bhadra.

Beloved Mr. Weaver. Love. Your letter abounds with . . . stupidities . . .

As I say, Ma Shanti Bhadra is one of those who has absconded to Europe, apparently with the guru's $55 million.

Others have gone, too. Ma Anand Puja, Ma Prem Savita, Ma Deva Rika, Ma Prem Patipada, Ma Anand Durga, Ma Prem Homa. They are called the dowager duchesses of Rajneeshland. They are "wonderful" people. They are just "wonderful" people.

□ 1505

Now, the truth is out. The truth is out. The Bhagwan has had his top cadres, his top people, those who led this frightening organization down their path of crime; it has made him angry, and so now he has accused these, Ma Anand Sheela, Ma Shanti Bhadra, the very ones who called the people of Oregon bigots. They denied any knowledge of these crimes and called us bigots for even thinking they might have done it. Their guru, the top boy has turned stool pidgeon on them, and has accused them of the salmonella poisoning in The Dalles, and he should know; he should know. He has accused them as well of arson, wire tapping, and bombing and taking the money and putting it in Swiss bank accounts. It was their money I guess; I do not know how they got it.

The Bhagwan you know has 80 Rolls Royces. I flew over the Rolls Royces in a helicopter, or rather Rajneeshpuram in a helicopter. I saw them. A real nice place. It is nice to have 80 Rolls Royces. I am not quite sure why he would want that many.

The reason I was over there flying over Rajneeshpuram in a helicopter, a Bureau of Land Management helicopter, is that I was investigating the land swap that was proposed between the Bureau of Land Management and the Rajneeshies. I find absolutely nothing wrong with the actions of the Bureau of Land Management. They have been trying to make this land swap for a number of years, well before the Rajneeshies came and settled at the Big Muddy Ranch.

They continued, the BLM, to see it in the public interest, and from their point of view, it still was. What they did not see and what I had not seen until I got over there to make my investigation was that the whole complexion of the land had changed. Now we had a city there of thousands of people. These are huge, rolling hills. There are ravines and canyons. The country is magnificient but very difficult to live in and ranch. They had built this city there.

The real estate values had changed, and the land that the Rajneeshies would have received for the land that they would give up to the BLM in the checkerboard configurations of land in those areas, was the critical land along the John Day River. One of the great rivers of Oregon. Land that gave them access to other developable areas, and had they been able to get this land from the BLM, they would have been able to develop a much larger city; put huge developments along the John Day River.

Now, some people have pointed out that Oregon has land use laws to prohibit that kind of thing; indeed we do. But you have got to remember, if an individual owned the Big Muddy Ranch, sure, he would be bound by those land-use laws. But the city, an official city of Oregon, Rajneeshpuram, owned that land in effect. And a city creates its own zoning laws. It must win a lawsuit, which they probably will, first, but that lawsuit they tell me is almost certainly to go the way of the Rajneeshies.

If that is the case, the Rajneeshies could have developed that land without many problems, and they could have put tens of thousands of housing units there along the John Day River. I suddenly saw that, flying over in a helicopter and boating the John Day and walking along it. Climbing the mountains there and looking down on it. I said, my gosh, this is a huge real estate development. It is not just swapping bare land, arid desert land, for more arid desert land. It is now swapping arid desert land for prime real estate development land.

Most importantly, it could threaten the environmental quality of the John Day River, one of the great rivers. Deep canyons; we are making wildernesses out of some of the areas. The State of Oregon had condemned the ranches across the river from Rajneeshpuram just because they were afraid it would be developed and detract from the John Day River horrendously.

So I called up the Bureau of Land Management and I said, "Look, this land swap, I did support it earlier, but I do not any more. It is a terrible thing. I will hold a hearing, I am chairman of the General Oversight Committee of the Interior Committee. I will hold a hearing and show that this land is worth tens of millions of dollars more than you are getting." The BLM saw the light immediately, and immediately canceled the proposed land swap and I commend the BLM for this. They went into this honestly, and when they saw the implications, they immediately canceled the proposed land swap.

I wonder, this is just pure speculation, but I wonder if these dowager duchesses, Ma Anand Sheela and Ma Shanti Bhadra and others who absconded to Europe with all those millions of dollars, I wonder if perhaps if they were waiting for that land swap and, because they saw the tens of millions of dollars they could make from that real estate development, and when it was blown up, when I blew up that land swap, they said, "OK, nothing here for us anymore, we are going to take off." Because it was just what? Ten days after the land swap was withdrawn that these Rajneesh lead-

priated to the Response Trust Fund shall be reserved—

"(A) for the purposes specified in paragraphs (1), (2), and (4) of section 111(a) of CERCLA, and

"(B) for the repayment of advances made under subsection (d), other than advances subject to the limitation of subsection (d)(2)(B).

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

"(2) LIMITATIONS ON ADVANCES TO SUPERFUND.—

"(A) AGGREGATE ADVANCES.—The maximum aggregate amount of repayable advances to the Superfund which is outstanding at any one time shall not exceed an amount which the Secretary estimates will be equal to the sum of the amounts described in paragraph (1) of subsection (b) which will be transferred to the Superfund during the following 12 months.

"(B) ADVANCES FOR CERTAIN COSTS.—The maximum aggregate amount advanced to the Superfund which is outstanding at any one time for purposes of paying costs other than costs described in section 111 (a)(1), (2), or (4) of CERCLA shall not exceed 15 percent of the amount of the estimate made under subparagraph (A).

"(C) FINAL REPAYMENT.—No advance shall be made to the Superfund after September 30, 1990, and all advances to such Fund shall be repaid on or before December 31, 1990.

"(3) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund (or when required by paragraph (2)(C)).

"(B) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

"(e) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Superfund may be paid only out of the Superfund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in CERCLA or the Superfund Improvement Act of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Superfund is unable (by reason of paragraph (1)) to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.".

(b) CONFORMING AMENDMENTS.—

(1) Subtitle B of the Hazardous Substance Response Revenue Act of 1980 (relating to establishment of Hazardous Substance Response Trust Fund) is hereby repealed.

(2) Paragraph (11) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(11) 'Fund' or 'Trust Fund' means the Hazardous Substance Superfund established by section 9505 of the Internal Revenue Code of 1954;".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 is amended by adding at the end thereof the following new item:

"Sec. 9505. Hazardous Substance Superfund."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1985.

(2) SUPERFUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Hazardous Substance Superfund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980. Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.

SEC. 205. REPEAL OF POST-CLOSURE TAX AND TRUST FUND.

(a) REPEAL OF TAX.—

(1) Subchapter C of chapter 38 (relating to tax on hazardous wastes) is hereby repealed.

(2) The table of subchapters for such chapter 38 is amended by striking out the item relating to subchapter C.

(b) REPEAL OF TRUST FUND.—Section 232 of the Hazardous Substance Response Revenue Act of 1980 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1985.

SEC. 206. INDUSTRIAL DEVELOPMENT BONDS FOR HAZARDOUS WASTE TREATMENT FACILITIES.

(a) IN GENERAL.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended—

(1) by inserting ", facilities subject to final permit requirements under subtitle C of title II of the Solid Waste Disposal Act for the treatment of hazardous waste," after "solid waste disposal facilities" in subparagraph (E), and

(2) by adding at the end thereof the following new sentence: "For purposes of subparagraph (E), the terms 'treatment' and 'hazardous waste' have the meanings given to such terms by section 1004 of the Solid Waste Disposal Act.".

SEC. 207. REPORT ON METHODS OF FUNDING SUPERFUND.

Not later than January 1, 1988, the Comptroller General of the United States or his delegate shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to various methods of funding the Hazardous Substances Superfund, including a study of the effect of taxes on the generation and disposal of hazardous wastes.

Mr. STAFFORD. Mr. President, the bill now before the Senate has been considered by three committees: The Committee on Environment and Public Works, which I am privileged to chair; the Committee on Finance; and, the Committee on Judiciary. I am pleased to say that S. 51 was discharged from one of those committees and reported favorably from each of the other two with only one dissenting vote.

This bill enjoys broad support among both Members of the Senate and outside groups with an interest in the Superfund Program. One reason this bill enjoys such support is because it is a moderate proposal which makes only modest changes in a vitally necessary law.

The reason we are proposing only modest changes is because Superfund is a fundamentally sound law which now is working well. What it needs most is more money and more time. Those are the two essential elements of S. 51.

PURPOSE AND SUMMARY

S. 51, as amended, amends the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide $7.5 billion in additional funding over a 5-year period.

The overriding purpose of S. 51 is to expand and accelerate the Federal Government's program to clean up and otherwise protect the public health and environment from releases of hazardous substances and wastes. To this end, S. 51 not only provides additional money and time, but makes changes in the law which improve the pace and direction of those cleanup efforts.

I hope additional improvements can be made on the floor through a series of amendments I intend to offer. Title I of the bill establishes cleanup standards to be applied so that human health and the environment is protected in every circumstance; a health program to assure that at each Superfund site a thorough review and assessment is made of the threats posed to human health; a chemicals testing program to develop adequate information on frequently encountered hazardous substances; and a grant program to assist States that wish to establish demonstration systems of assistance for victims of hazardous substances and wastes.

BACKGROUND AND NEED

The modern chemicals technology which has contributed so greatly to this Nation's standard of living has also left a legacy of hazardous substances and wastes which pose a serious threat to human health and the environment. By some estimates, there are over 20,000 abandoned hazardous waste sites in the United States. In large areas, drinking water supplies are contaminated by synthetic organic chemicals, including a large number of supplies which rely upon groundwater, a resource generally thought to be safe from contamination. Unfortunately, the Environmental Protection

Agency estimates that for ground water systems serving less than 10,000 persons, 1 of every 6 supplies is contaminated by volatile organic chemicals and nearly 1 of every 3 of the larger systems.

It was to deal with such problems that the Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, which quickly came to be known as the "Superfund." The law authorized a 5-year, $1.6-billion program to clean up releases of hazardous substances, pollutants and contaminants. It also created a new health agency, the Agency for Toxic Substances and Disease Registry, located within the Department of Health and Human Services. The bulk of the cleanup program, however, was delegated to the Environmental Protection Agency.

During the 5 years which have passed since enactment of the Superfund law, public concern has intensified. In some areas and States, public opinion polls show that the public is more concerned over the problem of hazardous substances and wastes than any other domestic issue.

The Environmental Protection Agency has now embarked on a program to clean up 115 Superfund sites per year and estimates that it will be called upon to react to up to 200 emergencies annually. The Assistant Administrator has testified that a 5-year extension of this program would require an additional $5.3 billion. But this estimate fails to take into account other important and substantial demands on the fund. It does not, for example, allow leeway for the payment of any claims for natural resource damages, one of the law's most important, but still unimplemented, components. The estimate also does not allow any room for increase in the cost of cleanup per site beyond the current estimate, even though the Agency's previous projections have climbed in the past 4 years from $2.5 million per site to $6.5 million in 1984 and, most recently, $8.3 million. Finally, the estimate assumes that between now and 1990, which is the expiration date of the 5-year extension, there will be no inflation. Based on this, it seems clear that even a simple extension of the current program will require substantially more than $5.2 billion. With the addition of new responsibilities in this bill (estimated by the Agency to cost $1 to $1.5 billion over 5 years), the committee concluded that an appropriate 5-year funding level was $7.5 billion, as contained in the reported bill.

STATEMENT OF PRINCIPLES

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 was designed to help address many of the problems faced by our country as a result of toxic chemical contamination. The statute does not and is not intended to replace other laws which provide the regulatory foundations to address a variety of these toxic chemical concerns or provide victims with the rights to recover for damages, or obtain other relief. The existing statute and this reauthorization are structured to complement these laws and add to the remedies available to injured parties and other citizens.

The Superfund is founded on certain fundamental objectives. These are:

First, it is to provide ample Federal, State and citizen authority for cleaning up and preventing releases of hazardous substances, pollutants and contaminants.

Second, it is to assure that those responsible for any damage, contamination, environmental harm or injury from hazardous substances bear the costs of their actions and do not transfer them to others, whether through contract, sale, transportation, disposal, or otherwise;

Third, it provides a fund to finance response actions where a responsible party does not clean up, cannot be found or cannot pay. This fund has been based primarily on contributions from those who have been generally associated with such problems in the past and who today profit from products and services associated with such substances; and

Fourth, to provide adequate compensation to those who have suffered economic, health, natural resource, and other damages.

If these objectives can be and are realized through administration of the law, both by the executive branch and the judicial branch, the major objective of the statute will be accomplished: To provide an incentive to those who manage hazardous substances or are responsible for contaminating sites to avoid releases and to make maximum effort to clean up or to mitigate the effects of any such release.

Both the President and the courts should constantly bear in mind that this is a law directed at all toxic threats, whether air, water, or waste, and without regard to the specific use if any, to which the chemical or organism was to be used; pesticides are covered as well as PCB's, mining wastes as well as spent solvents, and organisms as well as chemicals. Individuals and society are to be protected from all of these and made whole when protection has failed.

FUNDING LEVEL

A great deal of the debate over Superfund's eventual cost has centered on the number of sites that will, upon inspection, exceed the EPA threshold score and, as a result, be listed on the National Priorities List. As of April 10, 1985, a total of 540 sites had been listed and an additional 276 had been proposed for listing. The EPA estimates that a total of 1,800 sites will eventually be listed on the NPL, but concedes in its recent report to Congress (the "301" studies) that "if EPA were to undertake a targeted, systematic discovery and investigation effort * * * the size of the program could increase substantially." After identifying several categories of sites that have not been targeted (such as municipal landfills, mining waste sites, and leaking underground storage tanks), the report concludes that "if even a small fraction of these sites requires Superfund response, then funding needed to address them would overwhelm the central estimates currently projected for the Superfund program."

The administration requested, but the Committee on Environment and Public Works rejected, a request that the law be extended for 5 years at a cost of only $5.3 billion. Several related factors were cited by the administration in support of a relatively slower pace of spending. First, it asserted that if the program were expanded too quickly, money would be wasted because of inability to manage the quality of the work performed. Second, according to EPA Administrator Lee Thomas, "the inability of the analytical laboratory industry to further increase its capacity for organic sample analysis and high hazard sample analysis constitutes another major limitation on more expansion * * *." Third, according to EPA's "301" studies, "there is concern about the extent to which fully permitted treatment, storage and disposal facilities will be available to dispose of Superfund waste * * *." Fourth, the Administrator said it has encountered a shortage of experienced personnel with specialized skills. Finally, the Administrator asserted that the capacity of the States to provide funds for their share of Superfund activities would constrain.

The committee examined these assertions and concluded that while they did not justify restraining Superfund to a $5.3 billion level, they did warrant a more cautious increase. Thus, the Committee on Environment and Public Works reported S. 51, as did the Committee on Finance, with a 5-year level of $7.5 billion.

Mr. President, before commenting on some of the specific provisions of S. 51 as reported, I would like to make an observation regarding the law's liability standard.

Superfund imposes a standard of strict, joint, and several liability for those who manufacture, transport, dispose of, apply or in any other way engage in activity which results in the release of hazardous substances. Such individuals are engaged in abnormally dangerous activities and should be held to the standard of care which assures that they exercise the highest degree of care which is possible.

pursuant to AECA, section 36(a) (90 Stat. 740; 94 Stat. 3134) and section 26(b) (92 Stat. 740) (E.O. 11958); to the Committee on Foreign Affairs.

2004. A letter from the Administrator of the General Services Administration, transmitting a draft of proposed legislation to revise certain provisions of chapter 57, title 5, United States Code, relating to the subsistence allowances of Government civilian employees while performing official travel, and for other purposes; to the Committee on Government Operations.

2005. A letter from the Assistant Secretary, Department of the Interior, transmitting a draft of proposed legislation to authorize an increase in the appropriation ceiling for the North Loup Division, Pick Sloan Missouri Basin Program, NE; to the Committee on Interior and Insular Affairs.

2006. A letter from the Deputy Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting notice of the proposed final rules under the Coastal Zone Management Act, pursuant to Public Law 96-464, section 12; to the Committee on Merchant Marine and Fisheries.

2007. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend section 3109 of title 5, United States Code, to clarify and improve the Government-wide authority for the appointment and compensation of experts and consultants as Federal employees, and for other purposes; to the Committee on Post Office and Civil Service.

2008. A letter from the Secretary of Transportation, transmitting a draft of three legislative proposals: To amend subtitle IV of title 49, United States Code, to reduce regulation of motor carriers of property, and for other purposes; to amend subtitle IV of title 49, United States Code, to reduce regulation of surface freight forwarders and brokers, and for other purposes; to amend subtitle IV of title 49, United States Code, to reduce regulation of interstate water carriers, and for other purposes; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted September 16, 1985]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6. A bill to provide for the conservation and development of water and related resources and the improvement and rehabilitation of the Nation's water resources infrastructure; with amendments (Rept. 98-251, Pt. 2). Ordered to be printed.

[Submitted September 17, 1985]

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 388. Joint resolution making continuing appropriations for the fiscal year 1986, and for other purposes. (Report 99-272). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. House Concurrent Resolution 185. Concurrent resolution expressing the sense of the Congress in support of the efforts of the organizers of and participants in the Farm Aid Concert to be held in Champaign, IL, to bring the current crisis in American agriculture to the attention of the American people. (Rept. No. 99-273). Referred to the House Calendar.

SUBSEQUENT ACTION ON A REPORTED BILL

Under clause 5 of rule X the following action was taken by the Speaker:

Referral of H.R. 6 to the Committee on Merchant Marine and Fisheries extended for a period ending not later than Sept. 23, 1985.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BREAUX (for himself, and Mr. HUCKABY):

H.R. 3314. A bill to provide for a fair and equitable disposition to certain coastal States of certain Federal Outer Continental Shelf revenues; to the Committee on Interior and Insular Affairs.

By Mr. CLINGER:

H.R. 3315. A bill amending the Powerplant and Industrial Fuel Use Act of 1978 with respect to the conversion of Federal facilities to coal; to the Committee on Energy and Commerce.

By Mr. GUARINI (for himself, and Mr. WEISS):

H.R. 3316. A bill to amend title 23, United States Code, to make special provision for withdrawal of approval of the Westway highway project and for approval of substitute highway and transit projects; to the Committee on Public Works and Transportation.

By Mr. IRELAND:

H.R. 3317. A bill to amend the False Claims Act, and title 18 of the United States Code regarding penalties for false claims, and for other purposes; to the Committee on the Judiciary.

By Mr. KANJORSKI:

H.R. 3318. A bill to direct the Administrator of General Services to construct a Federal office building for the Social Security Administration and other Federal agencies in Wilkes-Barre, PA: to the Committee on Public Works and Transportation.

By Mr. KLECZKA (for himself, and Mr. ENGLISH):

H.R. 3319. A bill to amend the Freedom of Information Act, and for other purposes; to the Committee on Government Operations.

By Mr. ROBINSON:

H.R. 3320. A bill to provide for procedures for approval of congressional committee foreign travel, and for other purposes; to the Committee on House Administration.

By Mr. RODINO:

H.R. 3321. A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to aliens and nationality, as title 8, United States Code, "Aliens and Nationality"; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H.J. Res. 389. Joint resolution to designate the week of October 7 through October 13, as "National Trout Week"; to the Committee on Post Office and Civil Service.

By Mr. ROTH:

H. Con. Res. 191. Concurrent resolution expressing the support of the Congress for a peaceful return of democratic rule in Chile; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. OXLEY:

H.R. 3322. A bill for the relief of the estate of Commodore Perry Miller; to the Committee on the Judiciary.

By Mr. RUSSO:

H.R. 3323. A bill for the relief of Alexander Lockwood; to the Committee on the Judiciary.

By Mr. WRIGHT:

H.R. 3324. A bill for the relief of Angel Maldonado-Valverde, Lusila Delgado de Maldonado, Francisco Maldonado-Delgado, Dora Luz Maldonado-Delgado, and Jose Luis Maldonado-Delgado; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

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

H.R. 370: Mr. GONZALEZ.

H.R. 604: Mr. PACKARD.

H.R. 776: Mr. RODINO.

H.R. 822: Mr. OBEY, Mr. MCCURDY, Mr. GUNDERSON, Mr. CLINGER, and Mr. HAMMERSCHMIDT.

H.R. 1021: Mr. SUNIA.

H.R. 1059: Mr. ANDREWS.

H.R. 1207: Mr. LANTOS.

H.R. 1318: Mr. HAMMERSCHMIDT and Mr. HUNTER.

H.R. 1356: Mr. FAWELL, Mr. DAUB, Mr. MORRISON of Washington, Mr. TAUKE, Mrs. BURTON of California, Mr. HERTEL of Michigan, Mr. DEWINE, Mr. BADHAM, Mr. WEISS, Mr. TOWNS, Mr. BROWN of California, Mr. DYSON, Mr. CONYERS, Mr. KINDNESS, Mr. VALENTINE, Mr. OLIN, Mr. RODINO, Mr. CARR, Mr. WEBER, Mr. BONIOR of Michigan, Mr. MARKEY, Mr. ARMEY, and Mrs. BENTLEY.

H.R. 1538: Mr. MCEWEN.

H.R. 1619: Mr. DORGAN of North Dakota.

H.R. 1875: Mr. BEVILL, Mr. AKAKA, Mr. SILJANDER, Mr. DYMALLY, Mr. DIOGUARDI, Mr. BATEMAN, and Mr. HUBBARD.

H.R. 1991: Mr. COURTER and Mr. FAWELL.

H.R. 1992: Mrs. SCHNEIDER and Mr. FAWELL.

H.R. 2157: Mr. OXLEY, Mr. MITCHELL, and Mr. EVANS of Iowa.

H.R. 2451: Mr. SKEEN, Mr. HORTON, Mr. FISH, Mr. MOORE, Mr. TORRICELLI, Mr. CRAIG, and Mr. DOWDY of Mississippi.

H.R. 2583: Mr. LIGHTFOOT, Ms. KAPTUR, Mr. CHAPPIE, Mr. KOLTER, Mr. SHAW, Mr. RITTER, Mr. STENHOLM, and Mr. ANDERSON.

H.R. 2683: Mr. LAFALCE.

H.R. 2854: Ms. OAKAR, Mr. LELAND, Mr. BONER of Tennessee, and Mr. BRYANT.

H.R. 2861: Mr. YATES, Mr. LIPINSKI, Mr. MITCHELL, Mrs. COLLINS, Mr. STARK, Mr. MRAZEK, Mr. SEIBERLING, Mr. DELLUMS, Mrs. BOXER, Mr. WHITEHURST, Mr. FOGLIETTA, Mr. RANGEL, Mr. SCHUMER, Mr. TORRICELLI, Ms. MIKULSKI, Mrs. BURTON of California, Mr. MORRISON of Connecticut, and Mr. WEISS.

H.R. 2879: Mr. LEHMAN of California.

H.R. 3006: Mr. DAUB, Mr. ROSE, and Mr. YOUNG of Florida.

H.R. 3035: Mr. MARTINEZ, Mr. ACKERMAN, Mr. ANDREWS, and Mr. TRAFICANT.

H.R. 3040: Mr. BRYANT.

H.R. 3041: Mr. THOMAS of California, Mr. DIXON, Mrs. COLLINS, Mr. FUSTER, Mr. LEVINE of California, Ms. OAKAR, Mr. BEVILL, Mr. MATSUI, and Mr. LAGOMARSINO.

H.R. 3043: Mr. ROBERT F. SMITH, Mr. FISH, Mr. DASCHLE, Mrs. BENTLEY, Mr. ARCHER, Mr. GINGRICH, Mr. ARMEY, Mr. BORSKI, Mr. VALENTINE, and Mr. BARTON of Texas.

H.R. 3087: Mr. RAHALL, Mr. BATES, Mr. LEVINE of California, Mr. LELAND, Mr. GRAY of Illinois, Mr. LEHMAN of Florida, Mr. MARKEY, Mr. HAYES, Mr. MRAZEK, Mr. GREEN, Mr. WEBER, Mrs. BURTON of California, Mrs. COLLINS, Mr. FROST, Ms. OAKAR, Mr. FAUNTROY, Mr. BONER of Tennessee, and Mr. ANDREWS.

H.R. 3098: Mr. BIAGGI.

H.R. 3099: Mr. FROST, Mr. CROCKETT, Mr. HOYER, and Mr. BERMAN.

H.R. 3127: Ms. OAKAR and Mr. WEAVER.

H.R. 3132: Mr. RUSSO, Mr. HOWARD, Mrs. COLLINS, Mr. FAZIO, Mr. STRATTON, Ms. KAPTUR, and Mr. TORRICELLI.

H.R. 3190: Mr. ACKERMAN, Mr. FROST, Ms. KAPTUR, Mr. SMITH of Florida, Mr. CROCKETT, and Mr. BERMAN.

H.R. 3263: Mr. DE LUGO, Mr. RODINO, and Ms. OAKAR.

H.J. Res. 178: Mr. MCEWEN.

H.J. Res. 200: Mrs. BOXER, Mrs. KENNELLY, Mr. DREIER of California, Mr. MCCAIN, Mr. BOUCHER, Mr. LEVINE of California, Mr. VOLKMER, Mr. GREGG, Mr. ANDREWS, Mrs. MEYERS of Kansas, Mr. EMERSON, Mr. SPENCE, Mr. BROWN of California, Mr. BROOKS, Mr. FRANK, Mr. WALGREN, Mr. GEJDENSON, Mr. YOUNG of Missouri, Mr. CHANDLER, Mr. TAUZIN, Mr. STENHOLM, Mr. CAMPBELL, Mr. REID, Mr. FOLEY, Mr. SISISKY, Mr. PICKLE, Mr. STUMP, Mr. WHEAT, Mr. RUDD, Mr. SKELTON, and Mr. TORRES.

H.J. Res. 218: Mr. LOWRY of Washington, Mr. QUILLEN, Mr. STUDDS, Mr. HORTON, Mr. DIOGUARDI, Mr. ROBINSON, Mr. FAUNTROY, Mr. HANSEN, Mr. HARTNETT, Mr. NOWAK, Mr. SMITH of New Hampshire, Mr. LATTA, Mr. LEHMAN of Florida, Mr. JEFFORDS, Mr. TAUZIN, Mr. BEDELL, Mr. FUSTER, Mr. STAGGERS, Mr. CRAIG, Mr. LUNGREN, Mr. LIVINGSTON, Mr. JONES of North Carolina, Mr. KEMP, Mr. LIPINSKI, Mr. TAYLOR, Mr. TRAFICANT, Mr. DONNELLY, Mr. TRAXLER, Mr. MACK, Mr. HYDE, Mr. LEHMAN of California, Mrs. BENTLEY, Mr. SPRATT, Mr. CARPER, Mr. SUNDQUIST, and Mr. BARNES.

H.J. Res. 244: Mr. WORTLEY, Mr. GILMAN, Mrs. KENNELLY, Mr. HAMMERSCHMIDT, Mr. RODINO, Mr. ROBERTS, Mr. MITCHELL, Mr. RAHALL, Mrs. COLLINS, Mr. ROSE, Mr. FUSTER, Mr. HUGHES, Mr. FAZIO, Mr. FAUNTROY, Mr. OBERSTAR, Mr. WEBER, Mr. DWYER of New Jersey, Mr. CROCKETT, Mr. WEISS, Mr. WILLIAMS Mr. MARKEY, and Mr. OWENS.

H.J. Res. 266: Mr. MCKERNAN, Mr. HALL of Texas, Mr. CHANDLER, Mrs. BOXER, Mr. FOLEY, Mrs. BURTON of California, Mr. MILLER of Washington, Mr. KASTENMEIER, Mr. NELSON of Florida, Mr. BURTON of Indiana, Mrs. SMITH of Nebraska, and Mr. WIRTH.

H.J. Res. 288: Mr. LELAND, Mr. BOSCO, Mr. SMITH of New Jersey, Mr. MATSUI, Ms. OAKAR, Mr. HOYER, Mr. BONER of Tennessee, Mr. OBERSTAR, Mr. COBLE, Mr. FISH, Mr. WEBER, Mr. HOWARD, Mr. MAZZOLI, Mr. MCEWEN, Mr. HENDON, Mr. GORDON, Mr. FASCELL, Mr. STRANG, Mr. BLAZ, Mrs. BENTLEY, Mr. ORTIZ, Mr. STALLINGS, Mr. PERKINS, Mr. WHEAT, Mr. BENNETT, Mrs. LLOYD, Mr. SILJANDER, Mr. PORTER, Mr. LIVINGSTON, Mr. PURSELL, Mr. BREAUX, Mr. MINETA, Mr. YATRON, Mr. MURPHY, Mr. JEFFORDS, Mr. BEREUTER, Mr. YOUNG of Florida, Mr. CARNEY, Mr. ANTHONY, Mr. LIPINSKI, Mr. ROWLAND of Georgia, Mr. CLINGER, Mr. UDALL, Mr. ROBERT F. SMITH, Mr. SCHUMER, Mr. MARTIN of New York, Mr. ANDERSON, Mr. ARCHER, Mr. ROYBAL, Mr. SISISKY, Mr. SPRATT, Mr. SCHUETTE, Mr. ATKINS, Mr. HERTEL of Michigan, Mr. LOTT, Mr. BRYANT, and Mr. PICKLE.

H.J. Res. 296: Mr. KOLBE, Mr. COUGHLIN, Mr. LOTT, Mr. MOLLOHAN, and Mr. WOLPE.

H.J. Res. 313: Mr. WORTLEY, Mr. BARNARD, Mr. SLAUGHTER, Mr. CHANDLER, Mr. GALLO, Mr. SUNDQUIST, Mr. CAMPBELL, Mrs. HOLT, Mr. MICHEL, Mr. LUJAN, Mr. FIELDS, Mr. HALL of Texas, Mr. WATKINS, Mrs. LLOYD, Mr. WHITLEY, and Mr. DELAY.

H.J. Res. 347: Mr. PASHAYAN, Mr. PURSELL, Mr. LEWIS of Florida, Mr. KANJORSKI, Mr. HORTON, Mr. VOLKMER, Mr. DAUB, Mr. LAGOMARSINO, Mr. O'BRIEN, Mr. BLILEY, Mr. GRAY of Illinois, Mr. YATES, Mr. FUSTER, Mr. DORNAN of California, Mr. ROE, Mr. SOLOMON, Mr. DYSON, Mr. BONIOR of Michigan, Mr. FROST, Mr. HUGHES, Mr. FUQUA, Mr. SMITH of Florida, Mr. JEFFORDS, Mrs. BURTON of California, Mr. LIVINGSTON, and Mr. BEREUTER.

H.J. Res. 350: Mr. BEDELL, Mr. BRYANT, Mr. CHAPPELL, Mr. CLINGER, Mr. CONYERS, Mr. COOPER, Mr. CROCKETT, Mr. DE LA GARZA, Mr. DIXON, Mr. DORNAN of California, Mr. FAZIO, Mr. FUQUA, Mr. GARCIA, Mr. GORDON, Mr. GUARINI, Mr. HATCHER, Mr. HAYES, Mr. JONES of Tennessee, Mr. MARTINEZ, Mr. MAVROULES, Mr. MCKERNAN, Mr. MCMILLAN, Ms. MIKULSKI, Mr. MURPHY, Mr. NEAL, Mr. O'BRIEN, Mr. ORTIZ, Mr. PACKARD, Mr. RODINO, Mr. ROE, Mr. ROTH, Mr. STUMP, Mr. SUNIA, Mr. SYNAR, Mr. TOWNS, Mr. TRAXLER, Mr. VALENTINE, Mr. VENTO, Mr. WILSON, and Mr. YOUNG of Missouri.

H. Con. Res. 41: Mr. HUNTER, Mr. YATRON, Mr. COYNE, and Mr. EMERSON.

H. Res. 165: Mr. JONES of Oklahoma.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

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

H.R. 2904: Mr. FRENZEL.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

204. By the SPEAKER: Petition of Dr. Aminul I. Chowdhury, a citizen of Bangladesh, relative to the matter of Export Link versus The World Bank; to the Committee on Banking, Finance and Urban Affairs.

205. Also, petition of Mayor, city of Fallon, NV, relative to safe drinking water; to the Committee on Energy and Commerce.

206. Also, petition of Peter J. Cojanis, Washington, DC, relative to divorce; to the Committee on the Judiciary.

207. Also, petition of Fraternal Order of Border Agents, Mission, TX, relative to Customs and Drug Enforcement Administration officers; jointly, to the Committees on the Judiciary and Ways and Means.

208. Also, petition of Massachusetts Highway Users Conference, Boston, MA, relative to extending the Superfund law; jointly, to the Committees on Energy and Commerce, Public Works and Transportation and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3128

By Mr. QUILLEN:

—On page 115 of H.R. 3128 as reported on September 11, 1985, delete lines 7 through 13.

By Mr. SMITH of New Jersey:

—Immediately after section 149, insert the following new section (and conform the table of contents):

SECTION 150. MEDICARE PAYMENT FOR THERAPEUTIC SHOES FOR INDIVIDUALS WITH SEVERE DIABETIC FOOT DISEASE.

(a) COVERAGE UNDER PART B.—Section 1861(s) of the Social Security Act (42 U.S.C. 139,x(s)) is amended—

(1) by redesignating paragraphs (11) through (14) as paragraphs (12) through (15), respectively,

(2) by striking out "and" at the end of paragraph (9),

(3) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and", and

(4) by inserting after paragraph (10) the following new paragraph:

"(11) therapeutic shoes for individuals with severe diabetic foot disease, if—

"(A) the shoes are prescribed by a physician who certifies that the individual is under a comprehensive plan of care related to the individual's diabetic condition, and

"(B) the shoes are fitted and furnished by a certified pedorthist, a certified orthotist, or other qualified individual (as established by the Secretary), and

"(C) the shoes have been subjected to a review by a peer review organization to determine whether of not the qualifying criteria have been met.".

(b) LIMITATION ON BENEFIT.—Section 1833 of such Act (42 U.S.C. 1395) is amended by inserting after subsection (e) the following new subsection:

"(f) In the case of therapeutic shoes described in section 1861(s)(11)—

"(1) no payment may be made under this part for the furnishing of more than one pair of shoes for any individual for any calendar year, and

"(2) with respect to expenses incurred in any calendar year, no more than $375 shall be considered as incurred expenses for purposes of subsections (a) and (b).".

(c) MODIFICATION OF EXCLUSION.—Section 1862(a)(8) of such Act (42 U.S.C. 1395y(a)(8)) is amended by inserting ", other than therapeutic shoes furnished pursuant to section 1861(s)(11))" before the semicolon.

(d) CONFORMING AMENDMENTS.—Sections 1864(a), 1965(a), 1902(a)(9)(C), and 1915 (a)(l)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by striking out "paragraphs (11) and (12)" and inserting in lieu thereof "paragraphs (12) and (13)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to therapeutic shoes furnished on or after January 1, 1986.

By Mr. SWINDALL:

—Page 38, strike out lines 11-19 and insert the following new subsection:

(3) REPORT.—The Secretary of Health and Human Services shall report to Congress, no later than 16 months after the date of the enactment of this Act, on the effect of the

the Superfund Program more important. Fully 99 of the 850 sites on the National Priority List for Superfund cleanup are in New Jersey. The most dangerous site in the country, the Lipari landfill, is located in the suburbs of Camden. There is not one county in New Jersey free of abandoned toxic waste sites which threaten human health and the surrounding environment.

Not one site in New Jersey has been totally cleaned up. Cleanup work has begun on only 20 of the 99 sites on the Superfund list in New Jersey. New Jersey needs a bigger, faster paced Superfund Program. So do many other States around the country. By way of example, States like New York have a total of final and proposed sites of 59; California has 60; Ohio has 29; Pennsylvania has 59; Texas has 26; Minnesota has 39; and the total of just these few States is more than 280 sites that need prompt and immediate action.

In my State, and around the Nation, the Government is losing its credibility and the public is understandably frustrated and angry. There is just not enough money at current funding levels to make a dent in the problem.

In addition, in the 5 years we have had experience with the Superfund Program, as well as the Defense Department's toxic waste cleanup program, we have identified areas in which they must be strengthened and improved.

It is time to move faster, to rid our environment of the toxics that are poisoning our land and water, and threatening our citizens. That is why extension and improvement of the Superfund Program is so important to New Jersey and the Nation.

Mr. President, S. 51 provides funding over the next 5 years for the Superfund Program of $7.5 billion, more than four times as much as the current Superfund Program. Funding will be derived from two sources. An excise tax is levied on manufacturers that have sales receipts of more than $5 million per year in manufactured goods or raw materials. This broad-based tax would raise approximately $6 billion of the $7.5 billion of the expanded fund. I supported the efforts of Senators BENTSEN, MITCHELL, CHAFEE, BRADLEY, and others, on the Finance Committee, to develop a broader based tax to help pay for an expanded Superfund.

The remaining $1.5 billion would be raised through an extended tax on feedstocks and petroleum. Additional moneys would be added to the fund through cost recovery from parties responsible for cleanup, from interest collected on the fund, and from the postclosure liability fund.

Mr. President, S. 51 clearly addresses an issue that has hindered State efforts to set up their own superfunds. Because of a suit filed in New Jersey, which questioned the right of a State to tax the same sources taxed by the Federal Superfund, State Superfund programs have had a cloud over them. This has certainly been the case in New Jersey, where the State was extremely reluctant to spend funds out of our spillfund without this litigation being settled. S. 51 strikes the so-called preemption language in existing law which created this legal ambiguity. Approval of the bill will end years of litigation and free States to conduct aggressive cleanup programs with their own funds.

Mr. President, beyond increasing the size of the Superfund, S. 51 also makes important improvements to the current program.

S. 51 includes new health provisions that direct and authorize funds for the testing of toxic chemicals most commonly found at Superfund sites. It requires that health assessments be done at every site listed on the National Priority List, and that a more effective program be established for providing information to citizens who are worried about the health ramifications of exposure to nearby Superfund sites.

Mr. President, S. 51 also contains provisions to speed cleanup at Federal facilities. The extent of the contamination at hundreds of Federal facilities is just now coming to light.

The Federal facility amendments in S. 51 would require an expanded oversight role by the EPA. Inclusion of a Federal facility site on the national priority list would trigger schedules for cleanup at the site. These schedules would be implemented through interagency agreements, and accompanied by reports to Congress on the status and budgetary needs for completing cleanup and assuring long term operation and maintenance at sites at which interagency agreements are to be made.

Under S. 51, EPA would be required to concur in the selection of cleanup actions to be taken at Federal facilities. S. 51 also empowers EPA to issue corrective action orders at Federal facilities. Finally, this section of the bill reaffirms the original language of statute: That all provisions applicable to private parties are applicable to Federal facilities.

When the Senate begins its consideration of amendments, I intend to offer an amendment that will expand the Federal facility reporting requirements under this provision.

Mr. President, the bill also contains citizen suit provisions that provide citizens with the right to sue in Federal court to enforce nondiscretionary duties and to enforce standards, regulations, orders, and other requirements under the act. This provision is an important step in improving the tools that citizens have to ensure that the Superfund is implemented fairly and effectively.

Mr. President, I deeply appreciate the willingness of the members of the Environment and Public Works Committee to work in crafting an improved Superfund program, and one which is responsive to New Jersey's needs, as well as other States across the Nation. During the committee's markup of a Superfund extension bill in 1984, I offered a number of amendments, which were adopted at that time, and are carried over into this year's bill.

Key among those amendments are two designed to address ground-water contamination problems, prevalent in New Jersey and elsewhere around the country. Fully 60 percent of New Jersey's drinking water comes from ground water, and in the southern part of the State upward of 90 percent does. Contaminants leaching out of toxic waste sites threaten to contaminate our ground water, a precious resource in our drought plagued State.

My amendments requires EPA to clean up contaminated ground water and surface water as part of remedial action at Superfund sites, and mandate that EPA provide household replacement water, as well as drinking water, when contaminated water supplies or water supply systems are replaced by the agency.

S. 51 also contains several other amendments I sponsored in 1984 which refine Federal-State relationships under Superfund. The first of these provisions allows a State to spend its own money to conduct early cleanup at a Superfund site, with the assurance that it will be reimbursed by the fund for authorized expenditures. This amendment encourages States to use their own funds to move faster than the Federal program might permit, without being penalized for doing so.

The second of these provisions extends the statute of limitations for natural resources damage claims, which expired last December, before EPA issued regulations to inform State applications for reimbursement. The absence of these regulations made it impossible for States to submit acceptable applications for the money to which they are entitled under Superfund. However, this year, in recognition that public health risks must take priority in securing cleanup funds, S. 51 was amended to include a limitation on funds for natural resources damage claims.

Mr. President, I also want to express my appreciation to the chairman and other members of the committee for their cooperation in working with me this year on amendments to S. 51 to improve emergency planning and access by the public to information about chemicals in their communities.

These amendments stem from a hearing held by the Senate Environment and Public Works Committee in

February in the wake of a spate of chemical releases in New Jersey and the tragedy in Bhopal, India. I requested that this hearing be held in New Jersey to investigate what could be done to minimize the risks associated with chemical releases into the atmosphere. New Jersey poses a great challenge in this regard, because it is the most densely populated State in the Nation and is the third largest producer of chemicals in the United States. In addition to these emergency response issues, data collected by the Library of Congress for the committee indicated that daily exposure to chemicals emitted by chemical facilities was of sufficient magnitude and regularity, that these releases should be reported to the public.

Based on this hearing, the committee adopted two amendments that I sponsored to S. 51 in February.

These provisions would improve the notification and penalties provisions of the existing Superfund program by requiring immediate notification of State and local officials in the event of a release of a "reportable quantity" of a hazardous substance covered by Superfund. S. 51 strengthens the penalties for failure to notify by establishing civil penalties of up to $75,000 per day and increasing criminal penalties to up to 5 years in jail.

The lessons of the past year have underscored the importance of effective reporting requirements, and tough penalties for failure to report releases. Nowhere was this clearer than in West Virginia this summer when a toxic cloud of aldicarb oxime from a Union Carbide facility hung over the plant for 20 minutes before response officials were notified. It was another 20 minutes before the local community was notified, at which time the cloud had moved through the community, sending more than 130 workers and residents to area hospitals.

I intend to offer an amendment with Senators HUMPHREY, HEINZ, and MOYNIHAN to supplement these provisions and the emergency response provisions in Superfund when the Senate takes up amendments to the bill.

The second provision adopted by the committee establishes a hazardous substance inventory, to help assess the extent to which the public is exposed to chemicals which may have long-term, adverse impacts on the public health. The committee will be refining this provision, section 106, during consideration of S. 51. I very much appreciate the chairman's support for these provisions.

Finally, Mr. President, I want to thank the chairman for working with me and Senator MITCHELL on legislation to establish a viable indoor air pollution and radon detection and mitigation program within EPA.

Mr. President, the committee has produced a sound bill which should enjoy the support of the Senate. During consideration of the bill, several amendments may be offered to increase the size of the Superfund Program and improve other aspects of the program. These amendments pose a difficult choice for those of us who serve on the committee, and have worked so closely together to fashion S. 51. However, Mr. President, I intend to support amendments to further strengthen the bill, including amendments to increase the size of the fund.

In closing, Mr. President, I want to express my personal appreciation for the evenhanded and nonpartisan manner in which the Senator from Vermont conducted committee consideration of this bill and, in fact, the equitable and considerate manner in which he conducts all committee business. The Senator from Vermont has always gone out of his way to encourage me to participate in committee consideration of this bill and all committee work. For this I extend my deepest appreciation.

Mr. STAFFORD. Mr. President, will the Senator yield to me very briefly?

Mr. LAUTENBERG. Indeed I will, Mr. President.

Mr. STAFFORD. I simply wish to express my appreciation to the able Senator from New Jersey for his very kind words and my deep appreciation for all of the effort that he has made in helping us conduct committee business in the Environment and Public Works Committee this year. It has been a special pleasure for me personally to work with the Senator from New Jersey and I want him to know that.

Mr. LAUTENBERG. I thank the Chair.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, the Superfund Improvement Act of 1985 is the embodiment of a national commitment to achieve a large and very important national goal.

The Superfund legislation passed in 1980 was this Nation's mechanism to begin the work of cleaning up the hazardous substances releases and toxic waste sites which endanger the lives of American citizens.

From that beginning, we developed the means to consider the scope of the problems ahead, and we began the early stages of correcting them. With the legislation we consider today, this Nation will get down to business. We are resolved to rid ourselves and future generations of dangers that have been ignored for too long—tragedies that are waiting to happen unless we respond firmly to this national priority.

Before I discuss some of the important provisions of this bill, I want to acknowledge a number of our colleagues for the long hours and hard work they have devoted in getting us to this critical point of progress:

First, I recognize our chairman, the distinguished Senator from Vermont [Mr. STAFFORD] and the work he has done there. It has been a pleasure to work with him. There has been a virtual absence of partisanship in that committee. You do not really have a Republican or a Democratic position, you have a bipartisan position as to what we think is best for our country.

I recognize, too, the chairman of the Finance Committee [Mr. PACKWOOD] and the majority leader [Mr. DOLE] and the minority member of the Finance Committee [Mr. LONG] and my friend from New Jersey who has just finished speaking here [Mr. LAUTENBERG].

The bill before us today, S. 51, reauthorizes Superfund for another 5 years for a total of $7.5 billion. This is an increase in the authorized funding, which is justified by the increased cost of cleanup and the fact that the problem of uncontrolled releases of hazardous substances is greater than we envisioned 5 years ago when Superfund was first enacted.

In order to raise this sum of money, the Finance Committee voted to put in place an excise tax on manufactured goods. The Superfund excise tax we are talking about applies to goods either made in this country or imported into the country. Exports are exempt from the tax.

In other words, if this product is going to be shipped overseas, the tax is taken off it. If the product is being shipped into the country, the tax is placed on it.

The Superfund excise tax is both fair and simple. It is fair because hazardous waste dumps are a problem caused by manufacturers of every stripe. Chemical companies may produce chemicals; but other manufacturers use them and dispose of them. For example, there are estimates that, of the top 25 companies identified as parties responsible for the Stringfellow site in California, one of the worst dumps, there is not a chemical company among them—not one.

Even manufacturers that have not directly contributed to hazardous waste sites benefit from hazardous waste. I should like to find one manufacturer that does not use chemicals in any form. The Superfund excise tax seeks to recognize the national nature of the Superfund problem and spread the funding burden to manufacturers across the country.

As I said, the Superfund excise tax is also simple. It has been designed to keep additional paperwork to an absolute minimum. By and large, companies will be able to compute this tax with the same information that they use to figure their income tax. We have also minimized the number of

Think of the gross injustice of that collapse in farm prices of the past year. A year ago, farmers were in the fourth year of netting literally nothing on their invested capital. In 1981, for the first time in 50 years, that is since 1931, the net return on farm investment was negative. That is, it was actually less than nothing. It was a loss. The year 1982 was worse, another loss. The year 1983, again, the farmer suffered through no return at all on his capital. In 1984, the American farmer on the average suffered his fourth straight year of no return. And what happened since 1984? The prices farmers receive today for the foodstuffs and feed they produce have fallen by a shocking 13.7 percent in one year.

Mr. President, in the view of this Senator, this represents the most blatant example of economic injustice in our country, ever.

Here we have farmers who have complied with every requirement necessary to make a living in a free enterprise, capitalistic society. They have met every standard with flying colors. But what do they get for this sterling performance? Answer: A true, full fledged, depression. And mark my words, this time there are very few incompetent, inefficient farmers left. The farmers losing their farms are among the most efficient in the world.

After all, what should it take in our free economic system to earn a living? First, it should take hard work. Does a farmer work hard? The University of Wisconsin has estimated that the dairy farmers in my State work an average of 10 to 12 hours per day, 7 days a week, 52 weeks a year. And, it is hard work. They milk their cows twice a day. They plant and harvest their feed. They repair and maintain their equipment. They keep extensive books, Many of them use computers. And it is not always pleasant work, unless you have a yen to shovel and spread cow manure.

Of course, hard work is not enough. Many people work hard and earn very little. To justify substantial income in our free enterprise society takes a capital investment. Does the farmer make a capital investment? He does and a big one. The average Wisconsin farmer, for instance, invests well over $200,000. In many States, the average farm investment is considerably higher.

So, I agree that hard work and invested capital should be no guarantee of success in our system. The hard-working investor has to be smart. He has to be productive and efficient. Is the American farmer productive? Is he efficient? Mr. President, here is where the American farmer really shines. There is literally no significant group in American society that has improved their productivity more than the American farmer. None. How do we measure productivity and efficieny? There is a simple and objective test. You measure productivity by how much a worker produces in a man-hour. Today, one American farmer produces more than three American farmers produced 30 short years ago. This country used to be a nation of farmers. In the last century, most of the people in this country lived and worked on farms. Today, less than 3 percent of the American people work on farms. And yet, that tiny percentage of our people produce so much food that we export 20 percent of our food. Our food is so abundant that the average American family today spends less on food than the American family has ever spent in our history, and far less than persons spend on food in any country in the world, ever, in all recorded history. Americans have the most bountiful and abundant diets on Earth. And yet we spend only about 15 percent of our income on food. In Europe, the typical family spends about 25 percent of their income on food. In Asia, more than 50 percent. Consider: What makes America the world's great economic juggernaut? Why is America far and away the world's No. 1 economic power? The great advantage the United States has in economic competition with other countries is not in industry or commerce or finance, or high technology. It is in agriculture. Our prime economic advantage over our superpower rival, the Soviet Union, is right down on the farm. Listen to this—the Soviets require more than 30 percent of their people to work on farms. We require less than 3 percent. Any yet we produce 20 percent more food than they do.

So there you have it. Our farmers work hard. They make a big investment. They are extraordinarily productive and efficient. And what do they get for it? For four successive years they have enjoyed literally no return at all on the average on their invested capital. Their hard, efficient labor brings them less—far less than the minimum wage. And in the past year they have suffered a catastrophic double-digit drop of more than 13 percent in the miserly price they receive for their work.

As sockless Joe Simpson said about 100 years ago, "It's time the farmers should raise less corn and more hell."

DO AMERICAN SCIENTISTS CHOOSE DEATH OVER LIFE?

Mr. PROXMIRE. Mr. President, why do American scientists agree to devote their genius to the nuclear arms race? A big part of the answer was disclosed in a fascinating article in the Sunday magazine of the New York Times on August 11. William Broad a science reporter for the Times wrote the article. It tells the story of a 30-year-old scientific genius named Peter Hagelstein. Hagelstein zipped through the Massachusetts Institute of Technology [MIT] undergraduate and graduate school with great distinction. At the tender age of 24 in 1979 he joined a group of young hot-shot scientists at the Government's supersecret nuclear weapons lab at Livermore, CA. Hagelstein had an aversion to nuclear weapons. Why then did he zoom from Boston and MIT to California and the most advanced nuclear weapons lab in the world? Science reporter Broad says it was because Hagelstein wanted to use those marvelous facilities not for any military use, but for biomedical purpose. Hagelstein dreamed of discoveries that would apply x rays and lasers to curing cancer and prolonging life. The Livermore lab had uniquely powerful lasers that in the words of William Broad "would allow the holographic imaging of tiny molecules from the human body, providing clues to the riddle of cancer." Along the way, however, Hagelstein got caught up in a very different quest—and ended up inventing not a medical, but a military laser. Hagelstein found that if he was to use this costly Livermore equipment, he would, of course, have to use it for the purpose for which the Government provided it: and that was to develop more advanced nuclear weapons. How was Hagelstein hooked? He simply saw the challenge the Government wanted him to work on as an interesting physics problem. And so at the age of 24, in 1979 Peter Hagelstein came up with an inspired idea for a laser device which became a key component in the Nation's Star Wars Program and which has been heralded as the most innovative idea in nuclear weaponry since the hydrogen bomb. Hagelstein developed a nuclear-pumped x-ray laser designed to fire beams thousands of miles at the speed of light to destroy adversary missiles. The idea was tested in 1980. Broad reports that it helped inspire President Reagan's star wars speech.

Mr. President, what irony and tragedy we see here. One of the country's most brilliant young scientists dreams of saving life and curing cancer. He has the genius to make such a life-saving breakthrough. This Congress in its appropriations for the Livermore lab has created the equipment and the facilities necessary to achieve this life-saving objective. But the talent of the scientific genius and the purpose of the equipment is twisted to aim it in exactly the opposite direction. Instead of saving life, the dazzling scientific achievement advances the nuclear arms race. What a pathetic tragedy.

Of course, if we all saw it the way I have described it, there would be no problem. Peter Hagelstein and his fellow scientists are decent, sensitive human beings. Some of them have few

doubts that their star wars mission will save lives by protecting this country's citizens against nuclear attack. Some including Hagelstein are not so sure. For those of us who see the strategic defense initiative or star wars as an impossible dream and a mischievous acceleration of nuclear war it is a special tragedy. Think of it—the marvelous scientific genius of this country on the very brink of breakthroughs in the medical field that could prevent the agony, heartbreak and death from cancer and other diseases. And what do we do with this marvelous scientific genius? We divert it to lethal military purposes. We squander it. If ever in human history there has been a cosmic struggle between life and death, it is here and now. It is in the struggle for the genius and the soul of such as Peter Hagelstein. So far death is winning.

Mr. President, I ask unanimous consent that the article to which I have referred by William Broad in the Sunday magazine section of the New York Times be printed in the RECORD.

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

THE SECRET BEHIND STAR WARS

(By William J. Broad)

Peter Hagelstein sought a biomedical use for X-rays and lasers. But, in a top-secret Government lab, weaponry became the aim.

In the military, they are known as "skunk works"—an elite band of scientists and engineers laboring in secrecy on important projects. At the Lawrence Livermore National Laboratory, a Federal site for the design of nuclear weapons and other advanced technologies, about 45 miles east of San Francisco, they are known variously as "O Group" or "Lowell's group" (after Lowell Wood, the founder). They are "eccentric and extraordinarily bright," says a high Livermore official. To a critic within Livermore who opposes the contruction of new weapons, they are "bright young hotshots who are socially maladjusted. All their time and energy is spent on science."

I am at the Livermore laboratory to find out about O Group: young scientists, mostly in their 20's, at the forefront of the Pentagon's five-year, $26 billion search for an antimissile shield, known officially as the Strategic Defense Initiative and popularly as "Star Wars." The "Star Wars" venture is one of the biggest research programs in the history of Western civilization, an effort rivaling the Manhattan Project, which gave birth to the first nuclear weapon, and the Apollo moon program.

Unlike the Manhattan Project, which was shrouded in secrecy, the controversial "Star Wars" theory has been subjected to detailed public scrutiny. Yet, prior to May 1984, the time of my visit to Livermore, little was known about O Group, the creative heart of the weapons lab, or about its legendary Peter Hagelstein, who in 1979, when he was 24, came up with an inspired idea for a laser device which became a key component in the nation's "Star Wars" program and which has been heralded as the most innovative idea in nuclear weaponry since the hydrogen bomb.

Hagelstein's nuclear-pumped X-ray laser, the group's most dazzling success in the world of nuclear design, is meant to fire deadly beams across the heavens at the speed of light to destroy enemy missiles. First tested in a secret underground explosion in 1980, it helped inspire President Reagan's "Star Wars" speech of March 23, 1983, and has also helped to bring the Russians back to the negotiating table in Geneva.

As it turns out, Livermore's two dozen or so Star Warriors are anything but humorless scientists. They seem addicted to soft drinks and ice cream, and delight in black humor and pranks. Taking off on a greeting-card commercial, they like to say the bombs of Livermore are the way to "send the very best." They also like to tell the story of the time some of the lab's scientists slipped a 20-pound lead brick into Lowell Wood's briefcase. Wood unknowingly lugged it around the country for months until they let him in on the joke. A big, powerfully built man in his early 40's with a full beard and a crease in his nose, Wood is a protégé of Edward Teller, principal developer of the H-bomb. He founded O Group in the early 1970's.

Most of the members of "Lowell's group" are proud to lend their talents to the design of a new generation of nuclear arms. Their common goal is to use their technical skills to protect the nation from the horrors of nuclear war. They argue not only with critics who say that a switch to defense will touch off an expensive round of new offensive weaponry to penetrate the shields, but also with those who say that a nation with a good shield might be tempted to launch a first strike against an enemy's missiles. They do not see themselves as atomic scientists doomed to repeat the mistakes of the past. "We're working on weapons of life, ones that will save people from the weapons of death," says Larry West, who designs both supercomputers and nuclear weapons.

To West and his fellow researchers, Hagelstein's story is a saga of epic proportions. Hagelstein's name is often on the lips of O Group members. It is clear that unlike many of his peers, Hagelstein is a scientist for whom music and literature, as well as the ironies and ambiguities of life, are not mere distractions from the all-consuming goal of uncovering the powerful abstractions of science. He ran marathons in college and was on the swim team. He played the piano. He played violin in a string quartet during his freshman year at the Massachusetts Institute of Technology, joining its symphony orchestra. He loves French literature, not in translation but in the original French.

He appears to be the group's resident mystic and genius—elusive, brooding, like a character out of a Dostoyevsky novel. In fact, at his lowest moments after breaking up with his girlfriend, who was opposed to his working on nuclear weapons, his stereo played nothing but requiems by Brahms, Verdi and Mozart. Lowell Wood remembers that Hagelstein's office sounded like a funeral parlor.

"He's an insomniac in general, but especially before important meetings," says Andy Weisberg, a close friend at the lab who designs nuclear war games to try to see if the Russians can outwit a defensive shield. "He works incredible hours the day before and then can't sleep, and shows up looking like a dead fish."

Larry West, a jovial extrovert, recalls with awe how Hagelstein in the 1970's had "millions of things . . . to do, all of which were very exotic and relied on the most advanced physical theory. He didn't even have a physics background. He learned the most advanced quantum physics by simply reading the technical literature, which was amazing. He worked that way for about seven or eight years."

Hagelstein, I am told, never wanted to work on weapons—not in the beginning at least. He wanted to win the Nobel Prize by creating the world's first laboratory X-ray laser, a device that would have no use in war but wide application in biology and medicine.

Regular light is made up of electromagnetic waves of many different frequencies and phases that often interfere with one another, just as waves on the ocean surface often cancel each other out. In contrast, waves of laser light have exactly the same frequency and direction and are perfectly in step with one another. They are a pounding rhythm of powerful light.

For decades the quest in laser making has been to construct devices of ever shorter wavelength. Whereas wavelengths of visible light range from about 7000 to 4000 angstroms (an angstrom is about 4 billionths of an inch), X-rays—which are not visible—are thought to measure less than 100 angstroms. A brilliant success in the X-ray region would be the achievement of a laser with a wavelength of 1 angstrom. Shorter wavelengths pack more punch. X-rays have 100 to 10,000 times more energy than visible light and react with matter in a different way. Light, for instance, does not penetrate human flesh while X-rays do.

Hagelstein's challenge was to use Livermore's powerful laboratory lasers, such as the Novette, to produce a laser in the neighborhood of 1 angstrom. His idea when he arrived at Livermore was that radiation of this extremely short wavelength would allow the holographic imaging of tiny molecules from the human body, providing clues to the riddle of cancer. Along the way, however, he got caught in a very different quest—and ended up inventing not a medical but a military laser.

For days, I try to track down Hagelstein at his many haunts, but with no success. Instead, I talk to his peers and learn something of the weapons lab, and atomic metropolis of 8,000 people in a dry California valley of gentle hills and country roads. It was cofounded in the 1950's by Edward Teller and is today made up of hundreds of buildings and laboratories—a square mile of concrete, glass and asphalt surrounded by barbed wire and armed guards.

One the fourth day of my visit, Hagelstein suddenly appears at the door of the small library in the Livermore complex that has become my "office."

He is taller than I expected (just over six feet), and not the painfully thin, ascetic man I imagined him to be. But his complexion is pale and his manner withdrawn. His shyness is unmistakable. He apologizes for not stopping by sooner.

Hesitantly at first, he tells his story. Peter Hagelstein grew up in Los Angeles and showed an early talent for mathematics, which his father, a mechanical engineer, encouraged. His parents broke up when he was about 10, and he eventually went to live with his mother.

At Canoga Park High School, he excelled in math, history and the humanities, playing violin and viola and starting to write music. "I came to the conclusion that the interesting compositions were too hard to play and the ones I could play were too dull," Hagelstein recalls. "So I started writ-

The bill also includes an amendment that I offered on the siting of hazardous waste facilities.

A critical step in the implementation of a rational, safe hazardous waste program is the creation of new facilities employing the most advanced waste management technologies. But to establish newer, improved facilities, sites on which these facilities can operate must be found and made available. Although most States have enacted or have pending some forms of siting legislation, few, if any, have developed policies and siting programs that will assure continued facility capacity in the long term. Recognizing that, as a general rule, States are not moving aggressively to avoid the creation of future Superfund sites, an amendment on siting of hazardous waste facitities was adopted by the Committee on Environment and Public Works.

This section of the bill provides that, effective 3 years after enactment, a State shall not receive Superfund money for remedial actions unless the State provides assurances that there will be adequate capacity and access to RCRA-approved facilities for the treatment or disposal of all of that State's hazardous wastes for the next 20 years.

The availability of funds for removal actions is not affected. The short-term, emergency cleanup of, for example, a roadside spill or a stack of drums that are about to explode could proceed. What will be withheld are funds for "remedial actions," the long-term, permanent cleanup of sites on the National Priority List.

To avoid a cutoff of funds, each State is required to develop State policies and siting programs that will make the best use of existing facilities in the short term and will assure continued facility capacity in the long term. The details of the siting process will differ depending on the circumstances of each State.

A site in every State is not required. In some cases, multistate efforts may be appropriate. Use of binding agreements through interstate compacts guaranteeing access to a facility is only one example of how a State may provide the requisite assurances. State or local ownership and operation of facilities or contracts with private facilities may also suffice.

The rationale for this requirement is straightforward: Superfund money should not be spent in States that are taking insufficient steps to avoid the creation of future Superfund sites. Pressures from local citizens place the political system in an extremely vulnerable position. Local officials have to respond to the fears of local citizens. The broader social need for safe hazardous waste management facilities often has not been strongly represented in the siting process. A common result has been that facilities have not been sited, and there has been no significant increase in hazardous waste capacity over the past several years. While everyone wants hazardous waste managed safely, hardly anyone wishes it managed near them. This is the NIMBY syndrome (not in my backyard). Yet if the RCRA and Superfund Programs are to work—if public health and the environment are to be protected—the necessary sites must be available.

Mr. President, in conclusion, S. 51 is a good bill. It is a bill that deserves to be enacted into law. As a member of both the Committee on Environment and Public Works and the Committee on Finance, the two committees that have written and recommended passage of this bill, I urge my colleagues to support it. Time is of the essence. The issues of public health and environmental protection are too important to ignore. We have an opportunity to enact a fivefold expansion of the current Superfund and to correct many of the problems that have plagued EPA's management of the program. It is an opportunity we must not squander.

Mr. MITCHELL. Mr. President, we bring to the Senate today the Superfund Improvement Act of 1985. This bill is significant in several respects.

First, and most important, it embodies a continued commitment by the Federal Government to the protection of the health and welfare of the people of this country from the dangers of uncontrolled hazardous substances in the environment. The Superfund law enacted in 1980 is a public health statute. We have made a judgment with the bill before us today that the current law is fundamentally sound, its purposes worthy, and its provisions workable.

Second, this bill represents a judgment that the principle of liability upon which the law is based, that those responsible for harm to health and the environment should be held accountable for that harm, continues to be appropriate.

Third, this bill represents a continued commitment to dealing with uncontrolled hazardous substances in the environment even when a responsible party cannot be found, by providing an expanded fund to finance such cleanups.

Fourth, this bill makes improvements in the Superfund Program based on our first 5 years of experience with its implementation.

In 1980, the Superfund bill faced many obstacles to its passage. As we stand here today in 1985, much of the opposition to the basic concept of the establishment of a liability regime and a fund has dissipated. The continuation of both aspects of the law is no longer an issue. This is gratifying, in a sense, to those of us who stood before this body in 1980 and warned that the legacy of past haphazard waste disposal represented perhaps the most serious public health and environmental threat in our modern history. There is, however, no consolation in having been correct in our assessment of the need for the Superfund Program. We did not in fact understand 5 years ago the true dimension of the threat of uncontrolled toxic substances in the environment.

Since the passage of Superfund we have learned that the current estimate of abandoned waste sites across this country is at least 22,000 and growing. EPA anticipates that the national priorities list of the worst sites in the country, thus eligible for Superfund money, will grow to 1,500 or 2,500 over the next several years. According to EPA, "depending on assumptions about the size of the national priorities list, the average cost of a remedial action, and the level of responsible party contributions to cleanup actions, future funding needs could range from $7.6 billion to $22.7 billion, in 1983 dollars." This estimate of needs is based only on the more traditional waste sites and the more obvious hazardous releases into the environment. There are, however, a number of emerging problem areas which could expand dramatically the needs of the program, according to EPA. These include currently operating hazardous waste facilities which are expected to close soon, municipal landfills, industrial landfills, mining waste sites, leaking underground storage tanks, contamination from agricultural uses of pesticides and radioactive sites.

It is clear by any estimate that is used that the problem is even more of a health threat than the Congress thought, and that even this reauthorization of the law for an additional 5 years will be only another step in addressing it, not a complete solution. Indeed, until our modern technology advances to a point that we minimize dramatically the hazardous byproducts of our industrialized society, we can reduce but not eliminate the risk posed by hazardous waste.

Nevertheless, this is a strong piece of legislation which continues what we set in motion in 1980, at an accelerated pace, but one which is in fact realistic.

I would like to discuss in greater detail the aspects of this bill which are most significant in my view.

STRICT LIABILITY

One of the integral parts of the Superfund law is the standard of care, strict liability, which is imposed on those who generate, transport, store or dispose of hazardous substances. S. 51 retains that high standard of care. Under the standard of strict liability, the Federal Government does not dictate how a business must act, what it should make, how it should transport

its products, or what means of disposal it should use. It does, however, determine in advance what the legal consequences of such activities may be if they result in harm.

When the members of the Committee on Environment and Public Works first looked at the problem of uncontrolled releases of hazardous substances into the environment in 1980, we were confronted with a basic policy consideration: Who should be held liable and under what standard of liability? It was clear even 5 years ago that the Federal Government was not in a position to simply fund 100 percent of the remedial action required to make thousands of abandoned chemical dumpsites safe for surrounding communities. It was also clear then that waste sites were only part of the problem. An equally alarming problem was the devastating effect of ongoing releases of toxic chemicals into the environment through spills, discharges and intentional dumping.

Not only did we feel that the Federal Government could not fund by itself the necessary cleanup, we also felt that the Federal Government should not remedy by itself the consequences of dangerous activities by private parties.

We adopted the concept of strict liability for a number of reasons, the principal ones being fairness and equity. By imposing strict liability on the person creating a hazard, the Superfund law assures that those who caused the harm bear the cost of that harm, and encourages the elimination of as many risks as possible to avoid liability.

This standard of care is a concept well-recognized and accepted in courts of law for over 100 years. The leading case from which strict liability was developed, Rylands against Fletcher, articulated the theory in this way in 1868:

> We think that the true rule of law is that the person who for his own purposes brings on his land and collects and keeps there anything likely to do mischief if it escapes, must keep it at his peril, and if he does not do so is prima facie answerable for all the damage which is the natural consequence of its escape.

Since that decision was handed down, the concept of strict liability has been adopted in every State in this country. Even the few jurisdictions which reject Rylands against Fletcher by name have accepted the principle of the case under the guise of other theories; most frequently, those courts impose the same strict liability rule under the theory of nuisance.

The acceptance of the strict liability concept as the majority rule in this country is reflected in the adoption of strict liability by the American Law Institute as early as 1936. A second restatement was adopted in 1976. I would like to quote it, and remind this body that this was written before the Superfund law was even envisioned.

The second restatement says:

> One who carries on an abnormally dangerous activity is subject to liability for harm to the person, land or chattels of another resulting from the activity, although he has exercised the utmost care to prevent the harm.
>
> The liability stated in this section is not based upon any intent of the defendant to do harm to the plaintiff or to affect his interests, nor is it based upon any negligence, either in attempting to carry on the activity itself in the first instance, or in the manner in which it is carried on. The defendant is held liable although he has exercised the utmost care to prevent the harm to the plaintiff that has ensued. The liability arises out of the abnormal danger of the activity itself, and the risk that it creates, of harm to those in the vicinity. It is founded upon a policy of the law that imposes upon anyone who for his own purposes creates an abnormal risk of harm to his neighbor, the responsibility of relieving against that harm when it does in fact occur. The defendant't enterprise, in other words, is required to pay its way by compensating for the harm it causes, because of its special, abnormal and dangerous character.

This principle was not created in 1980 in the first Superfund law. It existed before 1980 in every State in the Union. The Congress simply made the judgment in 1980 that the principle of strict liability should be extended uniformly to activities involving hazardous substances. This standard of care has been effective in the past 5 years in securing numerous judgments and settlements with private parties at hazardous waste sites across the country, a result which could not have been achieved under a less demanding standard of liability such as negligence.

The standard of liability impsed under Superfund is derived from the standard of liability imposed under section 311 of the Clean Water Act, which is strict, joint and several. Courts have held that where appropriate, liability under Superfund may be joint and several, as a matter of Federal common law. This principle has been applied by courts on a case-by-case basis where the harm caused by hazardous substances is indivisible. When a responsible party can establish to the court's satisfaction that its contribution to a site, and therefore, its cleanup, is divisible, joint and several liability will not be impsed. This application is consistent with the restatement second of torts that:

> (1) Damages for harm are to be apportioned among two or more causes where
>
> (a) there are distinct harms, or
>
> (b) there is a reasonable basis for determining the contribution of each cause to a single harm.
>
> (2) Damages for any other harm cannot be apportioned among two or more causes.

It has been suggested by some that the use of joint and several liability is an extraordinary tool which is unfair in concept and punitive in its implementation. However, as the Administrator of the EPA, Lee Thomas, has stated, it is an extraordinary tool for an extraordinary problem. I believe that the Government has used this tool with restraint, and that its continued use is important to the enforcement program.

One proposed change to the law is a mandatory apportionment scheme under which the burden of proof would fall on the Government to establish the portion of the harm for which each party is responsible, and apportion the cleanup costs accordingly. While this may have a surface appeal, the impacts of such a change on the Superfund Enforcement Program would be far-reaching.

The Department of Justice as well as the Environmental Protection Agency have testified on this issue. According to the EPA, "a mandatory apportionment scheme would severely impair the effectiveness of the Superfund Enforcement Program. Substituting an apportionment scheme for the strict, joint and several liability regime established under the existing statute would delay cleanups and increase costs, without providing substantially increased fairness in cost apportionment among responsible parties."

I ask unanimous consent that a detailed description of the negative impacts of apportionment written by the Environmental Protection Agency be printed in the RECORD following my remarks.

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

(See exhibit 1.)

VICTIM COMPENSATION

Mr. MITCHELL. Mr. President, as many of the Members of the Senate recall, a provision of the 1980 bill approved by the Committee on Environment and Public Works provided compensation for medical expenses to persons injured by exposure to hazardous substances in the environment. Two alternative remedies were provided, an administrative system for reimbursement of out-of-pocket medical expenses and burial benefits, and a Federal cause of action in district court to recover the same expenses, as well as compensation for pain and suffering.

Under threat of a filibuster in the waning days of the 96th Congress, the proponents of our committee bill dropped that provision for compensation of human victims, and retained only compensation for damage to publically-owned natural resources.

Thus, for the past 5 years, we have had the incredible and unjustifiable standard that says that if certain property is damaged by hazardous waste release, there can be compensation; but if a human being is damaged by the same release, there can be no compensation from this fund.

ecution. We should be ashamed of that record.

Now that the Genocide Treaty is on the Senate Calendar we ought to correct that record by ratifying the treaty as soon as possible.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR HART

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

THE TRADE CRISIS: A STRATEGY FOR AMERICAN COMPETITIVENESS

Mr. HART. Mr. President, our Nation is in the worst trade crisis in more than half a century. America enjoyed an unbroken string of trade surpluses from 1891 to 1970. But last year we suffered a record trade deficit of $123 billion. Without comprehensive action, that figure will expand in 1985 and beyond.

The costs of this crisis to our workers and businesses are unacceptable. By some estimates, our Nation has already lost 3 million trade-related jobs. Nearly every kind of business—whether steel, soybeans, or software—has lost trade-related markets and profits.

Our precipitous decline in trade assaults America's self-esteem. From the assembly lines in Illinois, to the farms of Iowa, to the laboratories of New England, Americans feel that our ability to compete has disappeared. Managers no longer feel they can expand markets through better marketing. Workers no longer feel they can compete with their foreign counterparts. Americans sense they are losing in a competition with rules stacked against them and an outcome rigged by invisible forces. The result is an outpouring of frustration and anger that is justified and compelling.

What should we do? Fundamentally, it is a question about our vision of America's future. If we allow the trade crisis to continue, we will surely condemn our Nation to a future of fewer jobs, smaller markets, lower incomes, and shrinking expectations. Yet, if we simply accept the 300 protectionist bills submitted this year, we will be treating only symptoms and not causes. We will be hiding from the economic realities of today instead of investing in the innovations, workers, businesses, and profits of the future.

Unfortunately, the debate over trade has polarized in precisely these terms. One side would do nothing; the other would settle for anything. Both are driven by old, rigid ideologies. Both ignore the root causes of the crisis.

At one extreme—represented by the President's actions or lack of actions of the past 4 years—we hear assurances that no policy is the best policy. Driven by "laissez faire" dogmatism, the White House insists it is in our best interest to surrender to global market forces and unfair foreign practices. Only extreme political pressure in recent weeks has forced the President to reconsider his passive and indifferent stance.

The administration has consistently refused to take action to strengthen our trade performance. It tried to eliminate assistance to trade-dislocated workers. It slashed export promotion programs. It rejected existing authority to fight unfair trade practices. The President ignored his own commission's recommendations for a national competitiveness strategy. His budgets have requested $686 billion in deficit spending, and boosted the price of our dollar—and thus the price of our exports—by 40 percent. The President insists this over-valued dollar—the single largest cause of our trade collapse—is good for America. While it may be good for the wealthy few who do their shopping overseas, the high dollar means joblessness and bankruptcy for families and businesses here at home.

By refusing to take action, this unilateral free trade position has left us with an economy increasingly driven by foreign trade strategies and foreign industrial policies.

Faces with the vacuum created by this administration's record of willful inaction, many well-meaning legislators of both political parties have, understandably, focused on the symptoms of the crisis—the trade imbalances, the silent factories, the chronic unemployment, the migration of families looking for a decent income, the flood of foreign products. Their concern shows a genuine commitment to the economic security and personal well-being of their constituents.

Unfortunately, most of these approaches ignore the disease itself. They recommend import restrictions and tariffs—some of which exceed those in the disastrous Smoot-Hawley bill of the 1930's. They limit their attack to unfair foreign practices, ignoring the estimates of some economists that these practices account for only about 10 percent of our trade deficit. And instead of tapping America's strengths—our ingenuity, energy, and leadership—these legislative approaches seek merely to match unfair foreign restrictions.

But, restricting trade is costly to Americans. Our Nation has achieved our high standard of living, in part, through a high consumption of imports. Taxing those imports guarantees higher prices, renewed inflation, and lower prosperity for American consumers. Trade restrictions overvalue the dollar even further, and make our exports even less competitive. And unconditional trade relief for specific American industries guarantees retaliation from competitors that will hurt our farmers and cost jobs in other industries.

But there is a better vision for our future. By addressing the true causes of our trade problems, we can maintain low inflation and win back American jobs. By taking comprehensive action, we can shape America's future rather than hide from it. Most of all, we can return control over America's economic destiny to our workers and businesses.

Today I would like to suggest the outlines of a comprehensive trade policy designed as a frontal assault against the real forces now crippling our ability to compete, and as a means for the United States to reclaim its traditional leadership in international economic relations.

The legislation representing this policy will attack the major factors contributing to our trade crisis:

The overvalued dollar;

The collapse of Third World demand for our products;

Unfair trading practices by other nations and weak enforcement of American trading rights;

Declining competitiveness of U.S. industries; and

The absence of an effective program to assist American firms and workers in adjusting to changing economic forces.

The Omnibus bill's first goal will be to correct the current imbalance between our dollar and other currencies. The overvalued dollar bars us from competitively pricing our exports and subsidizes foreign imports. According to many economists, this overvaluation is the single largest cause of our trade deficit.

Our record $200 billion budget deficit is the primary reason for the dollar's high value. But there are other causes. The dollar's status as the world currency means foreign nations must buy dollars to repay their internaitonal loans; as they do, the price of our currency increases. In addition, many nations—such as Japan—restrict entry to their capital markets, which artificially weakens their currencies.

Forty years ago, the world's currency markets faced even greater turmoil. But with strong Presidential leadership, the United States led the way at the Bretton Woods conference to a more stable monetary arrangement. This legislation proposes a New Bretton Woods, under the auspices of the International Monetary Fund, to bring currencies back into line while preserving a flexible exchange rate system. It also directs the President to adopt strategies for intervention in foreign exchange markets and for achieving more stable relationships among the world's major currencies.

The bill's second objective is to help remedy the debt and recession crises in the world's lesser developed and newly industralized countries. These nations have historically absorbed 40 percent of our exports. But the ability of these nations to purchase our products has fallen dramatically. Latin America provides a prime example.

Today Latin America owes international banks over $350 billion. Much of that debt has been refinanced by the IMF on the condition of strict austerity measures. These agreements have been reached at a considerable cost. The debtor nations must constrict domestic spending and promote their exports. As a result, their purchases of American exports have dropped, and their goods are increasingly competing with American products here at home and around the world.

The result is a dramatic decline in our trade balance with these nations. Between 1981 and 1984, the U.S. trade balance with Japan deteriorated by slightly more than $18 billion. But during the same period, our trade balance with Latin America deteriorated by $23 billion. In all, the Overseas Development Council estimates the United States has lost nearly 1.4 million jobs due to economic decline within the lesser developed and newly industrialized nations.

Protectionism would only exacerbate the plight of the debtor nations—many of which are fledgling democracies—by shutting down U.S. markets to their exports. My legislation will help these nations expand their economies and make debt payments without adding to internal political instability. This policy recognizes that Third World nations represent the strongest potential market for expanding U.S. exports.

The bill links expanded aid—through investment and debt recycling assistance—to increased American access to Third World markets. The bill would create a program similar to the Cooley Loan Program of the 1950's. It would recommend selling surplus agricultural products for foreign local currencies; it would then recycle those currencies by giving the developing nations grants that help expand U.S. investment. The bill expands the powers of the Overseas Private Investment Corporation, and extends trade privileges—like those in the Caribbean Basin Initiative—to other nations. It also calls for a new, multilateral ageement to prevent the IMF from imposing austerity measures that threaten new democracies.

The bill's third section calls for stronger multilateral and bilateral sanctions against blatantly unfair foreign trading practices.

First, the bill will direct the U.S. Trade Representative to seek the extension of GATT to world trade in services, high technology, and intellectual property—areas largely ignored by the current GATT. Under GATT, these industries and products will then be entitled to national treatment, which requires each nation to treat our products as if they were produced and marketed under the rules that govern their own industries.

Second, this legislation takes a new approach to defending our trading rights abroad. The bill provides strong sanctions against nations that fail to agree to expanded trade rules. This legislation withholds or revokes trade concessions—such as most favored nation status—until trading partners abandon practices that restrict competitive trade.

Unlike current law, which requires Presidential action before sanctions take effect, my legislation would automatically invoke sanctions upon a finding by the International Trade Commission that a trade competitor is engaging in an unfair practice. The President could only suspend these sanctions by certifying that negotiations to remedy the situation were underway. Yet unlike some protectionist measures currently in Congress, the sanctions could only be triggered by specific unfair trade practices—not by arbitrarily determined trade balances between nations.

Conditions under which these sanctions will be imposed include: Failure to adhere to existing GATT rules or bilateral agreements; failure to extend GATT to key economic sectors; and failure to act against counterfeitors and pirates of intellectual property.

Third, the bill requires the International Trade Commission to clarify which practices actually constitute injury or unfairness to American industries. Once these thresholds are crossed, trading partners will face a choice: negotiate an end to their practices, or suffer sanctions.

The bill's fourth goal is to close the trade deficit by improving the productivity and competitiveness of American workers and industry. Such a competitiveness strategy is indispensable to a sound trade policy.

The bill would establish a National Commission on International Competitiveness, which would include representatives from both the public and private sector, and from all trade-related agencies of the Federal Government. The Commission would monitor and report annually on the competitive posture of our trade-related industries. It would propose reforms in our antitrust laws to allow for research and development consortia. And it would recommend national goals and means for reducing capital costs, training workers, and improving productivity. These and other provisions will help American industries focus on products and services that exploit our natural advantages in technology and know-how.

Ultimately, our Nation must establish industry-wide modernization agreements—compacts brokered by the President among labor, management, and private capital. Under such compacts, labor would condition wage demands on profitability or productivity. In return, workers would receive long-term job guarantees. Management would agree to such guarantees in exchange for commitments to work force stability. Management would also commit to direct investment in plant, equipment, and training in long-term lines of private credit. If necessary, the Federal Government could guarantee such loans, but only on the condition that the guaranteed capital be productively invested.

Export promotion is another key to improving our trade competitiveness. This omnibus legislation will expand and reform current promotion programs. It will shift more resources to countering predatory export financing by our trade competitors. And it will promote small business exports through State and regional assistance programs.

The final goal of the bill is to ensure that our workers will not be held hostage to changes in the global market that are beyond their control. Absent such action, public pressure for protectionsim will be irresistible, and an expanding world trade system will be unsustainable.

This legislation will increase funding for the Trade Adjustment Assistance Program while requiring that affected industries develop realistic adjustment plans. These adjustment contracts would be developed in conjunction with the Department of Labor, financed with a small, universal tariff, and phased out over a 3- to 5-year period.

History and common sense make certain truths self-evident.

Our prosperity is inextricably linked to global prosperity, which depends on expanding trade. When trade shrinks, so does America's standard of living.

Expansion of American exports is within our control—by curing the overvaluation of the dollar; by strengthening those who consume our products, as with the Marshall plan; by making our industries more competitive; and by ensuring competitors treat our products as openly as we treat theirs.

We can lead and sustain an expanding system of world trade only so long as our workers are cushioned from the costly vicissitudes of a dynamic world economy.

Today's trade crisis is so severe that inaction is inexcusable and mere palliatives are inadequate.

There is no quick fix. Those who insist otherwise run the risk of deceiving American men and women who are in pain and looking for answers. The

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measures I am recommending today—directed at treating the symptoms by curing the causes of this trade crisis—will require a dedicated effort. But the rewards will be enormous: A future of jobs, industrial competitiveness, leadership, and prosperity.

This is the way America will recapture control of its own destiny and our own future.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 10 a.m., with statements therein limited to 5 minutes each.

VOLUNTARY REFUND POLICY FOR SPARE PART PURCHASES

Mr. GOLDWATER. Mr. President, earlier this year on the 20th of June, I made a floor statement commending the Boeing Co. for its announcement of an unprecedented spare parts refund policy for its dealing with the Pentagon. In that statement, I called on all members of the defense industry to join Boeing and make a similar commitment.

Today I am pleased to report that several major defense contractors have now agreed to a similar, voluntary refund policy for spare parts purchased by the Government. I would like to give public recognition to those companies and also recognize Dr. James P. Wade, the new Assistant Secretary of Defense for Acquisition and Logistics for his efforts in promoting this policy throughout the defense industry.

The Boeing policy, which was directly aimed at putting an end to the so-called spare parts horror stories, guarantees the Government a full refund of the purchase price of any spare part bought from Boeing for a price less than $100,000 which the Defense Department later determines to have been overpriced—subject to a reasonable time limitation. This is a "no questions asked" policy—if the Government says the price was too high, the money is refunded and that's the end of it. No arguments—just a complete refund.

Not long after Boeing announced their policy, other major contractors made similar commitments. General Electric, McDonnell Douglas, Grumman, Raytheon, General Dynamics, and Martin Marietta all voluntarily offered the Government similar refund policies.

The Defense Department, through the efforts of Dr. Wade, combined the best aspects of each of these unsolicited proposals into a single comprehensive refund policy which was then sent out to our top 30 defense contractors. As of today, I am advised that the following companies have signed up to this new policy: Martin Marietta, Raytheon, Sperry, Rockwell, Westinghouse, United Technologies, RCA, Boeing, Lockheed, GTE, Allied, and General Dynamics.

Mr. President, I wish to publicly commend each of these companies for making this voluntary commitment. In my opinion, this confirms what I have always believed about the vast majority of those who make up our defense industry—that they are honest, patriotic citizens doing their very best for their country. And they want to put an end to these horror stories just as quickly as you and I do.

I would also like to commend Dr. Wade for his personal efforts in promoting this very favorable agreement between industry and the Pentagon. Dr. Wade is the first person to hold the Office of Assistant Secretary of Defense for Acquisition and Logistics, and in my opinion, he is off to an excellent start. Having served very ably as the Assistant Secretary of Defense for Development and Support and the Principal Deputy Under Secretary of Defense for Research and Engineering, Dr. Wade brings a wealth of ability and experience to his new post. I congratulate him on his promotion and wish him every success in what is bound to be a very challenging and important position.

DEAN PHILLIPS

Mr. HATCH. Mr. President, although I did not have the opportunity to get to know Dean Phillips as well as I would have liked, I was fortunate to have worked with him on several legislative matters. Dean was a courageous individual, courageous in his military achievements, courageous in his leadership in difficult public policy issues, and courageous in his fight against the disease that recently took his life. It was my privilege to have known and worked with Dean Phillips, a genuine American hero and patriot. I ask unanimous consent to place in the RECORD an outstanding article that recently appeared in the Washington Post on Dean Phillips.

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

THE BONDING OF WAR

On Monday morning the Army, which he had served so valiantly, buried Dean K. Phillips with the full panoply of military honors that was his due. This much-decorated citizen soldier and fellow Vietnam veteran was laid to rest in his uniform, the ribbons on his chest a solemn testament to the professionalism he had brought to his calling in the now distant rice paddies of an earlier and more troubled era. In the end the ravages of cancer were able to effect that which another formidable, though less insidious, enemy had been unable to accomplish almost 20 years previously. Throughout it all, Dean's courage served as a beacon to all of us who loved and admired him.

As his friends and family gathered at the grave site in a stand of pines beneath a slate gray August sky in Arlington National Cemetery to pay their last respects, I reflected on what his passing meant to me and on the special covenant that binds men who have experienced the horrors of war. I had been to see him one last time shortly before he died, not because we were particularly close, but because ours was a kinship forged in the bloody crucible of Vietnam, and because I felt an urgent need to honor him for what he had endured. He had by then become a shell of his former robust self, the cataclysmic virulence of the cancer having almost run its course, but his handshake remained firm and his thinking clear.

He had been to see "Rambo" several weeks earlier, which he disliked for a number of reasons, among them the facile way the picture treated death and the distortedly romantic gloss it placed on combat. Dean knew better, and we discussed the new patriotism and the so-called revisionist view of Vietnam at length. He had enlisted in the Army in the mid-'60s despite having been granted a student deferment to attend law school, and he had refused a commission out of a desire to serve in the ranks. Often at odds with the Army as an institution, he nevertheless passionately loved its soldiers, and his service in Vietnam earned him two Silver Stars, two Bronze Stars and a Purple Heart. He told me that he did not understand the cyclical view of patriotism, and he was realistic enough to know that no amount of revisionism could erase the obloquy returning veterans faced as they attempted to enter the mainstream of society in the late '60s and early '70s. He had devoted the remainder of his professional life to easing that transition by his tireless work as an attorney on issues affecting veterans.

I spent several hours with Dean that sultry summer afternoon, and I watched him mask his pain as he acted the good host and tended to the needs of his company. I could see also by his conversation and demeanor that he was putting his house in order and preparing himself for the final battle. As I readied myself to leave, he took my hand in both of his and told me that he hoped he had been able to do some good for mankind in the time he had been given. I do not know if his final words to me were a question or a declaration, but I was only able to squeeze his hands by way of affirmation in what I now regard as a woefully inadequate response.

Dean Phillips died at home with his family a month later, beaten but not bowed by an enemy whose onslaughts he was powerless ultimately to turn aside. He was 42 years old and left behind grieving parents, a loving wife and daughter, and a 2-year-old son who will develop at best only a vicarious insight into his father's enormous stature.

He is gone now, joined at last with his beloved brothers whose names appear on the Vietnam Memorial, most of whom died themselves in their teens and early twenties well before their time, like Dean, and I am as yet unable to derive any meaning or take any solace from his death. I know only that he touched my heart, and I am richer for having shared his life.

DAVID BRODY

Mr. HATCH. Mr. President, it has been one of my pleasures in Washing-

ton to have worked closely with many outstanding individuals of varying interests and perspectives. There is none, however, whom I admire more than Dave Brody, Washington Representative for the B'nai B'rith Anti-Defamation League. Dave is a consummate professional, the paragon of effective Washington lobbyist. He is honest and forthright and the sort of individual in whom a Member can rely for sound information and counsel regardless of their agreement or disagreement on any given issue. It was thus with great satisfaction that I recently read an outstanding thumbnail sketch about Dave in the September 14, 1985, issue of the National Journal. I ask unanimous consent that this article be printed in the RECORD.

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

[From the National Journal, Sept. 14, 1985]

MAKING MATCHES MEANS ACCESS

(By Dick Kirschten)

Most Washington lobbyists boast about having connections. David A. Brody takes pride in making them.

The veteran Washington representative of the B'nai B'rith Anti-Defamation League is an inveterate matchmaker who wends his way through the capital's power circles on the lookout for people who ought to know one another.

No sooner do his antennae pick up a nugget of conversational information about somebody's past or present interests than the next words out of his mouth are invariably, "I'd like to put you together with. . . ."

The very next day, if not later the same day, Brody will be on the telephone proposing a luncheon involving himself and the two people he wants to bring together. Invariably, they are people who would have gotten together on their own at some point but, as Brody said in an interview, he finds that it advances his long-term interests if he can be the "facilitator or catalytic force."

"I do it so that the two people will know each other, so they will not be strangers when they need to deal with one another. Both parties usually welcome it," he explained. Those involved may run the gamut from Members of Congress, White House aides and ambassadors to reporters, fund raisers and constituents.

Twenty years at his job has taught Brody that at some point, his gestures of good will are likely to be returned in some form. "It's not so much that people are beholden to me, as it's a matter of providing greater access for me," he said, stressing the golden word of the lobbyist's trade—access.

The autographed pictures on the wall of Brody's office attest to his success in gaining access at the very highest levels. They also attest to his skill at hearing what people say and sensing what makes them tick and what their current concerns are.

"In this town, so many people talk rather than listen," explained Brody, giving away a major secret of his success. It also helps to be quick-witted enough to put information to immediate use. "If I happen to be in a Member's office and a name comes up, we'll often set up a lunch right then."

Brody is constantly on the lookout for likely connections, two Members of Congress who haven't met each other yet, a reporter who is starting out on a project involving principals he hasn't met, new arrivals at the Israeli Embassy who need to meet the people they will be dealing with in Washington.

'It's just a matter of having almost an intuitive sense about people's needs," Brody said. "I guess it is just a matter of knowing how to relate to people. I will occasionally bring Members of Congress together whose views may be divergent. In bringing them together, they find that they are able to work together on other issues."

Those other issues, with luck, may turn out at some point to be the very ones upon which Brody is lobbying. And even if their votes do not always go his way, Brody at least gets a chance to have his say. In 1981, when Congress approved the sale of military aricraft to Saudi Arabia, Brody recalled, "a number of good friends of mine voted for the sale, but I still had the opportunity to sit down and talk to the principal—to the man who cast the vote."

That statement is also revealing. In lobbying, as in match-making, the permanence of relationships is important. Accordingly, significance attaches to Brody's reference to "good friends" who voted against his position. They still are his good friends, and maybe next time they will be with him.

Besides putting his lunch hour to regular use, Brody and his wife, Bea, entertain at their home, throwing dinner parties that may bring anywhere from a dozen to three dozen Washington notables together to trade information and get to know one another better.

"From time to time, press people are invited to my parties at home as friends," Brody explained. What goes on is not intended for publication, Brody noted, but it is recognized "a reporter may pick something up at a party." But, he added, "the story won't be that I had that group of people to dinner."

Brody added that he has never hesitated to bring politicans and journalists together in a social setting. "I don't draw any lines," he said. "When I find it useful to play that catalytic role, I do it." With reference to the politicians, he observed, "I think they welcome the opportunity too, otherwise they wouldn't agree to it."

To the best of his recollection, Brody over the years has never become a matchmaker in the romantic sense. He says that he knows of no marriages that have resulted between people he has brought together and quickly adds in a businesslike tone that "if it has happened that would not be the purpose that the meeting started out with."

There is more than a bit of a Horatio Alger aspect to Brody's career. The man who now wines, dines and facilitates friendships among the high and mighty started out in life as the son of an immigrant garment worker who entered this country through Ellis Island. He grew up in Brooklyn, attended public schools and ended up studying law at Columbia University on a scholarship. He came to Washington in 1940 to work as a lawyer for the government and has been with the Anti-Defamation League since 1949.

Brody said he has developed his skills as a lobbyist-social connecter as he has gone along. "I like to say that the things I do, I never learned in law school." Nonetheless, the 69-year-old lobbyist makes it clear that he enjoys what he does. "I have no plans to retire," he said.

The matchmaker is obviously well matched to his calling.

CONGRESSIONAL CALL TO CONSCIENCE

Mr. NICKLES. Mr. President, I would like to take a few minutes to address the continued harassment of the Soviet Jews by the Soviet Government. The congressional call to conscience has been going on for 9 years and it seems like a long time. However, this does not even begin to compare with the years of waiting that many of the Soviet Jews have endured in the hopes of one day being able to leave the Soviet Union and join relatives in another country.

I remember when Mikhail Gorbachev became the new leader in the Soviet Union. It was thought at that time that he would be more sympathetic to the rights of the Soviet Jews. If he is sympathetic, we have not seen evidence of it. The statistics show that based on the first half of 1985, there has not been much change in emigration levels from that of last year. As many of us remember, last year produced the lowest level of Jewish emigration since the movement began almost 20 years ago.

Because of the great role that Mikhail Gorbachev plays in the lives of the Soviet Jews, a letter was circulated by one of my colleagues. This letter, which I signed, was sent to President Reagan asking him to discuss the issue of human rights when he meets with Mr. Gorbachev in November. It is my sincere hope that the President will be able to heed this request and include this vital issue on the agenda for the upcoming talks.

Three months have elapsed since I spoke before this body regarding the Vainerman family. I am sad to report that during this time the Vainermans have waited without any further word regarding their request. Three months is a very long time to wait for something when you have already waited for 5 years.

It appears as though more and more attention is being focused on the human rights violations throughout the world. Although the news is disturbing, I am glad that it is being reported. It is important that we do not forget those individuals who are struggling for their rights, while we as Americans are freely enjoying ours. One of the rights that we do enjoy is being able to speak out against such abuses. It is not only a freedom, but I believe it is also a duty that should not be taken lightly. At this point, the most that we can do is continue to speak out, and to continue to educate others regarding the violations in other countries.

I would encourage my colleagues to continue to remember not only the Soviet Jews, but individuals all over the world who are struggling to survive in countries that do not grant them the freedoms they deserve. We

must continue to voice our concern in the hope that one day we will see an end to these abuses.

U.S. FOCUSES DRUG BATTLE ON PRE-TEENS

Mrs. HAWKINS. Mr. President, in the Miami Herald recently there was a particular informative article on the recent focus of drug control efforts at grade school students.

Mr. President, as unbelievable as it is, it is a fact that directing drug education efforts at children younger than 12 years old is necessary. As Dr. Carlton Turner, chief of the administration's drug prevention and education programs is quoted as saying:

> We're going down to a very early age. Twelve is too old. If you're going to try to educate them at 12 and above—forget it. You've lost the war.

Numerous agencies and individuals of the Federal Government have been involved in this effort. The Department of Education has sent education supplies to more than 50,000 elementary schools across the country, introducing an estimated 3 million fourth, fifth, and sixth graders to the dangers of drug abuse. The National Institute on Drug Abuse recently issued findings indicating that many children begin experimenting with drugs at 11, and that most are exposed to adult drug users years earlier. The First Lady has been extraordinary in her commitment to ensuring adequate drug abuse information to grade schoolchildren, as she has already logged 60,000 miles visiting schools and drug rehabilitation centers in 44 cities. She remains determined in her goal to protect children from the horrors of drug abuse. As she is quoted as saying:

> It strikes me as odd to see little boys in Cub Scout uniforms and little girls in jumpers learning about drugs that many adults haven't even heard of * * * the scene was both terrifying and encouraging.

Individuals and groups in the private sector are also joining in this effort, among them numerous celebrities. Their influence can be enormous. As Rev. Jesse Jackson pointed out during a speech before a junior high school group, movie stars, athletes, and rock 'n' roll singers should be urged to join in the antidrug campaign. "If Mr. Prince and Mr. Stevie Wonder and Mr. Boy George go a certain way, they're going to take a lot of people with them," said Reverend Jackson.

Mr. President, I commend these individuals, these groups, and all those who continue to try to prevent the destruction of our children by illicit narcotics.

In the universal war against drug abuse, it has become necessary to form a new frontline—to educate grade schoolchildren to the dangers of drugs. As chairman of the U.S. Senate Subcommittee on Children, Family, Drugs and Alcoholism, I, too, will continue in efforts to eradicate drug abuse in our Nation.

THE ROSE AS THE NATIONAL FLOWER

Mr. KENNEDY. Mr. President, I want to take this opportunity to say how pleased I am with the action by the Senate yesterday in approving legislation to designate the rose as America's national flower.

The rose is the name of a beautiful flower, and it is also the name of a beautiful mother. I called my mother last evening to tell her the news. She celebrated her 95th birthday in July, and let me just say that yesterday's action by the Senate has made her extremely happy.

We may well ask, what has all this to do with immigration? Well, my mother's grandmother, my great-grandmother, was also named Rose. She was born in County Wexford, and she made that grim trip to America during the Irish potato famine of the 1840's. In a sense, they were the boat people of their era, and those who survived that perilous crossing called the Atlantic Ocean the "Bowl of Tears."

And so my ancestor, that 19th century Rose of Ireland, found her way to Boston, where she met another Irish immigrant, named Thomas Fitzgerald. And they had a son named John Fitzgerald, who became a customs clerk, a State senator, a Congressman, and then mayor of Boston. And he had a daughter whom he named Rose, and whom he called his Irish Rose.

We, all of us, are a nation of immigrants, and I hope that all of us, as we vote on this legislation, are mindful of that great heritage.

The 198TH ANNIVERSARY OF THE CONSTITUTION

Mr. SIMON. Mr. President, I rise today to recognize the anniversary of the U.S. Constitution. One-hundred and ninety-eight years ago today, 55 men emerged from the summer heat of Philadelphia with the final version of a document that would change the world. That summer of 1787 the Constitution of the United States was born. I am pleased to join my colleagues in honoring the work of these men and in celebrating the anniversary of our Constitution.

Our Constitution has been successful for so many years because of two fundamental principles—flexibility and limitations of power. The framers of this unprecedented document realized that while they could not anticipate the changes of the modern world, they had to provide a flexibility for the future. Today, we each admire, as James Michener wrote, its "constant ability to change with a changing world."

But while the framers realized that they could not foretell the future, they were all too familiar with the specter of the past. The Founding Fathers knew the corruption that accompanies absolute power and, therefore, they developed a careful system of checks and balances on the power of their new government.

This summer, several students battled the summer heat of Illinois and other States, to write an essay on the Constitution. The topic for this contest was "The Powers and Limitations of Congress." I received many fine papers from students throughout Illinois. I would like to share some of the thoughts of the finalists of this contest.

There were many thoughtful examples of the separation of powers among these papers. Debra Dowell of Chicago discussed the differences between House Members and Senators.

> The founders protected rights with checks on majority rule by setting up limitations in Congress. Representatives are directly responsible to their constituents. The Senate's longer term, higher qualifications for office in both age and length of citizenship, and larger constituency indicate the founder's idea of the Senator's role as enlightened statesmen. We have kept the principle of some differences between the Houses to protect ourselves from the political winds of short-lived zeal.

Susan Matt of Downers Grove, IL, explains the historical rationale for these checks and balances:

> To twentieth century Americans, scenes of governmental chaos seem a little fantastic. However, the authors of the Constitution knew that in the not too remote past, governmenal disorder abounded. Therefore, their desire for stability was both an expression of ideals in harmony with the ideals of the Age of Enlightenment and also the expression of ideas in opposition to the historical realities familiar to the framers. In the past century, for instance, kings had been replaced by Cromwell and Cromwell by kings . . .

Another finalist, Mark Strong of Arlington Heights, IL, discussed how the powers of Congress and the President have expanded and changed with the use of checks and balances over time.

> Due to the changing needs of a growing nation and influence by key people in the early years, the power of Congress has grown immeasurably. As the power of Congress has grown, so has its dependence upon the executive for leadership.

Other essays such as the one by James Nucci of Hanover Park, IL, illuminated our duties as citizens to understand the Constitution.

> Continued and informed acquaintance with its granting and limiting language then is an obligation of that greater number of us as citizens . . . (for) the powers of Congress can be very great. They must be handled with care, and this is why the United States of America is where it is today. With Con-

gress' continued success the United States will continue to grow and prosper.

Maureen Mooney of Harvard, IL, continues the argument for the public's need for studying the Constitution. "The U.S. Constitution provides a backbone for our Government and for our country. Only when we consider how important this paper is will we realize its value to us individually, as well as a nation. We, as citizens, should strive to learn more about our Government and use this knowledge in a positive way."

But, as I read the words of these young people, I see the best of example of what makes our Constitution so unique—its special ability to pass the blessings of liberty, and a sense of freedom and hope, from one generation to the next.

The essays by these students are filled with hope for the future, and a feeling that each writer will have the freedom to pursue these dreams. These feelings of hope and freedom are the same feelings our Founding Fathers must have felt as they traveled home from Philadelphia with their new Constitution 198 years ago.

In the summer heat of Philadelphia in 1787 the flame of liberty was preserved forever by this new Constitution and each new generation basks in the warmth of this freedom and hope.

EFFECTIVE WORK OF SENATOR BOSCHWITZ ON FARM LEGISLATION

Mr. COCHRAN. Mr. President, it was a pleasure to read such a complimentary article about my friend, Senator RUDY BOSCHWITZ, and his effective work in our Committee on Agriculture in a recent edition of the Minneapolis Star and Tribune.

As we have considered and debated the issues involved in the writing of a new farm bill, Senator BOSCHWITZ has been a very thoughtful and hard working participant.

I need to correct, however, one inaccurate statement in this article. It is suggested that strains have grown between Senator BOSCHWITZ and me, and other southern committee members, because of differences over cuts in the costs of commodity programs. We surely have disagreed on some matters, and we probably will in the future; but, there is no strain on our friendship nor is there any diminution in the feeling of respect that I and others on the committee have for the distinguished Senator from Minnesota.

I ask that a copy of this fine article be printed in the RECORD.

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

[From the Minneapolis Star and Tribune, Aug. 4, 1985]

BOSCHWITZ EMERGES AS MAJOR FIGURE IN DRAFTING OF 1985 FARM LEGISLATION

(By Finlay Lewis)

WASHINGTON, DC.—During his early years on the Senate Agriculture Committee, few accused Rudy Boschwitz of being a heavyweight.

That has changed—to the surprise of many and the irritation of some.

Echoing the common assessment of those with an interest in the 1985 farm bill, Carl Schwensen, executive vice president of the National Association of Wheat Growers, said of Boschwitz late this week, "I think he has devoted more study to the subject—and to the various programs and situations in which those programs would operate—than any other senator."

Boschwitz has emerged as a major figure in drafting the farm bill, which despite his efforts remains stalled in both the Senate and House Agriculture committees.

Entering the Senate as a freshman Republican from Minnesota in early 1979, Boschwitz was regarded as something of a joke when he took his committee seat.

What could a city slicker know about such things? Moreover, no one had to stick him with the assignment to this sleepy backwater of a committee. He asked for it, of all things. Observers chalked it up to the naive exuberance of a neophyte. He would learn, they said.

Indeed, he has. No one is laughing now at Boschwitz, who once sent giggles through the agricultural community when out of curiosity he grabbed an electrified prod used to train cows.

As Boschwitz acknowledged later, that was a shocking experience. But it was no more shocking than the praise that was unexpectedly heaped on him during a Senate debate last week by one of the most liberal and fiercely partisan Democrats in that chamber, Tom Harkin of Iowa.

No two members of the Senate Agriculture Committee disagree more on the 1985 farm bill than Harkin and Boschwitz. Yet Harkin said that Boschwitz possesses "more knowledge of the intricacies of what the tradeoffs are and what the impacts are of various options . . . that we can make than anybody on the committee, including myself."

Not everyone shares Harkin's admiration Boschwitz has not hidden his determination to protect or promote Minnesota's agricultural interests. Several times that has meant attacking proposals or existing programs that he says he believes give undue advantage to other regions.

There reportedly are growing strains between Boschwitz and Sen. Thad Cochran, R-Miss., and other southern committee members who dispute Boschwitz's claims that crops such as rice and cotton are being insulated from budget cuts in comparison with wheat and feed grains.

Boschwitz's overall impact on the farm bill is uncertain, in part because of his willingness to take up losing causes, such as his dairy amendments, and in part because the contents of the legislation remain unsettled.

Nonetheless, Boschwitz's attention to detail, his understanding of the interaction of different aspects of federal farm programs and the resulting effect on the budget, and his diligence on a committee noted for absenteeism have paid off.

Last month, for example, the committee appeared headed toward opening a loophole in an important provision written to penalize farmers who persist in plowing erodible land. With several questions. Boschwitz stopped the drift toward the weaker language sought by Sen. John Melcher, D-Mont. Eventually, the committee wound up taking a somewhat tougher stand than originally proposed.

More recently, Sen. Robert Dole of Kansas, the Republican majority leader, offered a compromise plan on one of the most controversial farm bill issues—income subsidies for wheat and feed grain farmers.

Boschwitz said that he would insist those growers be treated on an equal footing with cotton and rice producers. Dole, possibly aware that the committee had become badly polarized over the issue, withdrew his compromise, but he acknowledged to reporters later that cotton and rice "have so many advantages."

Then, last week, Boschwitz won a modified victory on another issue, which, if it becomes law, could pave the way eventually to a major change in the current system of supporting wheat and feed grain prices through relatively high, rigid loan rates.

On a 14-1 vote, the committee agreed to include in the bill a provision for flexible loan rates that would rise and fall with world market prices. However, the language for implementing the provision was so hedged with conditions that its immediate impact on federal policy would be uncertain.

Again, it was a question of equity, since an identical "marketing loan" provision had been adopted by the committee for cotton and rice.

The marketing loan principle is central to Boschwitz's approach to the farm bill, since he sees it as the key to restoring U.S. farmers' competitiveness in world commerce. Harkin and some other farm state senators would seek that goal by maintaining high U.S. prices and then using export subsidies in competition with other grain-selling countries for foreign markets. Their approach also would entail mandatory production controls to make sure that farmers, spurred by the high price, would not overproduce.

But, for Boschwitz, the only approach that makes practical sense involves cutting U.S. prices, confident in the notion that U.S. farmers can out-produce and out-sell competitors. Production controls also would have no place in a ideal Boschwitz world governed by the law, of supply and demand.

Boschwitz chafes over the committee's reluctance to embrace his approach but stops far short of accusing his colleagues of political gutlessness. Clear to him, but apparently not to the others is what he describes as the "tremendous upside" of his vision of a farm economy moving in harmony with a free marketplace. By that, Boschwitz means that the potential loss of farm income owing to lower loan rates could be more than offset by increased demand.

In view, that together with his confidence in an imminent decline in the dollar's value, offers the prospect of a "great bonus" for U.S. exporters. And with that statement, Boschwitz underscored his dual role as a member of both the Agriculture and Budget committees.

As a budget Committee conferee in negotiations with the House, Boschwitz helped shape last week's compromise. In the view of some analysts, the budget agreement is significant because it will help slow federal borrowing to finance the deficit and thus serve to weaken the dollar, the strength of which is said to have crippled farm exports

by making U.S. commodities relatively more expensive on world markets.

However, Boschwitz said recently that the interrelationship between cutting farm prices and reducing the deficit has not been well understood by others on the Agriculture Committee.

"Senators really aren't very entrepreneurial," said Boschwitz, who also suggested that his colleagues undervalue that ability of farmers to grasp the logic behind a market approach to agricultural policy. "I'm willing to take chances. I'm a gambler and I think most farmers are too. Give me an upside, I like that," he said.

Indeed, Boschwitz still draws lessons from the days when he founded his home improvement business, Plywood Minnesota. Struggling in the beginning, he recalls lowering his prices so much that he became an industry pariah.

That experience, he added, led him to an important realization: "When the price came down, there was a market for it."

William Lesher, an economist on the Agriculture Committee staff when Boschwitz arrived, remembered that Boschwitz was relatively ignorant about farming or agricultural policy issues then.

Said Lesher, who now is a consultant, "I think he has progressed remarkably well. He has worked harder than most to the point that now he has a better grasp of the issues than most on the committee. The way he did it was by asking questions."

Lesher also credited Boschwitz with "bringing a new dimension to the debate" by coauthoring with Sen. David Boren, D-Okla., a farm bill built around the addition of lowering U.S. farm prices while protecting farm income through transition payments, designed to phase out about the time exports would be expected to start booming.

For the time being, at least, Boschwitz has abandoned the transition payment idea, while continuing to insist on the dual principle of lowering farm prices and maintaining an interim income safety net.

Indeed, Boschwitz seems little fazed by occasional indications that others on the committee may have tired by now of his proselytizing.

During one contentious committee meeting, Sen. Edward Zorinsky of Nebraska, the panel's ranking Democrat, interrupted Boschwitz. "Let's vote," said Zorinsky.

Snapped Boschwitz, "I will continue, Senator. That's not for you to say, Let's vote.' "

THE RETIREMENT OF GEN. JOHN W. VESSEY, U.S.A., CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Mr. DURENBERGER. Mr. President, on the 30th of this month, a great American, a great patriot, and a great soldier will retire from active service. In 46 years in the Army, Jack Vessey has seen it all. From World War II, through the cold war, through Korea and Vietnam to the age bounded by nuclear deterrence and low intensity conflict. He has kept his vigil through thousands of national crises and contributed his wisdom to thousands of critical decisions. Warrior—statesman—leader. He is a soldier's soldier—a general's general—and a Minnesotan's Minnesotan. His career is the epitome of the standard, duty, honor, country.

General Vessey will receive a shower of well-deserved accolades in the coming weeks. To those I wish but to add the simplest—yet most powerful praise of one soldier to another, "well done." Steve Berg's piece in the Minneapolis Star and Tribune is an excellent tribute to this great man and I ask unanimous consent that the column be printed in the RECORD.

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

[From the Minneapolis Star and Tribune, Aug. 25, 1985]

NATION'S TOP SOLDIER PREPARES FOR ASSAULT ON WALLEYES

(By Steve Berg)

WASHINGTON, DC.—On the last day of September, Gen. John W. Vessey Jr. will cease to be the nation's most powerful soldier, closer perhaps to the president than any of his predecessors and, thus, closer to the nuclear button than any U.S. general in history.

He will become, instead, Jack Vessey of Crow Wing County, Minn., fisher for walleyes.

"I'm looking forward to getting back up there," Vessey said during a rare interview in his Pentagon office last week. He confessed a special affection for his native state and reflected on his three years as chairman of the Joint Chiefs of Staff and his 46 years in the Army.

Among his sentiments are sadness and regret over the deaths two years ago of 241 Americans in the bombing of a marine barracks in Lebanon, and acknowledgment that sending troops to the Beirut airport may have been a mistake, that the chiefs "knew that in advance."

Vessey, 63, is retiring more than eight months early. He had wanted to depart last June to keep a promise to his wife, Avis, who long has hoped for a retreat from official Washington to a full-time retirement at their lakeside home.

But the TWA hostage crisis intervened. Now, by the time the bags are unpacked, the leaves will have begun to change and the winds will be chilly off Little Whitefish Lake. Still there will be fish to catch and grass to cut and a future to ponder.

Vessey leaves Washington with high marks, even from some of the Pentagon's stiffest critics. He's viewed with "very high respect," said Rep. Les Aspin, D-Wis., one of Congress' top military experts.

But Vessey also departs in near anonymity. Few outside the military's top circle know his name or know the tale of his remarkable rise from private to four stars and beyond.

Few realize that he began the rise to the military's highest office with a commission on a bloody Italian beach, not on the parade ground at West Point. Few recall that Vessey fibbed about his age to enlist at 16, and has been in the Army longer than anyone now serving. Or that he will be the last chairman to have fought in World War II.

Few know about the dark morning in South Vietnam when Vessey rallied a demoralized battalion, one that responded to his personal demonstration of bravery by repelling—at some points hand-to-hand—a massive surprise attack, killing 423 enemy soldiers.

"He's been dirty and bloody . . . and he's worked his way up," said Lt. Col. Tony Palermo, a Marine and former aide who finds it hard to disguise his loyalty. "There won't be anymore like him."

Vessey never has flaunted his storybook career. Rather, he has sought to hide it, to seek shelter from any hint of celebrity.

Despite his closeness to President Reagan, Vessey has resolutely avoided partisan politics. His speeches nearly always to friendly audiences, make few headlines. His testimony to Congress has been bland. He has granted few interviews to the press and, even then, has added little meat to the bones of his spare but intriguing one-page Pentagon biography.

"I don't think the American people, particularly in peacetime, want to see their generals splashed around on the front page," he said, smiling broadly, his uniform shirt open at the collar, his blue eyes darting toward the portrait of Gen. Omar Bradley, the "GI's general," that hangs near his desk.

Friends say that Vessey, too, likes to consider himself a soldier's soldier. "He's the most honest, real, down-to-earth person I've ever met," said Gen. Charles Gabriel, the Air Force chief of staff. "That's one of the beauties of Jack Vessey. From the time he was a sergeant, I'm sure he has been the same Jack."

Another friend compared Vessey's classic Minnesota stoicism and subtle humor to that of Bud Grant, the Vikings football coach. "He's like Bud, only with a better team."

Although entitled to wear nine rows of ribbons, including the Distinguished Service Cross, the military's second-highest award, Vessey often wears only one. Once, when a kid asked where he got his medals, Vessey replied, "In a Crackerjack box."

Vessey described his attitude with a chuckle: "If by the time we leave, we've built our defensive wall a little higher and stronger, then we will have done our thing, and we should just do it and shut up."

Vessey has needed his humor and his cool attitude over the past few years and, associates say, has displayed them at tense moments. There have been many.

He oversaw a massive infusion of money aimed at restoring muscle and pride to the military. He fought for the MX missile and "Star Wars." He insisted that the Pentagon, not the White House, direct the Grenada invasion. Despite criticism that the operation lacked coordination, he is gratified, given the haste of the venture.

During Vessey's tenure, terrorists bombed U.S. troops in Lebanon and West Germany. The Soviets shot down a Korean airliner and killed a U.S. Army observer in East Germany. Spies were discovered in the Navy. The Pentagon was found to be paying hundreds of dollars for toilet seats and ashtrays, which, in turn, exposed wider scandals involving wasteful and fraudulent defense contracts. Critics grumbled about Vessey's cautiousness and lack of innovation.

Vessey appears stoic about all that. "We don't learn new lessons," he said. "We relearn old lessons that we haven't paid attention to."

His head bows and his voice quiets when he is questioned further about Lebanon. It was the low point of his tenure.

Most often it's a mistake to use superpower troops as part of a peacekeeping force, he said. "As a general rule, we knew that in advance . . . and this is not the first time that lesson has been learned."

But the administration had "great expectations" for peace in Lebanon, he said. And

the Marines represented an investment, a deposit of "earnest" in hopes of fostering confidence within the Lebanese army and government.

In the end, however, "We had a peacekeeping force where there was no peace . . . and we were caught in the middle of it," he said.

Did he advise Reagan against sending U.S. troops? He won't say. It wouldn't be professional to disclose his private advice. Highly placed associates, however, confirmed that Vessey advised against the Lebanon venture.

Indeed, much of his counsel has been for restraint. Often during the Reagan years, traditional roles have been reversed, military advisers arguing for caution against more adventuresome views from civilians on the right.

Vessey and the chiefs, for example, also argued against scrapping the SALT II treaty, or expanding the U.S. role in Central America beyond maneuvers or against any imprudent deployment of U.S. forces in the Persian Gulf.

"I am absolutely, unalterably opposed to risking American lives for some phony sort of military and political objectives that we don't understand," he said two years ago.

Vessey was born June 29, 1922. His mother, Katherine Roche, came from an old Irish family in St. Paul. His father, Jack, was of English and Scottish stock, and worked as an agent for the Minneapolis, Northfield and Southern railway.

Young Jack, as he was called, was the first of seven children. The family lived in Lakeville until he was 13, then moved into a two-story stucco house on Weenonah Place, a small, tidy street just off 50th St. and 34th Av. in south Minneapolis.

"It was the nicest little street in the country," said Vessey's mother, 83, who since has moved into a retirement home not far away. "It was only one long block, and so quiet. The kids played ball in the street. It was just like the kids were growing up in a small town."

Friends remember Vessey as a Tom Sawyer figure—entertaining younger kids by pretending to swallow goldfish, holding the rope while older boys hoisted a cow onto the roof of the Lakeville school, playing "America" on the harmonica while standing on his head.

A few at Roosevelt High School thought Jack Vessey had "too much vinegar." But he was popular and had a serious side, too. "He didn't waste time hanging around street corners," recalled Howard Olson, a longtime friend. "Most of the time he was a no-nonsense guy."

He worked on the yearbook and in student government, was captain of the swim team and manager of the stage crew. He took keen interest in Boy Scouts and in the activities at nearby Lake Nokomis Lutheran Church. His mother recalls giving up serving Sunday night dinner to her family because the house was mobbed with teen-agers stopping over on the way to church youth meetings.

He also took a keen interest in Avis Funk, a striking blond girl with a bent toward art. He would correspond with her throughout the coming war and marry her afterward.

Vessey adored his father. They shared the same dead-pan humor and repeated the same corny jokes nearly every night at dinner. By the late 1930s, however, his father's health began to fail. His kidneys had not been right since the damp and muddy trenches of France in World War I. He was developing diabetes.

Together, they took a car trip to Oregon, along the way sharing what fathers and sons share. The father showed his boy the Army post where he had signed up to become a Doughboy in 1917.

He thought it was fine that Young Jack had joined the Minnesota National Guard, despite lying about his age. No one quite knows what motivated Young Jack to sign up, although one could envision him in 1939, a kid off the Wheaties box, hair slicked down, a giant gold R on his maroon letter sweater, sipping a chocalate malted at the Nickle Nook and telling his buddies, "Gosh, wouldn't it be swell to give those Nazis what they deserve?"

Eventually, on a cold February morning in 1941, Vessey marched off to prepare for war. He was home on leave when Pearl Harbor was attacked, and had to depart again, quickly.

"We were all out in the front yard saying goodbye," said his sister, Pat Vessey. "I looked around and my Dad was missing. I went into the house and he was sitting in a chair, tears rolling down his face. I'd never seen him cry before. He told my Mom, 'I'll never see that boy again.' "

He died as Young Jack headed toward the fighting in North Africa. The 34th Division, made up largely of Minnesota and Iowa boys, helped push the retreating Germans out of the desert and into Italy.

By the time their "Red Bull" division reached the beaches at Anzio, just south of Rome, Vessey had risen to first sergeant. "He was fair and firm and always stood up for his men," recalled Jim Gregg, mess sergeant in Vessey's artillery outfit.

"Once he came and told us that the captain was worried that the men would climb out of the foxholes and start running when the shelling got bad again. He said we should stay in our foxholes, but if anyone looked nervous, he could get them sent farther back. Then he said to me, 'If anybody says we're not *all* scared, he's a damn liar.' "

Days later, the Germans launched a counterattack. Hitler instructed his generals that "The men will fight with a solemn hatred . . . The battle must be hard and without pity (and Anzio) will drown in the blood of the Anglo-Saxon soldiers."

Bodies piled up. The U.S. 5th Army suffered 70,000 casualties in the first four months of 1944. Vessey's mother received word that "Of the 14 or 18 men closest to Jack, only six were left."

Suffering attrition, the Army commissioned Vessey a lieutenant and sent him to the front lines to direct artillery fire. An Army doctor sent Vessey's mother a photo. Jack was dancing a jig. "Later," she said, "I asked the doctor if that's how Jack got his commission, and he got real upset. He said Jack was just so happy after what he had been through."

After the war, Vessey considered entering the seminary. He remains a devout Lutheran, reading the Bible daily and occasionally attending Bible study sessions in the Pentagon.

He admits that it's a struggle to reconcile his religious beliefs and his job. Killing and starting wars are probably immoral, he has said, but there's probably no immorality in hoping to deter war by preparing for it.

Indeed, he has championed Reagan's military buildup.

As for assigning a special immorality to nuclear weapons, Vessey says that nations cannot uninvent them. "God invented golf to teach us something about life," he has said. "The ball is where it lies."

One of his toughest moments as a soldier came on an early March morning in 1967, when he rallied his battalion against an attack by 2,000 enemy troops against his force of 300 in Vietnam. Despite his wounds, he assisted as a cannoneer as the six-hour battle raged, lowering the barrels of the howitzers and firing point blank into the onrushing attackers, sometimes as they clung to the guns.

Vessey, of course, doesn't talk of the incident. Even close friends and relatives never have heard the details. According to Army records, Vessey finally spotted a group of enemy rocket launchers that were inflicting severe damage. "He seized a grenade launcher, moved into an open area and knocked out three of the insurgents' weapons," the citation states.

"He told me that that was the first time he thought it was time to get out of the Army," his mother recalled. "It was probably his closet call."

Ten years after the war's end, Vessey concedes mixed feelings over Vietnam. Those who consider the war a tragic misadventure might be "a little bit right," he said. But so might those who believe that politicians kept the U.S. from a victory that could have—and should have—been won.

He told of a recent trip to Thailand, knowing he would meet some of the Thai troops that fought with him in the futile battle for Laos. "I went there with a little fear and trepidation," he said. "One of the ones I saw was a lieutenant. I remembered when he lost his leg. He came out on his peg leg and greeted me and put his arms around me and talked about the war in Laos, 'Laos was Communist now (he told me), but I wasn't fighting for Laos, I was fighting for Thailand.'

'So, it wasn't all a failure," Vessey said, "it wasn't all in vain."

He has risen through the ranks by blending his experience as a mud soldier with his obvious savvy for command and his subtle talent for military politics. He became a lieutenant colonel without a college degree, then got a diploma from the University of Maryland when he was 41 and a master's from George Washington University at 45. He was 49 when he decided to become a helicopter pilot.

He's 5-9 and a trim 160 pounds. He runs nearly every morning, plays a solid game of handball despite two game knees, has a passion for golf and talks expertly about the migration of walleyes between Mille Lacs and Little Whitefish.

He learned to speak and write Korean when he commanded U.S. forces in South Korea in the 1970s and retains a keen interest in Korea. When President Carter proposed to remove U.S. troops from South Korea in 1977, Vessey warned that war could result. One of his deputies used harsher words. Carter fired him, but eventually changed his mind on pulling out the troops.

Vessey's career suffered its first real setback in 1979. Carter passed him over, selecting one of Vessey's former deputies as Army chief of staff. The military establishment was stunned. But the young officer, Gen. Edward Meyer, named Vessey as his assistant, and Vessey got his first taste of high level Pentagon duty.

By 1982, his lake home was finished and he and Avis were eager to retire. But Defense Secretary Caspar Weinberger met him as he returned from a trip to South America, telling him that the president wanted to see him right away. Vessey wondered what had gone wrong in South America. He was

shocked when Reagan, after a 15-minute chat, asked him to be chairman of the joint chiefs.

A reluctant Vessey told the president of his wife's wish to return to Minnesota. Reagan asked him to change her mind. With a tear in her eye, Avis Vessey told her husband that God finally was punishing him for lying about his age. The Vesseys moved into Quarters Six at Fort Myer, Va. The stately chairman's residence comes with three servants and a chauffeur-driven staff car. This was the top.

The top, however, can be grueling, particularly after 46 years of soldiering. Avis Vessey has worried about her husband's stamina, friends say, and about the crazies who roam the world looking for targets. Many in Washington worry about that.

"You look at the flash points on a map and it looks like the world has chicken pox," she said. "There are no easy days for him . . . The family has been so neglected for the last 10 years. Maybe now we'll have a private life."

The Vesseys have two sons and a daughter and two grandchildren. They have been gone from their home state for more than four decades, but say they still feel like Minnesotans. The general confesses a special affection for a place he considers unique because of its climate, heritage and culture. He's a faithful listener to Garrison Keillor's radio show, "A Prairie Home Companion," and an unrepentant teller of Ole and Sven jokes.

At the Pentagon, Vessey will be remembered as a chairman who elevated the staff to a high level of influence with an administration, admittedly, inclined to seek advice from military leaders.

He also has used his low-key personality to soothe interservice jealousies, rather than to push for reorganizing the Pentagon's top structure.

"Any time you want something to work in a relationship between human beings, you have to work at the relationship," he said, "You can't legislate it. The president can get his military advice from reading 'Beetle Bailey,' and I suspect maybe some presidents have, and I suspect that sometimes it might not be a bad place to look. But you can't legislate confidence."

Vessey has been quiet about his plans for the future. The Minnesota National Guard has reserved an office for him at Camp Ripley, a short drive from his home. And there'll be a modest museum filled with the memorabilia of Minnesota's most significant military figure.

Friends say Vessey might like to teach. Once he joked to an aide, however, asking him to find two spots on corporate boards, one on the East Coast and one on the West, each with golf privileges. Perhaps it wasn't a joke.

The PRESIDING OFFICER. The Chair, in his capacity as Senator from Alaska, suggests the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

SUPERFUND IMPROVEMENT ACT OF 1985

The PRESIDING OFFICER. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now proceed to the consideration of S. 51 for purposes of debate only.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 51) to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment to strike out all after the enacting clause, and insert the following, and from the Committee on Finance, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in roman type.)

That this Act may be referred to as the "Superfund Improvement Act of 1985".

TITLE I

INDIAN TRIBES

SEC. 101. (a) Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by striking "and" at the end of paragraph (31), striking the period at the end of paragraph (32), and adding a new paragraph as follows:

"(33) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village but not including any Alaska Native regional or village corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and";

(2) in paragraph (16) by striking "or" the last time it appears and by inserting before the semicolon at the end thereof the following: ", any Indian tribe, or, if such resources are subject to a trust restriction on alienation, any member of an Indian tribe".

(b) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by section 109 of this Act, is amended by adding at the end thereof the following: "In the case of remedial action to be taken on land or water held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe (if such land or water is subject to a trust restriction on alienation), or otherwise within the borders of an Indian reservation, the requirements of this paragraph for assurances regarding future maintenance and cost-sharing shall not apply, and the President shall provide the assurance required by this paragraph regarding the availability of a hazardous waste disposal facility.".

(c) Section 104(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by section 114 of this Act, is amended by inserting "or Indian tribe" after the phrase "political subdivision" each time that phrase occurs.

(d) Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) in subsection (a) by inserting "or an Indian tribe" after "State";

(2) in subsection (f) by inserting after "State" the third time that word appears the following: "and to any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation:"; by inserting "or Indian tribe" after "State" the fourth time that word appears; by adding before the period at the end of the first sentence the following: ", so long as, in the case of damages to an Indian tribe occurring pursuant to a Federal permit or license, the issuance of that permit or license was not inconsistent with the fiduciary duty of the United States with respect to such Indian tribe"; and by inserting "or the Indian tribe" after "State government";

(3) in subsection (i) by inserting "or Indian tribe" after "State" the first time it appears; and

(4) in subsection (j) by inserting "or Indian tribe" after "State" the first time it appears.

(e) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) in subsection (b) by inserting before the period at the end thereof the following: ", or by any Indian tribe or by the United States acting on behalf of any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation";

(2) in subsection (c)(2) by inserting "or Indian tribe" after "State";

(3) in subsection (f) by inserting "or Indian tribe" after "State"; and

(4) in subsection (i) by inserting after "State," the following: "and by the governing body of any Indian tribe having sustained damage to natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation,".

(f) Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new section:

"INDIAN TRIBES

"SEC. 116. The governing body of an Indian tribe shall be afforded substantially the same treatment as a State with respect to the provisions of section 103(a) (regarding notification of releases), section 104(c)(2) (regarding consultation on remedial actions), section 104(e) (regarding access to information), section 104(i) (regarding cooperation in establishing and maintaining national registries), and section 105 (regarding roles and responsibilities under the national contingency plan and submittal of priorities for remedial action, but not including the provision regarding the inclu-

sion of at least one facility per State on the national priority list).".

COMMUNITY RELOCATION

SEC. 102. (a) The second sentence of paragraph (23) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting after "not otherwise provided for," the phrase "costs of permanent relocation of residents where it is determined that such permanent relocation is cost effective or may be necessary to protect health or welfare," and by striking out the semicolon at the end thereof and inserting in lieu thereof a period and the following: "In the case of a business located in an area of evacuation or relocation, the term may also include the payment of those installments of principal and interest on business debt which accrue between the date of evacuation or temporary relocation and thirty days following the date that permanent relocation is actually accomplished or, if permanent relocation is formally rejected as the appropriate response, the date on which evacuation or temporary relocation ceases. In the case of an individual unemployed as a result of such evacuation or relocation, it may also include the provision of assistance identical to that authorized by sections 407, 408, and 409 of the Disaster Relief Act of 1974: Provided, That the costs of such assistance shall be paid from the Trust Fund;".

(b) Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting before "authorized by subsection (b) of this section," the phrase "for permanent relocation or".

OFFSITE REMEDIAL ACTION

SEC. 103. Section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking the last sentence of the paragraph; striking the period after "welfare" the third time that word appears, and inserting a semicolon in lieu thereof, striking "or" before "contaminated materials" and inserting "and associated" in lieu thereof; and inserting before the period after "environment" the third time that word appears, the following: ", as well as the offsite transport and offsite storage, treatment, destruction, or secure disposition of hazardous substances and associated contaminated materials.".

ALTERNATIVE WATER SUPPLIES

SEC. 104. Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, is amended by striking the period at the end of paragraph (30) and inserting in lieu thereof a semicolon; and by adding after new paragraph (33) the following new paragraph:

"(34) 'alternative water supplies' includes, but is not limited to, drinking water and household water supplies.".

IMPROVEMENTS IN NOTIFICATION AND PENALTIES

SEC. 105. (a) Section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by—

(1) inserting "(1)" after "immediately notify"; and

(2) inserting after "of such release" the following: ", and (2), in the case of any such release of a hazardous substance with a reportable quantity of one pound or less or any release of any other hazardous substance in a quantity determined by the President by regulation to potentially require emergency response, all State and local emergency response officials identified under any local contingency plan or otherwise likely to be affected by the release".

(b) Section 103(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by—

(1) inserting after "appropriate agency of the United States Government" the following: "(or, in the case of a release to which subsection (a)(2) applies, any appropriate State or local emergency response official)"; and

(2) striking "$10,000 or imprisoned for not more than one year, or both." and inserting in lieu thereof "$25,000 or imprisoned for not more than two years, or both (or in the case of a second or subsequent conviction, shall be fined not more than $50,000 or imprisoned for not more than five years, or both).".

(c) Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(g)(1) In addition to any other relief provided, whenever on the basis of any information available to the President the President finds that any person is in violation of subsection (a) or (b) of this section the President may assess a civil penalty of not more than $10,000 for each failure to notify the appropriate agency. The penalty under this subsection shall increase to not more than $25,000 for a second violation by the same person, not more than $50,000 for a third violation by the same person, and not more than $75,000 for a fourth or subsequent violation by the same person.

"(2) No civil penalty may be assessed under this subsection unless the person accused of the violation is given notice and opportunity for a hearing with respect to the violation.

"(3) In determining the amount of any penalty assessed pursuant to this subsection, the President shall take into account the nature, circumstances, extent and gravity of the violation or violations and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require.

"(4) Any person against whom a civil penalty is assessed under this subsection may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the President. The President shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed. If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the United States, the President may request the Attorney General of the United States to institute a civil action in an appropriate district court of the United States to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. In hearing such action, the court shall have authority to review the violation and the assessment of the civil penalty on the record.

"(5) The President may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this subsection. In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(6) Action taken by the President pursuant to this subsection shall not affect or limit the President's authority to enforce any provision of this Act: Provided, however, That a failure to notify the appropriate agency which is penalized administratively under this subsection shall not be the subject of a criminal penalty under subsection (b) of this section.".

(d)(1) Section 103(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by striking "$20,000" and inserting "$25,000" in lieu thereof.

(2) Section 106(b) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by striking "$5,000" and inserting "$10,000" in lieu thereof.

HAZARDOUS SUBSTANCES INVENTORY

SEC. 106. Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by this Act, is further amended by adding after "Notice, Penalties" in the title to section 103: ", and Inventory". Section 103 is further amended by adding at the end thereof the following new subsections:

"(h)(1) Each facility owner or operator that (A)(i) manufactures a hazardous substance (as defined in section 101(14) of this Act), or (ii) stores six thousand kilograms or more of such hazardous substance, and (B) has ten or more full-time employees, shall complete and distribute a Hazardous Substances Inventory form as published under paragraph (2) of this subsection within 180 days after the enactment of the Superfund Improvement Act of 1985 and every twenty-four months thereafter, or more often as changed circumstances require. For the purposes of this subsection, a mixture containing more than 1 per centum of any hazardous substance covered by this section shall be considered a hazardous substance.

"(2) The President shall publish the Hazardous Substances Inventory form in the Federal Register within sixty days after the date of enactment of the Superfund Improvement Act of 1985. Publication of such form shall be exempt from the requirements of the Paperwork Reduction Act and Office of Management and Budget Circular A-40 (title 5 of the Code of Federal Regulations, part 1320).

"(3) The Hazardous Substances Inventory form shall provide for submission of the following information for each hazardous substance:

"(A) the description of the use of the hazardous substance at the facility, including, but not limited to, the quantity of the hazardous substance produced or consumed at such facility;

"(B) the maximum inventory of the hazardous substance stored at the facility, the method of storage, and the frequency and methods of transfer;

"(C) for each of the following, the annual and monthly total emissions or discharge of

each hazardous substance for the calendar year immediately preceding the submission of the Hazardous Substances Inventory form:

"(i) the stack or point-source emissions;

"(ii) the estimated fugitive or non point-source emissions of the hazardous substances;

"(iii) the discharge into the surface water or groundwater, the treatment methods, and the raw wastewater volumes and loadings; and

"(iv) the discharge into publicly-owned treatment works;

"(D) the quantity and methods of disposal of any wastes containing the hazardous substance, the method of onsite storage of such wastes, the location or locations of the final disposal site of such wastes, and the identity of the transporter of such wastes;

"(E) the month and year that the information on the Hazardous Substances Inventory was compiled and the name, address, and emergency telephone number of the person responsible for preparing the information.

For the purposes of this paragraph, facility owners and operators may utilize readily available data collected pursuant to other State and Federal environmental laws.

"(4) Each person who submits a form pursuant to the requirements of this subsection shall attach thereto a copy of the Material Safety Data Sheet, required pursuant to the Occupational Safety and Health Act, pertaining to the hazardous substance that is reported in the form.

"(5) The Hazardous Substances Inventory shall be distributed by the facility owner or operator to, at a minimum, the President; State and local emergency and medical response personnel; the State police, health and environmental departments; area police and fire departments; area emergency medical services; area hospitals; and area libraries.

"(6) The President, for the purposes of this subsection, shall establish a toll-free telephone number, operating twenty-four hours per day, that is computer accessible, to respond to telephone inquiries concerning the Hazardous Substances Inventory and the information contained therein. Within sixty days of establishment of such a telephone line, the President shall inform appropriate State and local officials.

"(7)(A) The President may verify the data contained in the Hazardous Substances Inventory form using the authority of section 104(e) of this Act.

"(B) Information submitted under this subsection shall be treated as information submitted under section 104(e) and shall be subject to the provisions of section 104(e)(2).

"(8) Any person who knowingly omits material information or makes any false material statement or representation in the Hazardous Substances Inventory, shall, upon conviction, be fined not more than $25,000 or imprisoned for not more than one year, or both.

"(9) Nothing in this subsection shall be construed to limit the ability of any State to require submission of information related to hazardous substances, or to require additional distribution of the Hazardous Substances Inventory form from facilities operating within its borders.

"(i)(1) Every two years after the date of enactment of the Superfund Improvement Act of 1985, the National Toxicology Program, in consultation with appropriate Federal agencies, shall review new and existing chemicals and compile a list of substances to supplement those referred to in subsection (h), taking into account, at a minimum, the reactivity, toxicity, volatility, carcinogenicity, mutagenicity, teratogenicity, neurotoxicity, and production levels of the chemical.

"(2) Within one hundred and eighty days after publication of the list compiled by the National Toxicology Program, the President shall promulgate such list of substances as those requiring preparation and distribution of the Hazardous Substances Inventory under this Act, unless the President demonstrates that a particular hazardous substance does not present a risk equal to or greater than those substances referred to in subsection (h)(1). In the event that the President decides not to list a hazardous substance, the President shall, with opportunity for public notice and comment, state the basis on which the hazardous substance was not considered to present a risk sufficient to warrant preparation and distribution of the Hazardous Substances Inventory.".

SCOPE OF PROGRAM

SEC. 107. (a) Section 104(a)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking that language between the word "environment" the third time it appears and the period and inserting in lieu thereof a period and the following: "The President shall give primary attention to those releases which may present a public health threat. The President may authorize the owner or operator of the vessel or facility from which the release or threat of release emanates, or any other responsible party, to perform the removal or remedial action if the President determines that such action will be done properly by the owner, operator, or responsible party".

(b) Section 104(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraphs:

"(3) The President shall not provide for a removal or remedial action under this section in response to a release or threat of release—

"(A) of a naturally occurring substance in its unaltered form, or altered solely through naturally occurring processes or phenomena, from a location where it is naturally found;

"(B) from products which are part of the structure of, and result in exposure within, a facility; or

"(C) into public or private drinking water supplies due to deterioration of the system through ordinary use.

"(4) Notwithstanding paragraph (3) of this subsection, to the extent authorized by this section the President may respond to any release or threat of release if in the President's discretion it constitutes a public health or environmental emergency and no other person with the authority and capability to respond to the emergency will do so in a timely manner.".

STATUTORY LIMITS ON REMOVALS

SEC. 108. Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "six months" and inserting "one year" in lieu thereof and inserting before "obligations" the following: "or (C) continued response action is otherwise appropriate and consistent with permanent remedy,".

STATE CREDIT

SEC. 109. (a) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "The President shall grant the State a credit against the share" and all that follows down through the end of such section 104(c)(3) and inserting in lieu thereof the following: "In determining the portion of the costs referred to in this section which is required to be paid by a participating State, the President shall grant the State a credit for amounts expended or obligated by such State or by a political subdivision thereof after January 1, 1978, and before December 11, 1980, for any response action costs which are covered by section 111(a) (1) or (2) and which are incurred at a facility or release listed pursuant to section 105(8). Such credit shall have the effect of reducing the amount which the State would otherwise be required to pay in connection with assistance under this section.".

(b)(1) Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new sentence: "For the purposes of the last sentence of subsection (c)(3) of this section, the President may enter into a contract or cooperative agreement with a State under this paragraph under which such State will take response actions in connection with releases listed pursuant to section 105(8)(B), using non-Federal funds for such response actions, in advance of and without any obligation by the President of amounts from the Fund for such response actions.".

(2) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended by adding the following sentence: "The President shall grant the State a credit against the share of costs for which it is responsible under this paragraph for any reasonable, documented, direct out-of-pocket non-Federal funds expended or obligated by the State under a contract or cooperative agreement under the last sentence of subsection (d)(1).".

FUNDING OF REMEDIAL ACTION AT FACILITY OPERATED BY A STATE OR POLITICAL SUBDIVISION

SEC. 110. Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by amending section 104(c)(3)(C)(ii) to read as follows:

"(ii) 50 per centum (or such greater amount as the President may determine appropriate, taking into account the degree of responsibility of the State or political subdivision for the release) of any sums expended in response to a release at a facility, that was operated by the State or a political subdivision thereof, either directly or through a contractual relationship or otherwise, at the time of any disposal of hazardous substances therein. For the purpose of subparagraph (C)(ii) of this paragraph, the term 'facility' does not include navigable waters or the beds underlying those waters."; and

(2) by adding at the end thereof the following: "In the case of any State which has paid, at any time after the date of the enactment of the Superfund Improvement Act of 1985, in excess of 10 per centum of the costs of remedial action at a facility owned but not operated by such State or by a political subdivision thereof, the President shall use money in the Fund to provide reimbursement to such State for the amount of such excess.".

SELECTION OF REMEDIAL ACTIONS

SEC. 111. Section 104(c)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(4)(A) The President shall select appropriate remedial actions determined to be necessary to carry out this section which, to the extent practicable, are in accordance with the national contingency plan and which provide for cost-effective response. In evaluating the cost-effectiveness of proposed alternative remedial actions, the President shall take into account the total short- and long-term costs of such actions, including the costs of operation and maintenance for the entire period during which such activities will be required.

"(B) Remedial actions in which treatment which significantly reduces the volume, toxicity or mobility of the hazardous substances is a principal element, are to be preferred over remedial actions not involving such treatment. The offsite transport and disposal of hazardous substances or contaminated materials without such treatment should be the least favored alternative remedial action, where practicable treatment technologies are available.

"(C) Remedial actions selected under this paragraph or otherwise required or agreed to by the President under this Act shall attain a degree of cleanup of hazardous substances, pollutants, and contaminants from the environment and of control of further release at a minimum which assures protection of human health and the environment. Such remedial actions shall be relevant and appropriate under the circumstances presented by the release or threatened release of such substance, pollutant, or contaminant.

"(D) No permit shall be required under subtitle C of the Solid Waste Disposal Act, section 402 or 404 of the Clean Water Act, or section 10 of the Rivers and Harbors Act of 1899, for the portion of any removal or remedial action conducted pursuant to this Act entirely onsite: Provided, That any onsite treatment, storage, or disposal of hazardous substances, pollutants, or contaminants shall comply with the requirements of subparagraph (C).

"(E) Subject to the requirements of this paragraph, the President shall select the appropriate remedial action which provides a balance between the need for protection of public health and welfare and the environment at the facility under consideration, and the availability of amounts from the Fund to respond to other sites which present or may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of such threats.".

STATE AND FEDERAL CONTRIBUTIONS TO OPERATION AND MAINTENANCE

SEC. 112. Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraphs:

"(5) For the purposes of paragraph (3) of this subsection, in the case of ground or surface water contamination, completed remedial action includes the completion of treatment or other measures, whether taken onsite or offsite, necessary to restore ground and surface water quality to a level that assures protection of human health and the environment. With respect to such measures, the operation of such measures for a period up to five years after the construction or installation and commencement of operation shall be considered remedial action. Activities required to maintain the effectiveness of such measures following such period or the completion of remedial action, whichever is earlier, shall be considered operation or maintenance.

"(6) During any period after the availability of funds received by the Trust Fund under sections 4611 and 4661 of the Internal Revenue Code of 1954 or section 221(b)(2) or section 303(b) of this Act, the Federal share of the payment of costs for operation and maintenance pursuant to paragraph (3)(C)(i) or paragraph (5) of this subsection shall be from funds received by the Trust Fund under section 221(b)(1)(B).".

SITING OF HAZARDOUS WASTE FACILITIES

SEC. 113. Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraph:

"(7) Effective three years after the date of enactment of the Superfund Improvement Act of 1985, the President shall not provide any remedial actions pursuant to this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the President providing assurances deemed adequate by the President that the State will assure the availability of hazardous waste treatment or disposal facilities acceptable to the President and in compliance with the requirements of subtitle C of the Solid Waste Disposal Act with adequate capacity for the destruction, treatment, or secure disposition of all hazardous wastes that are reasonably expected to be generated within the State during the twenty-year period following the date of such contract or cooperative agreement and to be disposed of, treated, or destroyed.".

COOPERATIVE AGREEMENTS

SEC. 114. Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking all of the existing paragraph (other than that added by this Act) and substituting the following:

"(d)(1) Where the President determines that a State or political subdivision has the capability to carry out any or all of the actions authorized in this section, the President may, in the discretion of the President and subject to such terms as the President may prescribe, enter into a contract or cooperative agreement and combine any existing cooperative agreements with such State or political subdivision (which may cover a specific facility or facilities) to take such actions in accordance with criteria and priorities established pursuant to section 105(8) of this title and to be reimbursed from the Fund for the reasonable response costs and related activities associated with the overall implementation, coordination, enforcement, training, community relations, site inventory and assessment efforts, and administration of remedial activities authorized by this Act. Any contract made hereunder shall be subject to the cost-sharing provisions of subsection (c) of this section.".

ACCESS AND INFORMATION GATHERING

SEC. 115. Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by striking "(2)" and inserting "(5)" in lieu thereof and by striking all of existing paragraph (1) and inserting in lieu thereof the following:

"(1) For the purposes of determining the need for response, or choosing or taking any response action under this title, or otherwise enforcing the provisions of this title, any officer, employee, or representative of the President, duly designated by the President, or any duly designated officer, employee, or representative of a State, is authorized where there is a reasonable basis to believe there may be a release or threat of release of a hazardous substance—

"(A) to require any person who has or may have information relevant to (i) the identification or nature of materials generated, treated, stored, transported to, or disposed of at a facility, or (ii) the nature or extent of a release or threatened release of a hazardous substance at or from a facility, to furnish, upon reasonable notice, information or documents relating to such matters. In addition, upon reasonable notice, such person either shall grant to appropriate representatives access at all reasonable times to inspect all documents or records relating to such matters or shall copy and furnish to the representatives all such documents or records, at the option of such person;

"(B) to enter at reasonable times any establishment or other place or property (i) where hazardous substances are, may be, or have been generated, stored, treated, disposed of, or transported from, (ii) from which or to which hazardous substances have been or may have been released, (iii) where such release is or may be threatened, or (iv) where entry is needed to determine the need for response or the appropriate response or to effectuate a response action under this title; and

"(C) to inspect and obtain samples from such establishment or other place or property or location of any suspected hazardous substance and to inspect and obtain samples of any containers or labeling for suspected hazardous substances. Each such inspection shall be completed with reasonable promptness. If the officer, employee, or representative obtains any samples, prior to leaving the premises, he shall give to the owner, operator, tenant, or other person in charge of the place from which the samples were obtained a receipt describing the sample obtained and, if requested, a portion of each such sample. If any analysis is made of such samples, a copy of the results of the analysis shall be furnished promptly to the owner, operator, tenant, or other person in charge, if such person can be located.

"(2)(A) If consent is not granted regarding a request made by a duly designated officer, employee, or representative under paragraph (1), the President, upon such notice and an opportunity for consultation as is reasonably appropriate under the circumstances, may issue an order to such person directing compliance with the request, and the President may ask the Attorney General to commence a civil action to compel compliance.

"(B) In any civil action brought to obtain compliance with the order, the court shall, where there is a reasonable basis to believe there may be a release or threat of a release of a hazardous substance: (i) in the case of interference with entry or inspection, enjoin such interference or direct compliance with orders to prohibit interference with entry or inspection, unless under the circumstances of the case the demand for entry or inspection is arbitrary and capricious, an abuse of discretion, or not in accordance with law; and (ii) in the case of information or document requests, enjoin interference with such information or document requests or direct compliance with orders to provide such information or documents, unless under the circumstances of the case the demand for information or documents is arbitrary and capricious, an abuse of discretion, or not in accordance with law. The court may assess a civil penalty not to exceed $10,000 against any person who unreasonably fails to comply with the provisions of paragraph (1) or an order issued pursuant to paragraph (2).

"(3) Nothing in this subsection shall preclude the President from securing access or obtaining information in any other lawful manner.

"(4) Notwithstanding this subsection, entry to locations and access to information properly classified to protect the national security may be granted only to any officer, employee, or representative of the President who is properly cleared.".

HEALTH-RELATED AUTHORITIES

SEC. 116. (a) Section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(1)" after "(i)", by redesignating paragraphs (1), (2), (3), (4), and (5) as subparagraphs (A), (B), (C), (D), and (E), and by adding the following new paragraphs:

"(2) The Agency for Toxic Substances and Disease Registry shall provide consultations upon request on health issues relating to exposure to hazardous or toxic substances, on the basis of available information, to the Environmental Protection Agency, State officials, and local officials. Such consultations to individuals may be provided by States under cooperative agreements established under this Act.

"(3)(A) The Administrator shall perform a health assessment for each release, threatened release or facility on the National Priority List established under section 105. Such health assessment shall be completed not later than two years after the date of enactment of the Superfund Improvement Act of 1985 for each release, threatened release or facility proposed for inclusion on such list prior to such date of enactment or not later than one year after the date of proposal for inclusion on such list for each release, threatened release or facility proposed for inclusion on such list after such date of enactment. The Administrator shall also perform a health assessment for each facility for which one is required under section 3019 of the Solid Waste Disposal Act and, upon request of the Administrator of the Environmental Protection Agency or a State, for each facility subject to this Act or subtitle C of the Solid Waste Disposal Act, where there is sufficient data as to what hazardous substances are present in such facility.

"(B) The Administrator may perform health assessments for releases or facilities where individual persons or licensed physicians provide information that individuals have been exposed to a hazardous substance, for which the probable source of such exposure is a release. In addition to other methods (formal or informal) of providing such information, such individual persons or licensed physicians may submit a petition to the Administrator providing such information and requesting a health assessment. If such a petition is submitted and the Administrator does not initiate a health assessment, the Administrator shall provide a written explanation of why a health assessment is not appropriate.

"(C) In determining sites at which to conduct health assessments under this paragraph, the Administrator of the Agency for Toxic Substances and Disease Registry shall give priority to those facilities or sites at which there is documented evidence of release of hazardous substances, at which the potential risk to human health appears highest, and for which in the judgment of the Administrator of such Agency existing health assessment data is inadequate to assess the potential risk to human health as provided in subparagraph (E).

"(D) Any State or political subdivision carrying out an assessment shall report the results of the assessment to the Administrator of such Agency, and shall include recommendations with respect to further activities which need to be carried out under this section. The Administrator of such Agency shall include the same recommendation in a report on the results of any assessment carried out directly by the Agency, and shall issue periodic reports which include the results of all the assessments carried out under this paragraph.

"(E) For the purposes of this subsection and section 111(c)(4), the term 'health assessments' shall include preliminary assessments of the potential risk to human health posed by individual sites and facilities, based on such factors as the nature and extent of contamination, the existence of potential for pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size and potential susceptibility of the community within the likely pathways of exposure, the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants, and the comparison of existing morbidity and mortality data on diseases that may be associated with the observed levels of exposure. The assessment shall include an evaluation of the risks to the potentially affected population from all sources of such contaminants, including known point or nonpoint sources other than the site or facility in question. A purpose of such preliminary assessments shall be to help determine whether full-scale health or epidemiological studies and medical evaluations of exposed populations shall be undertaken.

"(F) At the completion of each health assessment the Administrator shall provide the Administrator of the Environmental Protection Agency and each affected State with the results of such assessment, together with any recommendations for further action under this subsection or otherwise under this Act.

"(G) In any case in which a health assessment performed under this paragraph (including one required by section 3019 of the Solid Waste Disposal Act) discloses the exposure of a population to the release of a hazardous substance, the costs of such health assessment may be recovered as a cost of response under section 107 of this Act from persons causing or contributing to such release of such hazardous substance or, in the case of multiple releases contributing to such exposure, to all such releases.

"(4) Whenever, in the judgment of the Administrator, it is appropriate on the basis of the results of a health assessment, the Administrator shall conduct a pilot study of health effects for selected groups of exposed individuals, in order to determine the desirability of conducting full scale epidemiological or other health studies of the entire exposed population. Whenever in the judgment of the Administrator it is appropriate on the basis of the results of such pilot study, the Administrator shall conduct such full scale epidemiological or other health studies as may be necessary to determine the health effects for the population exposed to hazardous substances in a release or suspected release.

"(5) In any case in which the results of a health assessment indicate a potential significant risk to human health, the Administrator shall consider whether the establishment of a registry of exposed persons would contribute to accomplishing the purposes of this subsection, taking into account circumstances bearing on the usefulness of such a registry, including the seriousness or unique character of identified diseases or the likelihood of population migration from the affected area.

"(6) The Administrator shall conduct a study, and report to the Congress within two years after the date of enactment of the Superfund Improvement Act of 1985, on the usefulness, costs, and potential implications of medical surveillance programs as a part of the health studies authorized by this section. Such study shall include, at a minimum, programs which identify diseases for which an exposed population is at excess risk, provide periodic medical testing to screen for such diseases in subgroups of the exposed population at highest risk, and provide for a mechanism to refer for treatment individuals who are diagnosed as having such diseases.

"(7) If a health assessment or other study carried out under this subsection contains a finding that the exposure concerned presents a significant risk to human health, the President shall take such steps as may be necessary to reduce such exposure and eliminate or substantially mitigate the significant risk to human health. Such steps may include the use of any authority under this Act, including, but not limited to—

"(1) provision of alternative water supplies, and

"(2) permanent or temporary relocation of individuals.

"(8) In any case which is the subject of a petition, a health assessment or study, or a research program under this subsection, nothing in this subsection shall be construed to delay or otherwise affect or impair the authority of the President or the Administrator of the Environmental Protection Agency to exercise any authority vested in the President or such Administrator under any other provision of law (including, but not limited to, the imminent hazard authority of section 7003 of the Solid Waste Disposal Act) or the response and abatement authorities of this Act.

"(9)(A) The Administrator shall, within six months after the date of enactment of the Superfund Improvement Act of 1985, prepare a list of at least one hundred hazardous substances which the Administrator, in his sole discretion, determines are those posing the most significant potential threat to human health due to their common presence at the location of responses under section 104 or at facilities on the National Priority List or in releases to which a response under section 104 is under consideration. Within twenty-four months after enactment, the Administrator shall prepare a list of an additional one hundred or more such hazardous substances. The Administrator shall not less often than once every year thereafter add to such list other substances which are frequently so found or otherwise pose a potentially significant threat to human health by reason of their physical, chemical, or biological nature.

"(B) For each such hazardous substance listed pursuant to subparagraph (A), the Administrator (in consultation with other agencies and programs of the Public Health Service) shall assess whether adequate information on the health effects of such substance is available. For any such substance for which adequate information is not available (or under development), the Administrator, in cooperation with the Director of the National Toxicology Program, shall assure the initiation of a program of

research designed to determine the health effects (and techniques for development of methods to determine such health effects) of such substance. Where feasible, such program shall seek to develop methods to determine the health effects of such substance in combination with other substances with which it is commonly found. Such program shall include, but not be limited to—

"(i) laboratory and other studies to determine short, intermediate, and long-term health effects;

"(ii) laboratory and other studies to determine organ-specific, site-specific, and system-specific acute and chronic toxicity;

"(iii) laboratory and other studies to determine the manner in which such substances are metabolized or to otherwise develop an understanding of the biokinetics of such substances; and

"(iv) where there is a possibility of obtaining human data, the collection of such information.

"(C) In assessing the need to perform laboratory and other studies, as required by subparagraph (B), the Administrator shall consider—

"(i) the availability and quality of existing test data concerning the substance on the suspected health effect in question;

"(ii) the extent to which testing already in progress will, in a timely fashion, provide data that will be adequate to support the preparation of toxicological profiles as required by subparagraph (F) of this paragraph; and

"(iii) such other scientific and technical factors as the Administrator may determine are necessary for the effective implementation of this subsection.

"(D) In the development and implementation of any research program under this paragraph, the Administrator of the Agency for Toxic Substances and Disease Registry and the Administrator of the Environmental Protection Agency shall coordinate such research program implemented under this paragraph with the National Toxicology Program and with programs of toxicological testing established under the Toxic Substances Control Act and the Federal Insecticide, Fungicide and Rodenticide Act. The purpose of such coordination shall be to avoid duplication of effort and to assure that the hazardous substances listed pursuant to this subsection are tested thoroughly at the earliest practicable date. Where appropriate, in the discretion of the Administrator and consistent with such purpose, a research program under this paragraph may be carried out using such programs of toxicological testing.

"(E) It is the sense of the Congress that the costs of research programs under this paragraph be borne by the manufacturers and processors of the hazardous substance in question, as required in programs of toxicological testing under the Toxic Substances Control Act. Where this is not practical, the costs of such research programs should be borne by parties responsible for the release of the hazardous substance in question. To carry out such intention, the costs of conducting such a research program under this paragraph shall be deemed a cost of response for the purposes of recovery under section 107 of such costs from a party responsible for a release of such hazardous substance.

"(F) Based on all available information, including data developed and collected on the health effects of hazardous substances under this paragraph, the Administrator shall prepare toxicological profiles sufficient to establish the likely effect on human health of each of the substances listed pursuant to subparagraph (A). Such profiles shall be revised and republished as necessary, but no less often than once every five years. Such profiles shall be provided to the States and made available to other interested parties.

"(10) All studies and results of research conducted under this subsection (other than health assessments) shall be reported or adopted only after appropriate peer review. In the case of research conducted under the National Toxicology Program, such peer review may be conducted by the Board of Scientific Counselors. In the case of other research, such peer review shall be conducted by panels consisting of no less than three nor more than seven members, who shall be disinterested scientific experts selected for such purpose by the Administrator on the basis of their reputation for scientific objectivity and the lack of institutional ties with any person involved in the conduct of the study or research under review. Support services for such panels shall be provided by the Agency for Toxic Substances and Disease Registry.

"(11) In the implementation of this subsection and other health-related authorities of this Act, the Administrator is authorized to establish a program for the education of physicians and other health professionals on methods of diagnosis and treatment of injury or disease related to exposure to toxic substances, through such means as the Administrator deems appropriate. Not later than two years after the date of enactment of the Superfund Improvement Act of 1985, the Administrator shall report to the Congress on the implementation of this paragraph.

"(12) For the purpose of implementing this subsection and other health-related authorities of this Act, the President shall provide adequate personnel to the Agency for Toxic Substances and Disease Registry, which shall be no fewer than one hundred full time equivalent employees.

"(13) The activities described in this subsection and section 111(c)(4) shall be carried out by the Agency for Toxic Substances and Disease Registry established by paragraph (1), either directly, or through cooperative agreements with States (or political subdivisions thereof) in the case of States (or political subdivisions) which the Administrator of such Agency determines are capable of carrying out such activities. Such activities shall include the provision of consultations on health information, and the conduct of health assessments, including those required under section 3019 of the Solid Waste Disposal Act, health studies and registries.".

(b) Section 111(c)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by inserting "in accordance with subsection (n) of this section and section 104(i)," after "(4)"; and

(2) by striking "epidemiologic studies" and inserting in lieu thereof "epidemiologic and laboratory studies and health assessments".

(c) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(n) For fiscal year 1986 and for each fiscal year thereafter, not less than 5 per centum of all sums appropriated from the Trust Fund or $50,000,000, whichever is less, shall be directly available to the Agency for Toxic Substances and Disease Registry and used for the purpose of carrying out activities described in subsection (c)(4) and section 104(i), including any such activities related to hazardous waste stored, treated, or disposed of at a facility having a permit under section 3005 of the Solid Waste Disposal Act. Any funds so made available which are not committed by the beginning of the fourth quarter of the fiscal year in which made available shall be made available in the Trust Fund for other purposes.".

(d) The last sentence of section 3019(b)(2) of the Solid Waste Disposal Act is amended to read as follows: "If so requested, the Administrator of such Agency shall conduct such health assessment.".

(e) Section 104(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by—

(1) striking "the Surgeon General of the United States" and inserting in lieu thereof "the Secretary of Health and Human Services";

(2) inserting in the second sentence thereof after "of said Agency" the following: "(hereinafter in this subsection referred to as 'the Administrator')";

(3) striking "chromosomal testing" in subparagraph (D) and inserting in lieu thereof "appropriate testing".

PUBLIC PARTICIPATION

SEC. 117. Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(j) Before selection of appropriate remedial action to be undertaken by the United States or a State or before entering into a covenant not to sue or to forebear from suit or otherwise settle or dispose of a claim arising under this Act, notice of such proposed action and an opportunity for a public meeting in the affected area, as well as a reasonable opportunity to comment, shall be afforded to the public prior to final adoption or entry. Notice shall be accompanied by a discussion and analysis sufficient to provide a reasonable explanation of the proposal and alternative proposals considered.".

LOVE CANAL PROPERTY ACQUISITION

SEC. 118. Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding a new subsection as follows:

"(k) In determining priorities among releases and threatened releases under the National Contingency Plan and in carrying out remedial action under this section, the Administrator shall establish a high priority for the acquisition of all properties (including nonowner occupied residential, commerical, public, religious, and vacant properties) in the area in which, before May 22, 1980, the President determined an emergency to exist because of the release of hazardous substances and in which owner occupied residences have been acquired pursuant to such determination.".

ADMINISTRATIVE ORDERS FOR SECTION 104(B) ACTIONS

SEC. 119. Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding a new subsection as follows:

"(l)(1) If the President determines that one or more responsible parties will properly carry out action under subsection (b) of this section, the President may enter into a consent administrative order with such party or parties for that purpose.

"(2) The United States district court for the district in which the release has occurred or threatens to occur shall have jurisdiction to enforce the order, and any person who violates or fails to obey such an order shall be liable to the United States for a civil penalty of not more than $10,000 for each day in which such violation occurs or such failure to comply continues.".

NATIONAL CONTINGENCY PLAN—HAZARD RANKING SYSTEM

SEC. 120. Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(a)" immedately following "105." and by adding the following at the end thereof:

"(b) Not later than twelve months after the date of enactment of the Superfund Improvement Act of 1985, the President shall revise the National Contingency Plan to reflect the requirements of such amendments. The portion of such Plan known as 'the National Hazardous Substance Response Plan' shall be revised to provide procedures and standards for remedial actions undertaken pursuant to this Act which are consistent with amendments made by the Superfund Improvement Act of 1985 relating to the selection of remedial action.

"(c) Not later than twelve months after the date of enactment of the Superfund Improvement Act of 1985 and after publication of notice and opportunity for submission of comments in accordance with section 553 of title 5, United States Code, the President shall by rule promulgate amendments to the hazard ranking system in effect on September 1, 1984. Such amendments shall assure, to the maximum extent feasible, that the hazard ranking system accurately assesses the relative degree of risk to human health and the environment posed by sites and facilities subject to review. The President shall establish an effective date for the amended hazard ranking system which is not later than eighteen months after the date of enactment of the Superfund Improvement Act of 1985 and such amended hazard ranking system shall be applied to any site or facility to be newly listed on the National Priority List after the effective date established by the President. Until such effective date of the regulations, the hazard ranking system in effect on September 1, 1984, shall continue to full force and effect.".

NATIONAL CONTINGENCY PLAN

SEC. 121. (a) Section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as redesignated by this Act, is amended by striking "at least four hundred of" when it appears.

(b) Section 105(8)(B) is further amended by striking the phrase "at least" following the word "facilities" the second time it appears and by inserting "A State shall be allowed to designate its highest priority facility only once." after the third full sentence thereof.

FOREIGN VESSELS

SEC. 122. Section 107(a)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by striking "(otherwise subject to the jurisdiction of the United States)".

STATE AND LOCAL GOVERNMENT LIABILITY

SEC. 123. Section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(1)" after "(d)" and adding the following new language:

"(2) No State or local government shall be liable under this title for costs or damages as a result of non-negligent actions taken in response to an emergency created by the release of a hazardous substance, pollutant, or contaminant generated by or from a facility owned by another person.".

CONTRACTOR INDEMNIFICATION

SEC. 124. Section 107(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting after paragraph (1) the following new paragraph and redesignating the succeeding paragraph accordingly:

"(2) The Administrator may, in contracting or arranging for response action to be undertaken under this Act, agree to hold harmless and indemnify a contracting party against claims, including the expenses of litigation or settlement, by third persons for death, bodily injury or loss of or damage to property arising out of performance of a cleanup agreement to the extent that such claim does not arise out of the negligence of the contracting party.".

NATURAL RESOURCE DAMAGE CLAIMS

SEC. 125. (a) Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(1)" after "(f)" and by adding at the end thereof the following new paragraphs:

"(2)(A) The President shall designate in the National Contingency Plan published under section 105 of this Act the Federal officials who shall act on behalf of the public as trustees for natural resources under this Act and section 311 of the Clean Water Act. Such officials shall assess damages to natural resources for the purposes of this Act and section 311 of the Clean Water Act for those resources under their trusteeship, and may upon request of and reimbursement from a State and at the Federal officials' discretion, assess damages for those natural resources under a State's trusteeship.

"(B) The Governor of each State shall designate the State officials who may act on behalf of the public as trustees for natural resources under this Act and section 311 of the Clean Water Act and shall notify the President of such designations. Such State officials shall assess damages to natural resources for the purposes of this Act and section 311 of the Clean Water Act for those resources under their trusteeship.

"(C) Any determination or assessment of damages to natural resources for the purposes of this Act and section 311 of the Clean Water Act made by a Federal or State trustee in accordance with the regulations promulgated under section 301(c) of this Act shall have the force and effect of a rebuttable presumption on behalf of the trustee in any judicial proceeding under this Act or section 311 of the Clean Water Act.

"(D) The President shall promulgate the regulations required under section 301 of this Act not later than six months after the enactment of the Superfund Improvement Act of 1985.".

(b) Section 111(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following: "No money in the Fund may be used for the payment of any claim under subsection (a)(3) or subsection (b) of this section in any fiscal year for which the President determines that all of the Fund is needed for response to threats to public health from releases or threatened releases of hazardous substances.".

(c) Section 111(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is repealed.

CONTRIBUTION AND PARTIES TO LITIGATION

SEC. 126. Section 107, of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding a new subsection to read as follows:

"(l)(1) In any civil or administrative action under this section or section 106, no claim for contribution or indemnification may be brought until after entry of judgment or date of settlement in good faith. Nothing in this subsection shall diminish the right of any person to bring an action for contribution or indemnification in the absence of a civil or administrative action under this section or section 106.

"(2) After judgment in any civil action under section 106 or under subsection (a) of this section, any defendant held liable in the action may bring a separate action for contribution against any other person liable or potentially liable under subsection (a). Such an action shall be brought in accordance with section 113. Except as provided in paragraph (4) of the subsection, this subsection shall not impair any right of indemnity under existing law.

"(3) When a person has resolved its liability to the United States or a State in a judicially approved good faith settlement, such person shall not be liable for claims for contribution under paragraph (2) of this subsection regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially liable persons unless its terms so provide, but it reduces the potential liability of the others to the extent of any amount stipulated by the settlement.

"(4) Where the United States or a State has obtained less than complete relief from a person who has resolved its liability to the United States or the State in a good faith settlement, the United States or the State may bring an action for the remainder of the relief sought against any person who has not so resolved its liability. A person that has resolved its liability to the United States or a State in a good faith settlement may, where appropriate, maintain an action for contribution or indemnification against any person that was not a party to the settlement. In any action under this paragraph, the rights of a State or any person that has resolved its liability to the United States or a State shall be subordinate to the rights of the United States. Any contribution action brought under this paragraph shall be brought in accordance with section 113.".

FEDERAL LIEN

SEC. 127. Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(m)(1) All costs and damages for which a person is liable to the United States under subsection (a) of this section shall constitute a lien in favor of the United States upon all real property and rights to such property belonging to such person that are subject to or affected by a removal or remedial action.

"(2) The lien imposed by this subsection shall arise at the time costs are first incurred by the United States with respect to a response action under this Act and shall continue until the liability for the costs (or a judgment against the person arising out of such liability) is satisfied or becomes unenforceable through operation of the statute of limitations provided in section 113(e).

"(3) The lien imposed by this subsection shall not be valid as against any purchaser, holder of a security interest, or judgment

lien creditor until notice of the lien has been filed in the appropriate office within the State (or county or other governmental subdivision), as designated by State law, in which the real property subject to the lien is physically located. If the State has not by law designated one office for the receipt of such notices of liens, the notice shall be filed in the office of the clerk of the United States district court for the district in which the real property is physically located. For purposes of this subsection, the terms "purchaser" and "security interest" shall have the definitions provided in section 6323(h) of title 26, United States Code. This paragraph does not apply with respect to any person who has or reasonably should have actual notice or knowledge that the United States has incurred costs giving rise to a lien under paragraph (1) of this subsection.

"(4) The costs constituting the lien may be recovered in an action in rem in the United States district court for the district in which the removal or remedial action is occurring or has occurred. Nothing in this subsection shall affect the right of the United States to bring an action against any person to recover all costs and damages for which such person is liable under subsection (a) of this section.".

DIRECT ACTION

SEC. 128. (a) Section 108 (c) and (d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(c) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in the Federal courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim authorized by section 107 or 111 may be asserted directly against the guarantor providing evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

"(d) The total liability under this Act of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this Act: Provided, That nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim: Provided further, That nothing in this subsection shall be construed, interpreted or applied to diminish the liability of any person under section 107 or 111 of this Act or other applicable law.".

(b) Section 108(b)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following: "Financial responsibility may be established by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this section, the President is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this Act.".

VICTIM ASSISTANCE DEMONSTRATION PROGRAM

SEC. 129. (a) Section 111(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "and" at the end of the paragraph (5); by striking the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and by adding the following new paragraph:

"(7) the costs of grants under subsection (m), not to exceed a total of $30,000,000 per fiscal year, to be provided out of funds received by the Trust Fund under section 303(b).".

(b) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(m)(1) In the case of any geographic area (as identified by the Agency for Toxic Substances and Disease Registry) for which a health assessment or other health study performed under section 104(i) indicates that—

"(A) there is a disease or injury for which the population of such area is placed at significantly increased risk as a result of a release of a hazardous substance;

"(B) such disease or injury has been demonstrated by peer reviewed studies to be associated (using sound scientific and medical criteria) with exposure to a hazardous substance; and

"(C) the geographical area contains individuals within the population who have been exposed to a hazardous substance in a release,

the State in which such area is located may apply to the Administrator of the Environmental Protection Agency to operate an experimental demonstration assistance program under this subsection.

"(2) From areas nominated under paragraph (1) the President shall select, during each of fiscal years 1986 and 1987, no less than five or more than ten areas for demonstration assistance programs under this subsection. Such selections shall be made in the discretion of the President, taking into account—

"(A) the experience of State and local governments in administering programs which deal with the regulation of toxic chemicals and hazardous substances; and

"(B) the representative nature of the hazardous substance releases and exposures in terms of the identities and toxic characteristics of the substances found, the manner and degree of exposure, the scientific and medical method used to determine such exposure, and the seriousness and duration of the diseases or illnesses caused.

"(3) For each area selected under paragraph (2) the State shall establish and operate for a period of not less than three years or more than five years a program of medical assistance to individuals who, according to health assessments or other studies done under section 104(i) have been placed at significantly increased risk of disease or injury due to exposure to a hazardous substance from a release. The President shall make a grant for each such area in an amount of not less than $1,000,000 nor more than $10,000,000 per fiscal year (and a total for all such grants of not more than $30,000,000 per fiscal year), but in no event shall grants be made in fewer than five States.

"(4) Programs funded pursuant to this subsection shall not provide assistance in the case of any area or class of individuals in which a solvent responsible party who may be liable under section 107 is paying compensation for claims or otherwise providing medical assistance, comparable (though not necessarily identical in scope or duration) to assistance under this subsection. If a party has accepted liability for such claims or assistance, no assistance shall be available under this subsection even though the party may not have commenced assistance at the time of an application by a State.

"(5) A program established and operated under this subsection shall provide the following assistance:

"(A) appropriate medical screening, examination and testing (in accordance with sound medical procedures) as necessary to determine the presence in individuals of the disease or injury for which the population of the geographic area is at significantly increased risk;

"(B) for individuals with no present symptoms of such disease or injury, a group medical benefits policy providing the reasonable costs of periodic medical screening, testing or examination (in accordance with sound medical procedures), as necessary to determine the presence of such symptoms; and

"(C) for individuals with present symptoms of such disease or injury (or who develop such symptoms)—

"(i) reimbursement of the out-of-pocket costs of related medical expenses in connection with such disease or injury previously incurred and not recovered from any other public or private source, and

"(ii) a group medical benefits insurance policy providing the reasonable costs of sound medical and surgical treatment and hospitalization resulting from such disease or injury (which according to health assessments or other health studies under section 104(i), is associated with exposure to a hazardous substance in a release in the geographical area). Such a policy shall be subject to an annual deductible of $500, with no copayment requirement or annual or lifetime limitation on expenditures other than those referred to in paragraph (3).

"(D) Such policies provided under subparagraphs (B) and (C) shall be secondary to, and provide for nonduplication of benefits with, any other policy or coverage, public or private, for which such individual is eligible. The benefits or coverage of such other policy shall be those determined to be in force as of thirty days prior to the date the State applies for area designation.

"(E) Assistance under this subsection shall be provided on the condition that the costs thereof in connection with any individual pursuing a claim against a potentially responsible party shall be repaid to the Fund out of the proceeds of any award (including punitive damages) or settlement of such claim.

"(6)(A) The President, with the assistance of the Agency for Toxic Substances and Disease Registry, beginning January 1, 1987, shall submit annual reports to the Congress on the implementation and effectiveness of this victim assistance demonstration program, including an evaluation of the effectiveness of each of the State programs established under the subsection. The final report shall also address the relationship of this demonstration program to other public and private mechanisms that may exist to carry out the same or similar functions.

"(B) Each State selected to operate a demonstration program under this subsection shall submit to the President and the Congress, not later than January 1, 1990, a

report on the implementation and effectiveness of its program.".

FUND USE OUTSIDE FEDERAL PROPERTY BOUNDARIES

SEC. 130. Section 111(e)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting before the period a colon and the following: "Provided, That money in the Fund shall be available for the provision of alternative water supplies (including the reimbursement of costs incurred by a municipality) in any case involving groundwater contamination outside the boundaries of a federally owned facility in which the federally owned facility is not the only potentially responsible party.".

STATUTE OF LIMITATIONS

SEC. 131. (a) Section 112 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking subsection (d) and relettering the following subsection.

(b) Section 113 of the of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(e)(1) No claim may be presented, nor may any action be commenced under this title—

"(A) for the cost of response, unless that claim is presented or action commenced within six years after the date of completion of the response action: Provided, however, That within the limitation period set out herein a State or the United States may commence an action under this title for recovery of any cost or costs at any time after such cost or costs have been incurred;

"(B) for damages under subparagraph (C) of section 107(a), unless that claim is presented or action commenced within six years after the date on which final regulations are promulgated under section 301(c) or within three years after the date of the discovery of the loss and its connection with the release in question or the date of enactment of this Act, whichever is later; or

"(C) for any other damages, unless that claim is presented or action commenced within three years after the date of discovery of the loss and its connection with the release in question or the date of enactment of this Act, whichever is later: Provided, however, That the time limitations contained in this paragraph shall not begin to run against a minor until he reaches eighteen years of age or a legal representative is duly appointed for him, nor against an incompetent person until his incompetency ends or a legal representative is duly appointed for him nor against an Indian tribe until the United States, in its capacity as trustee for the tribe, gives written notice to the governing body of the tribe that it will not present a claim or commence an action on behalf of the tribe or fails to present a claim or commence an action within the time limitations specified in this subsection. No claim may be presented or action be commenced under this subparagraph for any damages, if prior to the date of enactment of the Superfund Improvement Act of 1985, the statute of limitations which would otherwise apply under this paragraph has expired.".

"(2) No action for contribution may be commenced under section 107 more than three years after the date of entry of judgment or the date of the good-faith settlement.

"(3) No action based on rights subrogated pursuant to section 112 by reason of payment of a claim may be commenced under this title more than three years after the date of payment of such claim.".

JUDICIAL REVIEW

SEC. 132. Section 113(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"SEC. 113. (a)(1) Review of any regulation promulgated under this Act may be had upon application by any interested person in the Circuit Court of Appeals of the United States for the District of Columbia or in any United States court of appeals for a circuit in which the applicant resides or transacts business which is directly affected by such regulation. Any such application shall be made within one hundred and twenty days from the date of promulgation of such regulation, or after such date only if such application is based solely on grounds which arose after such one hundred and twentieth day. Any matter with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or to obtain damages or recovery of response costs.

"(2)(A) If applications for review of the same agency action have been filed in two or more United States courts of appeals and the President has received written notice of the filing of the first such application more than thirty days before receiving written notice of the filing of the second application, then the record shall be filed in that court in which the first application was filed. If applications for review of the same agency action have been filed in two or more United States courts of appeals and the President has received written notice of the filing of one or more applications within thirty days or less after receiving written notice of the filing of the first application, then the President shall promptly advise in writing the Administrative Office of the United States courts that applications have been filed in two or more United States courts of appeals, and shall identify each court for which he has written notice that such applications have been filed within thirty days or less of receiving written notice of the filing of the first such application. Pursuant to a system of random selection devised for this purpose, and within three business days after receiving such notice from the President, the Administrative Office thereupon shall select the court in which the record shall be filed from among those identified by the President. Upon notification of such selection, the President shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the President, the record shall be filed in the United States court of appeals which remanded such action.

"(B) Where applications have been filed in two or more United States courts of appeals with respect to the same agency action and the record has been filed in one of such courts pursuant to subparagraph (A), the other courts in which such applications have been filed shall promptly transfer such applications to the United States court of appeals in which the record has been filed. Pending selection of a court pursuant to subparagraph (A), any court in which an application has been filed may postpone the effective date of the agency action until fifteen days after the Administrative Office has selected the court in which the record shall be filed.

"(C) Any court in which an application with respect to any agency action has been filed, including any court selected pursuant to subparagraph (A), may transfer such application to any other United States court of appeals for the convenience of the parties or otherwise in the interest of justice.".

PRE-ENFORCEMENT REVIEW

SEC. 133. (a) Section 113(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking the word "subsection" and inserting in lieu thereof the words "subsections," and inserting "and (f)" after "(a)".

(b) Section 113 is further amended by adding at the end thereof the following new subsections:

"(f) No court shall have jurisdiction to review any challenges to response action selected under section 104 or any order issued under section 104, or to review any order issued under section 106(a), in any action other than (1) an action under section 107 to recover response costs or damages or for contribution or indemnification; (2) an action to enforce an order issued under sections 104 or 106(a) or to recover a penalty for violation of such order; or (3) an action for reimbursement under section 106(b)(2).

"(g) In any judicial action under section 106 or 107, judicial review of any issues concerning the adequacy of any response action taken or ordered by the President shall be limited to the administrative record. The only objection which may be raised in any such judicial action under section 106 or 107 is an objection to the response action which was raised with reasonable specificity to the President during the applicable period for public comment. In considering such objections, the court shall uphold the President's decision in selecting the response action unless the decision was arbitrary and capricious or otherwise not in accordance with law. If the court finds that the President's decision in selecting the response action was arbitrary and capricious or otherwise not in accordance with law, the court shall award the response costs or damages or other relief being sought to the extent that such relief is not inconsistent with the national contingency plan. In reviewing alleged procedural errors, the court may disallow costs or damages only if the errors were so serious and related to matters of such central relevance to the action that the action would have been significantly changed had such errors not been made.".

(c) Section 106(b) of such Act is amended by inserting "(1)" after "(b)" and adding a new paragraph at the end thereof to read as follows:

"(2)(A) Any person who receives and complies with the terms of any order issued under subsection (a) may, within sixty days of completion of the required action, petition the President for reimbursement from the Fund for the reasonable costs of such action, plus interest. Any interest payable under this paragraph shall accrue on the amounts expended from the date of expenditure at the same rate that applies to investments of the Fund under section 223(b) of this Act.

"(B) If the President refuses to grant all or part of a petition made under this paragraph, the petitioner may within thirty days of receipt of such refusal file an action against the President in the appropriate United States district court seeking reimbursement from the Fund.

"(C) To obtain reimbursement, the petitioner must establish by a preponderance of the evidence that it is not liable for response costs under section 107(a) and that costs for

which it seeks reimbursement are reasonable in light of the action required by the relevant order: Provided, however, That a petitioner who is liable for response costs under section 107(a) may recover its reasonable costs of response to the extent that it can demonstrate, on the administrative record, that the President's decision in issuing the order was arbitrary and capricious or otherwise not in accordance with law. In any such case, the petitioner may be awarded all reasonable response costs incurred by the petitioner pursuant to the portions of the order found to be arbitrary and capricious or otherwise not in accordance with law.".

NATIONWIDE SERVICE OF PROCESS

SEC. 134. Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by this Act, is amended by adding the following new subsection:

"(h) In any action by the United States under section 104, 106, or 107, process may be served in any district where the defendant is found, or resides, or transacts business, or has appointed an agent for the service of process.".

PREEMPTION

SEC. 135. Section 114 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking subsection (c) and relettering the following subsection accordingly.

FEDERAL FACILITIES CONCURRENCE

SEC. 136. Section 115 of the Comprehensive Environmental, Compensation, and Liability Act of 1980 is amended by inserting before the period at the end thereof a colon and the following: "Provided, That with respect to a Federal facility or activity for which such duties or powers are delegated to an officer, employee or representative of the department, agency or instrumentality which owns or operates such facility or conducts such activity, the concurrence of the Administrator (and the responsible State official where a cooperative agreement has been entered into) shall be required for the selection of appropriate remedial action and the administrative order authorities of section 106(a) are hereby delegated to the Administrator".

FEDERAL FACILITIES COMPLIANCE

SEC. 137. Title I of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96-510) is amended by adding at the end thereof the following new section:

"FEDERAL FACILITIES

"SEC. 117. (a) FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET.—The Administrator shall establish a special Federal Agency Hazardous Waste Compliance Docket which shall contain all information submitted under section 3016 of the Solid Waste Disposal Act regarding any Federal facility and notice of each subsequent action taken under this Act with respect to the facility. Such docket shall be available for public inspection at reasonable times. Three months after establishment of the docket and every three months thereafter, the Administrator shall publish in the Federal Register a list of the Federal facilities which have been included in the docket during the immediately preceding three-month period. Such publication shall also indicate where in the appropriate regional office of the Environmental Protection Agency additional information may be obtained with respect to any facility on the docket. The Administrator shall establish a program to provide information to the public with respect to facilities which are included in the Docket under this subsection.

"(b) ASSESSMENT AND EVALUATION.—Not later than eighteen months after the date of enactment of the Superfund Improvement Act of 1985, the Administrator shall take steps to assure that a preliminary assessment is conducted for each facility for which information is required under section 3016 of the Solid Waste Disposal Act. Following such preliminary assessment, the Administrator shall where appropriate—

"(1) evaluate such facilities in accordance with the criteria established in accordance with section 105 under the National Contingency Plan for determining priorities among releases.

"(2) include such facilities on the National Priorities List maintained under such plan. Such evaluation and listing shall be completed not later than twenty months after such date of enactment.

"(c) RIFS AND INTERAGENCY AGREEMENT.—

"(1) RIFS.—Within one year after the inclusion of any facility on the National Priority List, the department, agency, or instrumentality which owns or operates such facility shall, in consultation with the Administrator, commence a remedial investigation and feasibility study for such facility.

"(2) INTERAGENCY AGREEMENT.—(A) Within six months after completion of each such remedial investigation and feasibility study, the Administrator shall review the results of such investigation and study and shall enter into an interagency agreement with the head of the department, agency, or instrumentality concerned for the expeditious completion by such department, agency, or instrumentality of all necessary remedial action at such facility. All such intergency agreements shall comply with the public participation requirements of section 104(j). Such agreement shall require that substantial continuous physical onsite remedial action is commenced at each facility which is the subject of such an agreement within twelve months after the agreement is entered into.

"(B) Each interagency agreement under this paragraph shall include, but shall not be limited to—

"(i) a review of alternative remedial actions and selection of construction design by the Administrator;

"(ii) a schedule for the completion of each such remedial action; and

"(iii) arrangements for long term operation and maintenance of the facility.

"(3) COMPLETION OF REMEDIAL ACTIONS.—Remedial actions at facilities subject to interagency agreements under this section shall be completed as expeditiously as practicable from the date the interagency agreement was entered into. Each agency shall include in its annual budget submissions to the Congress a request for funding adequate to complete remedial action, and a review of alternative agency funding which could be used to provide for the costs of remedial action. The request shall also include a statement of the hazard posed by the facility to human health, welfare and the environment and identify the specific consequences of failure to begin and complete remedial action.

"(4) ANNUAL REPORT.—Each department, agency, or instrumentality responsible for compliance with this section shall furnish an annual report to the Congress concerning its progress in implementing the requirements of this section. Such reports shall include, but shall not be limited to—

"(A) a report on the progress in reaching interagency agreements under this section;

"(B) the specific cost estimates and budgetary proposals involved in each interagency agreement;

"(C) a brief summary of the public comments regarding each proposed interagency agreement; and

"(D) a description of the instances in which no agreement was reached.

With respect to instances in which no agreement was reached within the required time period, the department, agency, or instrumentality filing the report under this paragraph shall include in such report an explanation of the reasons why no agreement was reached.

"(d) TRANSFER OF AUTHORITIES.—Except for authorities which are delegated by the Administrator to an officer or employee of the Environmental Protection Agency, no authority vested in the Administrator under this section may be transferred, by Executive order of the President or otherwise, to any other office or employee of the United States or to any other person.

"(e) APPLICATION OF REQUIREMENTS TO FEDERAL FACILITIES.—All guidelines, rules, regulations, procedures, and criteria which are applicable to preliminary assessments carried out under this Act for facilities at which hazardous substances are located, applicable to evaluations of such facilities under the National Contingency Plan, applicable to inclusion on the National Priority List, or applicable to remedial actions at such facilities shall also be applicable to facilities which are owned and operated by a department, agency, or instrumentality of the United States in the same manner and to the extent as such guidelines, rules, regulations, and criteria are applicable to other facilities, except for any requirements relating to bonding, insurance, or financial responsibility. No department, agency, or instrumentality of the United States may adopt or utilize any such guidelines, rules, regulations, procedures, or criteria which are inconsistent with the guidelines, rules, regulations, and criteria established by the Administrator under this Act.".

CITIZEN SUITS

SEC. 138. Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new section:

"CITIZEN SUITS

"SEC. 118. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on such person's behalf—

"(1) against any person, including the United States and any other governmental instrumentality or agency, to the extent permitted by the Eleventh Amendment to the Constitution, who is alleged to be in violation of any standard, regulation, condition, requirement, or order which has become effective pursuant to this Act; or

"(2) against the President for failure to perform any act or duty under this Act which is not discretionary with the President.

Any action under this subsection shall be brought in the district court for the district in which the alleged violation occurred. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such requirement, to order the President to perform such act or duty, as the case may be, or to order such person in violation, of any standard, regulation, condition, require-

ment, or order to take such action as may be necessary to correct the violation or to apply appropriate civil penalties under this Act: Provided, however, That no district court shall have jurisdiction under this section to review any challenges to response action selected under section 104 or any order issued under section 104, or to review any order issued under section 106(a).

"(b) No action may be commenced under subsection (a) of this section (1) prior to ninety days after the plaintiff has given notice of the violation or disposal (A) to the President; or (B) to the State in which the alleged violation or disposal occurs; and (C) to any alleged violator of a standard, regulation, condition, requirement, or order; or (2) if the President or State has commenced and is diligently prosecuting an action under this Act or the Solid Waste Disposal Act to require compliance with such standard, regulation, condition, requirement, or order.

"(c) In any action commenced by the President or a State, under this Act or under the Solid Waste Disposal Act, in a court of the United States, any person may intervene as a matter of right when the applicant claims an interest relating to the subject of the action and such applicant is so situated that the disposition of the action may, as a practical matter, impair or impede such applicant's ability to protect that interest, unless the President or the State shows that the applicant's interest is adequately represented by existing parties.

"(d) In any action under this section, the United States or the State may intervene as a matter of right.

"(e) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or the substantially prevailing party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(f) Nothing in this Act shall restrict or expand any right which any person (or class of persons) may have under any Federal or State statute or common law to seek enforcement of any standard or requirement relating to hazardous substances or to seek any other relief (including relief against the President or a State agency).".

ADMINISTRATIVE CONFERENCE RECOMMENDATION

SEC. 139. The Congress finds that recommendation 84-4 of the Administrative Conference of the United States (adopted June 29, 1984) is generally consistent with the goals and purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and that the Administrator should consider such recommendation and implement it to the extent that the Administrator determines that such implementation will expedite the cleanup of hazardous substances which have been released into the environment.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 140. (a) Section 221 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "as provided in this section" in subsection (a); striking paragraphs (2) and (3) of subsection (b); and by striking subsection (c).

[(b) Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 303. (a) The authority to collect taxes under chapter 38 of the Internal Revenue Code of 1954, together with the sums authorized to be appropriated under subsection (b), shall total $7,500,000,000 during the five-fiscal-year period beginning October 1, 1985.

[(b) There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Response Trust Fund for fiscal year—

[(A) 1981, $44,000,000,
[(B) 1982, $44,000,000,
[(C) 1983, $44,000,000,
[(D) 1984, $44,000,000,
[(E) 1985, $44,000,000,
[(F) 1986, $206,000,000,
[(G) 1987, $206,000,000,
[(H) 1988, $206,000,000,
[(I) 1989, $206,000,000, and
[(J) 1990, $206,000,000,

plus for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under subparagraphs (A) through (I) as has not been appropriated before the beginning of the fiscal year involved.".

[(b) TRANSFER OF FUNDS.—There shall be transferred to the Response Trust Fund—

[(1) one-half of the unobligated balance remaining before the date of the enactment of this Act under the Fund in section 311 of the Clean Water Act, and

[(2) the amounts appropriated under section 504(b) of the Clean Water Act during any fiscal year.

[(c) EXPENDITURES FROM RESPONSE TRUST FUND.—

[(1) IN GENERAL.—Amounts in the Response Trust Fund shall be available in connection with releases or threats of releases of hazardous substances into the environment only for purposes of making expenditures which are described in section 111 (other than subsection (j) thereof of this Act) as in effect on the date of the enactment of the Superfund Improvement Act of 1985, including—

[(A) response costs,

[(B) claims asserted and compensable but unsatisfied under section 311 of the Clean Water Act,

[(C) claims for injury to, or destruction or loss of, natural resources, and

[(D) related costs described in section 111(c) of this Act.

[(2) LIMITATIONS ON EXPENDITURES.—At least 85 per centum of the amounts appropriated to the Response Trust Fund shall be reserved—

[(A) for the purposes specified in paragraphs (1), (2), and (4) of section 111(a) of this Act, and

[(B) for the repayment of advances made under section 223(c), other than advances subject to the limitation of section 223(c)(2)(C).".]

TITLE II

[TAX EXEMPTION FOR ANIMAL FEED SUBSTANCES

[SEC. 201. (a) EXEMPTION FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (b) of section 4662 of the Internal Revenue Code of 1954 (relating to definitions and special rules with respect to the tax on certain chemicals) is amended by adding at the end thereof the following paragraph:

[(5) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

[(A) IN GENERAL.—In the case of nitric acid, sulfuric acid, phosphoric acid, ammonia, or methane used to produce ammonia, which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).

[(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—

[(i) used in a qualified animal feed use by the manufacturer, producer or importer,

[(ii) sold for use by any purchaser in a qualified animal feed use, or

[(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

[(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

[(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.".

[(b) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:

[(3) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—

[(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, phosphoric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(5), and

[(B) any person uses such substance as a qualified animal feed substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(5) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.".

[(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) of this section shall take effect upon the date of enactment of this Act.]

AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954

SEC. 201. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This title may be cited as the "Superfund Revenue Act of 1985".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. 5-YEAR EXTENSION OF TAX ON PETROLEUM AND CERTAIN CHEMICALS; CERTAIN EXEMPTIONS.

(a) 5-YEAR EXTENSION; TERMINATION IF FUNDS UNSPENT OR $7,500,000,000 COLLECTED.—

(1) IN GENERAL.—Subsection (d) of section 4611 (relating to termination) is amended to read as follows:

"(d) TERMINATION.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the tax imposed by this subsection shall not apply after September 30, 1990.

"(2) NO TAX IF UNOBLIGATED BALANCE IN FUND IS MORE THAN $1,500,000,000.—If, on September 30, 1988, or September 30, 1989—

"(A) the unobligated balance in the Hazardous Substance Superfund exceeds $1,500,000,000, and

"(B) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that such unobligated balance will exceed $1,500,000,000 on September 30, 1989, or September 30, 1990, respectively, if no tax is imposed under section 4001, 4611, or 4661 during calendar year 1989 or 1990, respectively,

then no tax shall be imposed under this section during calendar year 1989 or 1990, as the case may be.

"(3) NO TAX IF AMOUNTS COLLECTED EXCEED $7,500,000,000.—

"(A) ESTIMATES BY SECRETARY.—The Secretary as of the close of each calendar quarter (and at such other times as the Secretary determines appropriate) shall make an estimate of—

"(i) the amount of taxes which will be collected under sections 4001, 4611, and 4661 and credited to the Hazardous Substance Superfund, and

"(ii) the amount of interest which will be credited to such Fund under section 9602(b)(3),

during the period beginning October 1, 1985, and ending September 30, 1990.

"(B) TERMINATION IF $7,500,000,000 CREDITED BEFORE SEPTEMBER 30, 1990.—If the Secretary estimates under subparagraph (A) that more than $7,500,000,000 will be credited to the Fund before September 30, 1990, no tax shall be imposed under this section after the date on which the Secretary estimates $7,500,000,000 will be so credited to the Fund.

"(4) PROCEDURES FOR TERMINATION.—The Secretary shall by regulation provide procedures for the termination under paragraph (2) or (3) of the tax under this section and section 4661.".

(2) CONFORMING AMENDMENT.—Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (relating to expiration of revenue provisions) is repealed.

(b) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

(1) IN GENERAL.—Section 4662 (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

"(1) TAX-FREE SALES.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT REQUIRED.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

"(2) CREDIT OR REFUND WHERE TAX PAID.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) a tax under section 4661 was paid with respect to any taxable chemical, and

"(ii) such chemical was exported by any person,

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION TO ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that such person—

"(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical, or

"(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.".

(2) REFUND OR CREDIT.—Paragraph (1) of section 4662(d) (relating to refund or credit for certain uses) is amended—

(A) by striking out "the sale of which by such person would be taxable under such section" in subparagraph (B) and inserting in lieu thereof "which is a taxable chemical", and

(B) by striking out "imposed by such section on the other substance manufactured or produced" in the last sentence and inserting in lieu thereof "imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (e) of this section)".

(c) EXEMPTION FOR CERTAIN RECYCLED CHEMICALS.—

(1) IN GENERAL.—Section 4662(b) (relating to exceptions and other special rules) is amended by adding at the end thereof the following new paragraph:

"(7) RECYCLED CHROMIUM, COBALT, AND NICKEL.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any chromium, cobalt, or nickel which is diverted or recovered from any solid waste as part of a recycling process (and not as part of the original manufacturing or production process).

"(B) EXCEPTION FOR IMPORTS.—This paragraph shall not apply to the sale of any chromium, cobalt, or nickel which is diverted or recovered outside the United States and then imported into the United States.

"(C) CERTAIN PERSONS NOT ELIGIBLE.—

"(i) IN GENERAL.—This paragraph shall not apply to any taxpayer during any period during which the taxpayer is a potentially responsible party for a site which is listed on the National Priorities List published by the Environmental Protection Agency under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, except that such period shall not begin until the Administrator of the Environmental Protection Agency notifies the taxpayer that the taxpayer is such a party.

"(ii) EXCEPTION WHERE TAXPAYER IS IN COMPLIANCE.—Clause (i) shall not apply to any portion of the period during which the taxpayer is in compliance with each order, decree, or judgment issued against the taxpayer with respect to the site in any action or proceeding under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Solid Waste Disposal Act, or both.

"(D) SOLID WASTE.—For purposes of this paragraph, the term 'solid waste' has the meaning given such term by section 1004 of the Solid Waste Disposal Act, except that such term shall not include any byproduct, coproduct, or other waste from any process of smelting, refining, or otherwise extracting any metal.".

(2) CREDIT OR REFUND.—Paragraph (1) of section 4662(d), as amended by subsection (b)(2), is amended by inserting "(b)(7) or" before "(e)" in the last sentence thereof.

(d) TAX EXEMPTION FOR ANIMAL FEED SUBSTANCES.—

(1) IN GENERAL.—Subsection (b) of section 4662 (relating to definitions and special rules with respect to the tax on certain chemicals), as amended by subsection (c)(1), is amended by adding at the end thereof the following paragraph:

"(8) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

"(A) IN GENERAL.—In the case of nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).

"(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—

"(i) used in a qualified animal feed use by the manufacturer, producer or importer,

"(ii) sold for use by any purchaser in a qualified animal feed use, or

"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

"(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.".

(2) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:

"(3) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(5), and

"(B) any person uses such substance as a qualified animal feed substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(5) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1985.

SEC. 203. IMPOSITION OF SUPERFUND EXCISE TAX.

(a) IN GENERAL.—Subtitle D (relating to miscellaneous excise taxes) is amended by inserting before chapter 31 the following new chapter:

"CHAPTER 30—SUPERFUND EXCISE TAX

"Subchapter A. Imposition of tax.

"Subchapter B. Taxable transaction.

"Subchapter C. Taxable amount; exempt transactions; credit against tax.

"Subchapter D. Administration.

"Subchapter E. Definitions; special rules.

"SUBCHAPTER A—IMPOSITION OF TAX

"Sec. 4001. Imposition of tax.

"Sec. 4002. Termination.

"SEC. 4001. IMPOSITION OF TAX.

"(a) GENERAL RULE.—A tax is hereby imposed on each taxable transaction.

"(b) AMOUNT OF TAX.—Except as otherwise provided in this chapter, the amount of the tax shall be .08 percent of the taxable amount.

"SEC. 4002. TERMINATION.

"(a) IN GENERAL.—No tax shall be imposed under this section after December 31, 1990.

"(b) NO TAX IF FUNDS UNSPENT OR $7,500,000,000 COLLECTED.—No tax shall be imposed under subsection (a) during any period during which no tax is imposed under section 4611(a) by reason of paragraph (2) or (3) of section 4611(d), except that section 4611(d)(3) shall, for purposes of this subsection, be applied by substituting 'December 31, 1990' for 'September 30, 1990' each place it appears.

"(c) PROCEDURES FOR TERMINATION.—

"(1) PRORATION OVER TAXABLE PERIOD.—In the case of any taxable period which begins before and ends after the date of any termination under this section, the tax imposed by section 4001 (and the credit allowable under section 4013) for such taxable period shall be equal to an amount which bears the same ratio to the amount of such tax (and credit) for such taxable period (determined without regard to the termination) as—

"(A) the number of days in such taxable period up to and including the date of termination, bears to

"(B) the number of days in such taxable period.

"(2) OTHER PROCEDURES.—The Secretary shall by regulation provide such procedures for a termination under this section as the Secretary determines necessary.

"SUBCHAPTER B—TAXABLE TRANSACTION

"Sec. 4003. Taxable transaction.
"Sec. 4004. Taxable person.

"SEC. 4003. TAXABLE TRANSACTION.

"(a) IN GENERAL.—For purposes of this chapter, the term 'taxable transaction' means—

"(1) the sale or leasing of tangible personal property in the United States by a taxable person in connection with a trade or business, or

"(2) the importing of tangible personal property into the customs territory of the United States by a taxable person.

"(b) EXEMPT TRANSACTIONS.—For exempt transactions, see section 4012.

"SEC. 4004. TAXABLE PERSON.

"Except as otherwise provided in this chapter, for purposes of this chapter, the term 'taxable person' means—

"(1) in the case of a taxable transaction described in paragraph (1) of section 4003(a), the manufacturer of the tangible personal property, and

"(2) in the case of a taxable transaction described in paragraph (2) of section 4003(a), the importer of the tangible personal property.

"SUBCHAPTER C—TAXABLE AMOUNT; EXEMPT TRANSACTIONS; CREDIT AGAINST TAX

"Sec. 4011. Taxable amount.
"Sec. 4012. Exempt transactions.
"Sec. 4013. Credit against tax on sales and leases.

"SEC. 4011. TAXABLE AMOUNT.

"(a) SALE.—For purposes of this chapter, the taxable amount for any sale shall be the price (in money or fair market value of other consideration) charged the purchaser of the property by the seller thereof—

"(1) including items payable to the seller with respect to such transaction, but

"(2) excluding the tax imposed by section 4001 with respect to such transaction.

"(b) IMPORTS.—For purposes of this chapter, the taxable amount in the case of any import shall be—

"(1) the customs value plus customs duties and any other duties which may be imposed, or

"(2) if there is no such customs value, the fair market value (determined as if the importer had sold the property).

"(c) LEASES.—For purposes of this chapter, the taxable amount in the case of any lease shall be the gross payments under the lease.

"(d) CONTAINERS, PACKING AND TRANSPORTATION CHARGES; CONSTRUCTIVE SALES PRICE.—Under regulations, rules similar to the rules of subsections (a) and (b) of section 4216 (relating to containers, packing and transportation charges, etc., and constructive sales price) shall apply in computing the taxable amount.

"(e) SPECIAL RULE WHERE SALE OR LEASE PAYMENTS RECEIVED IN MORE THAN 1 TAXABLE PERIOD.—

"(1) SALES.—In the case of a sale where the consideration is received by the seller in more than 1 taxable period, the taxable amount for each such taxable period shall include that portion of the taxable amount which is includible in the gross income of the taxable person for purposes of chapter 1 for taxable years ending with or within such taxable period (or would be so includible if it were not excludable from gross income).

"(2) LEASES.—In the case of a lease with a term which includes more than 1 taxable period, the taxable amount for each such taxable period shall include the gross lease payments received by the taxable person during such taxable period.

"SEC. 4012. EXEMPT TRANSACTIONS.

"(a) IMPORTS OF $10,000 OR LESS.—No tax shall be imposed under section 4001 on any tangible personal property imported into the customs territory of the United States as part of a shipment (within the meaning of section 498(1) of the Tariff Act of 1930; 19 U.S.C. 1498(1)) the aggregate taxable amount of which is $10,000 or less.

"(b) EXPORTS.—Under regulations, no tax shall be imposed under section 4001 on the sale of any property which is to be exported outside the United States.

"(c) GOVERNMENTAL ENTITIES AND EXEMPT ORGANIZATIONS EXEMPT FROM TAX ON SALES AND LEASES.—

"(1) GOVERNMENTAL ENTITIES.—No tax shall be imposed under section 4001 on the sale or leasing of any tangible personal property by the United States, any State or political subdivision, the District of Columbia, a Commonwealth or possession of the United States, or any agency or instrumentality of any of the foregoing.

"(2) EXEMPT ORGANIZATIONS.—No tax shall be imposed under section 4001 on the sale or leasing of any tangible personal property by any organization which is exempt from tax under chapter 1, unless the taxable transaction is part of an unrelated trade or business (within the meaning of section 513).

"SEC. 4013. CREDIT AGAINST TAX ON SALES AND LEASES.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by section 4001 for any taxable period on taxable transactions described in paragraph (1) of section 4003(a) an amount equal to the greater of—

"(1) .08 percent of the qualified inventory costs of the taxable person for the taxable period, or

"(2) the amount of the tax imposed by section 4001 on such taxable transactions, to the extent such amount does not exceed $4,000.

"(b) LIMITATION BASED ON TAX LIABILITY; CARRYFORWARD OF EXCESS CREDIT.—

"(1) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by subsection (a) for any taxable period shall not exceed the liability for tax imposed by section 4001 for such period.

"(2) CARRYFORWARD OF EXCESS CREDIT.—If the credit allowable under subsection (a) for any taxable period exceeds the limitation imposed by paragraph (1), such credit shall be carried to the succeeding taxable period and added to the credit allowable under subsection (a) for such succeeding taxable period.

"(c) QUALIFIED INVENTORY COSTS.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'qualified inventory costs' means the costs of tangible personal property included in the inventory of tangible personal property manufactured by the taxable person.

"(2) COMPUTATION OF COSTS.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in this paragraph, qualified inventory costs shall be computed in the same manner as costs are computed for purposes of determining the inventory of a manufacturer under section 471.

"(B) EXPENSING RATHER THAN DEPRECIATION OR AMORTIZATION.—Qualified inventory costs for any taxable period shall not include the amount of any allowance for depreciation or amortization but shall include any amount paid or incurred during such taxable period for tangible personal property acquired or leased incident to, and necessary for, production or manufacturing operations or processes.

"(C) SPECIAL RULE FOR LONG-TERM CONTRACTS, ETC.—If, under a taxable person's method of accounting for purposes of chapter 1, qualified inventory costs (other than costs to which subparagraph (B) applies) are computed in a manner other than the manner described in subparagraph (A), such costs shall be computed under such taxable person's method of accounting unless the Secretary by regulation provides otherwise.

"(d) SPECIAL RULE FOR TAXPAYERS UNDER COMMON CONTROL.—

"(1) IN GENERAL.—All persons which are—

"(A) members of the same controlled group of corporations (within the meaning of section 52(a)), or

"(B) under common control (within the meaning of section 52(b)),

shall be treated as 1 person for purposes of applying the $4,000 amount under subsection (a)(2).

"(2) ALLOCATION OF $4,000.—The $4,000 amount under subsection (a)(2) shall be allocated among persons described in paragraph (1) in such manner as the Secretary may prescribe by regulations.

"SUBCHAPTER D—ADMINISTRATION

"Sec. 4021. Liability for tax.
"Sec. 4022. Return requirement; taxable period; depositary requirements.
"Sec. 4023. Regulations.

"SEC. 4021. LIABILITY FOR TAX.

"The taxable person shall be liable for the tax imposed by section 4001.

"SEC. 4022. RETURN REQUIREMENT; TAXABLE PERIOD; DEPOSITARY REQUIREMENTS.

"(a) RETURN REQUIREMENT.—

"(1) IN GENERAL.—Except as provided in this subsection, each taxable person shall

file a return of the tax imposed by section 4001 for any taxable period not later than—

"(A) the due date (including extensions) for filing the taxpayer's return of tax under chapter 1, or

"(B) if there is no return of tax under chapter 1, the due date (including extensions) under chapter 1 for a taxable year which is the calendar year.

"(2) EXCEPTION FOR SALES OR LEASES OF $5,000,000 OR LESS.—A taxable person shall not be required to file a return for any taxable period for taxable transactions described in paragraph (1) of section 4003(a) if the aggregate taxable amount for such transactions is $5,000,000 or less (determined on an annual basis).

"(3) OTHER EXCEPTIONS.—The Secretary may by regulation exempt any taxable person from the requirement of paragraph (1).

"(b) TAXABLE PERIOD.—For purposes of this chapter, the term 'taxable period' means—

"(1) the taxable person's taxable year for purposes of chapter 1, or

"(2) if there is no taxable year for purposes of chapter 1, the calendar year.

"(c) DEPOSITARY REQUIREMENTS.—

"(1) IN GENERAL.—In the case of any person with respect to whom a tax is imposed under section 4001 for any taxable period on any taxable transaction described in paragraph (1) of section 4003(a), such person shall make quarterly deposits of the estimated amount of such tax for the succeeding taxable period.

"(2) SPECIAL RULE FOR 1ST TAXABLE PERIOD.—Notwithstanding paragraph (1), a deposit shall be required for the first taxable period of any taxable person to which this chapter applies if the gross receipts of such person during the first taxable year ending before such taxable period from the sale or leasing of tangible personal property manufactured by such person exceed $50,000,000.

"SEC. 4023. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this chapter.

"SUBCHAPTER E—DEFINITIONS; SPECIAL RULES

"Sec. 4031. Definitions; special rules.

"SEC. 4031. DEFINITIONS; SPECIAL RULES.

"(a) MANUFACTURING.—For purposes of this chapter—

"(1) PRODUCTION INCLUDED.—The term 'manufacturing' includes the production of tangible personal property, including raw materials.

"(2) CERTAIN ACTIVITIES NOT INCLUDED IN MANUFACTURING.—The term 'manufacturing' does not include—

"(A) the furnishing of services incidental to storage or transportation of property,

"(B) the preparation of food in a restaurant or other retail food establishment, or

"(C) the incidental preparation of property by a retailer or wholesaler (including routine assemblage).

"(b) MANUFACTURER.—The term 'manufacturer' includes any producer of tangible personal property (including raw materials), but does not include any person conducting an activity described in subsection (a)(2).

"(c) PERSON.—For purposes of this chapter, the term 'person' includes any governmental entity.

"(d) UNITED STATES.—For purposes of this chapter, the term 'United States', when used in a geographical sense, includes a Commonwealth and any possession of the United States.

"(e) TANGIBLE PERSONAL PROPERTY.—For purposes of this chapter, the term 'tangible personal property' does not include unprocessed agricultural products or unprocessed food products.

"(f) UNPROCESSED AGRICULTURAL PRODUCTS.—The term 'unprocessed agricultural product' includes timber and fish.

"(g) CUSTOMS TERRITORY OF THE UNITED STATES.—The term 'customs territory of the United States' has the meaning given such term by headnote 2 of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States (19 U.S.C. 1202).

"(h) TAX ON IMPORT IN ADDITION TO DUTY.—The tax imposed by section 4001 on the importing of any tangible personal property shall be in addition to any duty imposed on such importation.

"(i) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 and any similar provision of law which requires an internal revenue tax collected by the United States to be paid to a Commonwealth or possession of the United States shall not apply to any tax imposed by section 4001.".

(b) APPLICATION OF CERTAIN PENALTIES.—

(1) FAILURE TO FILE RETURN OR PAY TAX.—Paragraph (1) of section 6651(a) (relating to addition to tax) is amended by inserting "section 4022 (relating to Superfund excise tax)," before "subchapter A of chapter 51".

(2) NEGLIGENCE PENALTY.—Section 6653(a) (relating to negligence or intentional disregard of rules and regulations) is amended—

(A) by inserting ", by chapter 30 (relating to Superfund excise tax)," after "subtitle B" in paragraph (1) thereof, and

(B) by striking out "Windfall Profit" in the heading thereof and inserting in lieu thereof "Certain Excise".

(3) FAILURE TO MAKE DEPOSITS.—Section 6656 (relating to failure to make deposit of taxes or overstatement of deposits) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULE FOR SUPERFUND EXCISE TAX.—For purposes of subsection (a), in the case of the tax imposed by section 4001, the tax required to be deposited shall be equal to the lesser of—

"(1) 90 percent of the tax imposed by section 4001 during the taxable period on taxable transactions described in paragraph (1) of section 4003(a), or

"(2) the amount of such tax imposed during the preceding taxable period (determined on an annual basis).

Paragraph (2) shall not apply if no tax was imposed during the preceding taxable period.".

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by inserting before the item relating to chapter 31 the following new item:

"Chapter 30. Superfund excise tax.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply with respect to taxable amounts received in taxable periods beginning after December 31, 1985.

(2) SPECIAL RULE FOR IMPORTS.—In the case of imports, the amendments made by this section shall apply to articles entered, or withdrawn from warehouse, for consumption after December 31, 1985.

(3) SPECIAL RULE FOR TAXABLE PERIOD INCLUDING JANUARY 1, 1985.—In the case of any taxable period which begins before January 1, 1985, and ends after January 1, 1985, the tax imposed by section 4001 of the Internal Revenue Code of 1954 (and the credit allowable under section 4013 of such Code) for such taxable period shall be equal to an amount which bears the same ratio to the amount of such tax (and credit) for such taxable period (determined as if such tax and credit had been in effect for the entire taxable period) as—

(A) the number of days in such taxable period after December 31, 1985, bears to

(B) the number of days in such taxable period.

SEC. 204. HAZARDOUS SUBSTANCE SUPERFUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to establishment of trust funds) is amended by adding at the end thereof the following new section:

"SEC. 9505. HAZARDOUS SUBSTANCE SUPERFUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Hazardous Substance Superfund' (hereinafter in this section referred to as the 'Superfund'), consisting of such amounts as may be—

"(1) appropriated to the Superfund as provided in this section, or

"(2) credited to the Superfund as provided in section 9602(b).

"(b) TRANSFERS TO SUPERFUND.—

"(1) IN GENERAL.—There are hereby appropriated to the Superfund amounts equivalent to—

"(A) the taxes received in the Treasury under section 4001 (relating to Superfund excise tax),

"(B) the taxes received in the Treasury under section 4611 or 4661 (relating to taxes on petroleum and certain chemicals),

"(C) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this section referred to as 'CERCLA'),

"(D) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,

"(E) penalties assessed under title I of CERCLA, and

"(F) punitive damages under section 107(c)(3) of CERCLA.

"(2) TRANSFER OF CERTAIN OTHER FUNDS.—There shall be transferred to the Superfund—

"(A) the amounts appropriated under section 504(b) of the Clean Water Act during any fiscal year, and

"(B) the unobligated balance in the Postclosure Liability Trust Fund as of October 1, 1985.

"(c) EXPENDITURES FROM THE SUPERFUND.—

"(1) IN GENERAL.—Amounts in the Superfund shall be available in connection with releases or threats of releases of hazardous substances into the environment only for purposes of making expenditures which are described in section 111 of CERCLA (other than subsection (j) thereof) as in effect on the date of the enactment of the Superfund Improvement Act of 1985, including—

"(A) response costs,

"(B) claims asserted and compensable but unsatisfied under section 311 of the Clean Water Act,

"(C) claims for injury to, or destruction or loss of, natural resources, and

"(D) related costs described in section 111(c) of CERCLA (other than paragraph (7) thereof).

"(2) LIMITATIONS ON EXPENDITURES.—At least 85 per centum of the amounts appro-

priated to the Response Trust Fund shall be reserved—

"(A) for the purposes specified in paragraphs (1), (2), and (4) of section 111(a) of CERCLA, and

"(B) for the repayment of advances made under subsection (d), other than advances subject to the limitation of subsection (d)(2)(B).

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

"(2) LIMITATIONS ON ADVANCES TO SUPERFUND.—

"(A) AGGREGATE ADVANCES.—The maximum aggregate amount of repayable advances to the Superfund which is outstanding at any one time shall not exceed an amount which the Secretary estimates will be equal to the sum of the amounts described in paragraph (1) of subsection (b) which will be transferred to the Superfund during the following 12 months.

"(B) ADVANCES FOR CERTAIN COSTS.—The maximum aggregate amount advanced to the Superfund which is outstanding at any one time for purposes of paying costs other than costs described in section 111 (a)(1), (2), or (4) of CERCLA shall not exceed 15 percent of the amount of the estimate made under subparagraph (A).

"(C) FINAL REPAYMENT.—No advance shall be made to the Superfund after September 30, 1990, and all advances to such Fund shall be repaid on or before December 31, 1990.

"(3) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund (or when required by paragraph (2)(C)).

"(B) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

"(e) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Superfund may be paid only out of the Superfund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in CERCLA or the Superfund Improvement Act of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Superfund is unable (by reason of paragraph (1)) to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.".

(b) CONFORMING AMENDMENTS.—

(1) Subtitle B of the Hazardous Substance Response Revenue Act of 1980 (relating to establishment of Hazardous Substance Response Trust Fund) is hereby repealed.

(2) Paragraph (11) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(11) 'Fund' or 'Trust Fund' means the Hazardous Substance Superfund established by section 9505 of the Internal Revenue Code of 1954;".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 is amended by adding at the end thereof the following new item:

"Sec. 9505. Hazardous Substance Superfund."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1985.

(2) SUPERFUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Hazardous Substance Superfund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980. Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.

SEC. 205. REPEAL OF POST-CLOSURE TAX AND TRUST FUND.

(a) REPEAL OF TAX.—

(1) Subchapter C of chapter 38 (relating to tax on hazardous wastes) is hereby repealed.

(2) The table of subchapters for such chapter 38 is amended by striking out the item relating to subchapter C.

(b) REPEAL OF TRUST FUND.—Section 232 of the Hazardous Substance Response Revenue Act of 1980 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1985.

SEC. 206. INDUSTRIAL DEVELOPMENT BONDS FOR HAZARDOUS WASTE TREATMENT FACILITIES.

(a) IN GENERAL.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended—

(1) by inserting ", facilities subject to final permit requirements under subtitle C of title II of the Solid Waste Disposal Act for the treatment of hazardous waste," after "solid waste disposal facilities" in subparagraph (E), and

(2) by adding at the end thereof the following new sentence: "For purposes of subparagraph (E), the terms 'treatment' and 'hazardous waste' have the meanings given to such terms by section 1004 of the Solid Waste Disposal Act.".

SEC. 207. REPORT ON METHODS OF FUNDING SUPERFUND.

Not later than January 1, 1988, the Comptroller General of the United States or his delegate shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to various methods of funding the Hazardous Substances Superfund, including a study of the effect of taxes on the generation and disposal of hazardous wastes.

Mr. STAFFORD. Mr. President, the bill now before the Senate has been considered by three committees: The Committee on Environment and Public Works, which I am privileged to chair; the Committee on Finance; and, the Committee on Judiciary. I am pleased to say that S. 51 was discharged from one of those committees and reported favorably from each of the other two with only one dissenting vote.

This bill enjoys broad support among both Members of the Senate and outside groups with an interest in the Superfund Program. One reason this bill enjoys such support is because it is a moderate proposal which makes only modest changes in a vitally necessary law.

The reason we are proposing only modest changes is because Superfund is a fundamentally sound law which now is working well. What it needs most is more money and more time. Those are the two essential elements of S. 51.

PURPOSE AND SUMMARY

S. 51, as amended, amends the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide $7.5 billion in additional funding over a 5-year period.

The overriding purpose of S. 51 is to expand and accelerate the Federal Government's program to clean up and otherwise protect the public health and environment from releases of hazardous substances and wastes. To this end, S. 51 not only provides additional money and time, but makes changes in the law which improve the pace and direction of those cleanup efforts.

I hope additional improvements can be made on the floor through a series of amendments I intend to offer. Title I of the bill establishes cleanup standards to be applied so that human health and the environment is protected in every circumstance; a health program to assure that at each Superfund site a thorough review and assessment is made of the threats posed to human health; a chemicals testing program to develop adequate information on frequently encountered hazardous substances; and a grant program to assist States that wish to establish demonstration systems of assistance for victims of hazardous substances and wastes.

BACKGROUND AND NEED

The modern chemicals technology which has contributed so greatly to this Nation's standard of living has also left a legacy of hazardous substances and wastes which pose a serious threat to human health and the environment. By some estimates, there are over 20,000 abandoned hazardous waste sites in the United States. In large areas, drinking water supplies are contaminated by synthetic organic chemicals, including a large number of supplies which rely upon groundwater, a resource generally thought to be safe from contamination. Unfortunately, the Environmental Protection

Agency estimates that for ground water systems serving less than 10,000 persons, 1 of every 6 supplies is contaminated by volatile organic chemicals and nearly 1 of every 3 of the larger systems.

It was to deal with such problems that the Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, which quickly came to be known as the "Superfund." The law authorized a 5-year, $1.6-billion program to clean up releases of hazardous substances, pollutants and contaminants. It also created a new health agency, the Agency for Toxic Substances and Disease Registry, located within the Department of Health and Human Services. The bulk of the cleanup program, however, was delegated to the Environmental Protection Agency.

During the 5 years which have passed since enactment of the Superfund law, public concern has intensified. In some areas and States, public opinion polls show that the public is more concerned over the problem of hazardous substances and wastes than any other domestic issue.

The Environmental Protection Agency has now embarked on a program to clean up 115 Superfund sites per year and estimates that it will be called upon to react to up to 200 emergencies annually. The Assistant Administrator has testified that a 5-year extension of this program would require an additional $5.3 billion. But this estimate fails to take into account other important and substantial demands on the fund. It does not, for example, allow leeway for the payment of any claims for natural resource damages, one of the law's most important, but still unimplemented, components. The estimate also does not allow any room for increase in the cost of cleanup per site beyond the current estimate, even though the Agency's previous projections have climbed in the past 4 years from $2.5 million per site to $6.5 million in 1984 and, most recently, $8.3 million. Finally, the estimate assumes that between now and 1990, which is the expiration date of the 5-year extension, there will be no inflation. Based on this, it seems clear that even a simple extension of the current program will require substantially more than $5.2 billion. With the addition of new responsibilities in this bill (estimated by the Agency to cost $1 to $1.5 billion over 5 years), the committee concluded that an appropriate 5-year funding level was $7.5 billion, as contained in the reported bill.

STATEMENT OF PRINCIPLES

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 was designed to help address many of the problems faced by our country as a result of toxic chemical contamination. The statute does not and is not intended to replace other laws which provide the regulatory foundations to address a variety of these toxic chemical concerns or provide victims with the rights to recover for damages, or obtain other relief. The existing statute and this reauthorization are structured to complement these laws and add to the remedies available to injured parties and other citizens.

The Superfund is founded on certain fundamental objectives. These are:

First, it is to provide ample Federal, State and citizen authority for cleaning up and preventing releases of hazardous substances, pollutants and contaminants.

Second, it is to assure that those responsible for any damage, contamination, environmental harm or injury from hazardous substances bear the costs of their actions and do not transfer them to others, whether through contract, sale, transportation, disposal, or otherwise;

Third, it provides a fund to finance response actions where a responsible party does not clean up, cannot be found or cannot pay. This fund has been based primarily on contributions from those who have been generally associated with such problems in the past and who today profit from products and services associated with such substances; and

Fourth, to provide adequate compensation to those who have suffered economic, health, natural resource, and other damages.

If these objectives can be and are realized through administration of the law, both by the executive branch and the judicial branch, the major objective of the statute will be accomplished: To provide an incentive to those who manage hazardous substances or are responsible for contaminating sites to avoid releases and to make maximum effort to clean up or to mitigate the effects of any such release.

Both the President and the courts should constantly bear in mind that this is a law directed at all toxic threats, whether air, water, or waste, and without regard to the specific use if any, to which the chemical or organism was to be used; pesticides are covered as well as PCB's, mining wastes as well as spent solvents, and organisms as well as chemicals. Individuals and society are to be protected from all of these and made whole when protection has failed.

FUNDING LEVEL

A great deal of the debate over Superfund's eventual cost has centered on the number of sites that will, upon inspection, exceed the EPA threshold score and, as a result, be listed on the National Priorities List. As of April 10, 1985, a total of 540 sites had been listed and an additional 276 had been proposed for listing. The EPA estimates that a total of 1,800 sites will eventually be listed on the NPL, but concedes in its recent report to Congress (the "301" studies) that "if EPA were to undertake a targeted, systematic discovery and investigation effort * * * the size of the program could increase substantially." After identifying several categories of sites that have not been targeted (such as municipal landfills, mining waste sites, and leaking underground storage tanks), the report concludes that "if even a small fraction of these sites requires Superfund response, then funding needed to address them would overwhelm the central estimates currently projected for the Superfund program."

The administration requested, but the Committee on Environment and Public Works rejected, a request that the law be extended for 5 years at a cost of only $5.3 billion. Several related factors were cited by the administration in support of a relatively slower pace of spending. First, it asserted that if the program were expanded too quickly, money would be wasted because of inability to manage the quality of the work performed. Second, according to EPA Administrator Lee Thomas, "the inability of the analytical laboratory industry to further increase its capacity for organic sample analysis and high hazard sample analysis constitutes another major limitation on more expansion * * *." Third, according to EPA's "301" studies, "there is concern about the extent to which fully permitted treatment, storage and disposal facilities will be available to dispose of Superfund waste * * *." Fourth, the Administrator said it has encountered a shortage of experienced personnel with specialized skills. Finally, the Administrator asserted that the capacity of the States to provide funds for their share of Superfund activities would constrain.

The committee examined these assertions and concluded that while they did not justify restraining Superfund to a $5.3 billion level, they did warrant a more cautious increase. Thus, the Committee on Environment and Public Works reported S. 51, as did the Committee on Finance, with a 5-year level of $7.5 billion.

Mr. President, before commenting on some of the specific provisions of S. 51 as reported, I would like to make an observation regarding the law's liability standard.

Superfund imposes a standard of strict, joint, and several liability for those who manufacture, transport, dispose of, apply or in any other way engage in activity which results in the release of hazardous substances. Such individuals are engaged in abnormally dangerous activities and should be held to the standard of care which assures that they exercise the highest degree of care which is possible.

During the reauthorization of Superfund, many individuals and organizations sought to be excepted from this standard of liability. Each of them made a good case. Cleanup contractors believe they should be held to a lesser standard because they are engaged in a societally beneficial activity. Methane operators say the same, as do those individuals who neutralize or otherwise treat hazardous waste.

But the truth of the matter is that we all believe that we are engaged in societally beneficial behavior. Those who manufactured electronic components which were cleansed with solvents that contaminated groundwater and still later caused the deaths of children from juvenile leukemia believed they were engaged in societally beneficial behavior, I am sure. So did chemical manufacturers who produced and sold the pesticide which now contaminates the ground waters of Long Island and Wisconsin, I expect. Similarly, the companies which owned and operated the smelters whose emissions poisoned the nervous systems of nearby children probably thought that they were contributing to the national security of the United States. And in each case they may be correct.

The issue is not whether the activity is societally beneficial. The issue is whether it is abnormally dangerous. What the Congress declared in enacting the Comprehensive Environmental Response, Compensation and Liability Act of 1980 was that conduct which results in the release of hazardous substances into the environment is an abnormally dangerous activity for which a person should be held strictly, jointly, and severally liable.

In some instances this had led to a result which appears harsh. But the alternative is even harsher. It may be unfair, from a cleanup contractor's perspective, for him to be held to the CERCLA standard of liability and forced to pay for personal injuries. But it is even less fair to say that those costs should be borne by the victims, whose only connection with the enterprise is their injury.

Is it more fair for the child stricken with leukemia to pay for his medical bills or for the person who released the solvents to do so?

Is it more fair for the taxpayers to pay to cleanse a contaminated aquifer or the companies which deposited the waste to do so?

My answer to these questions is simple. The person who caused the damage should bear the cost of cleaning it up, including the cost of making its victims whole.

There is one specific area where this subject has recurred time and time again. That is when an individual is in compliance with a permit. Polluters contend that because they were doing what the law did not prohibit or what the law allowed, they should not be liable.

It is a bitter irony to this Senator that the thousands of enterprises who have sought—sometimes with great success, almost always with limited success—to weaken environmental laws now constantly contend that they should be protected from liability by compliance with the softened regulations. Mining companies who sought and won an exemption from the hazardous waste requirements now seek to be immunized from liability as well. Chemical companies who sought to make the best available technology requirements of the Clean water Act only those which are "economically achievable" now say that this weakened requirement justifies a lesser standard of liability. Companies which won relaxation of statutory and regulatory requirements for manufacturing, transporting, storing, and disposing of poisonous wastes because these would cost too much money now seek immunity from damages which result from these relaxations.

This is understandable. These firms are in the business of making a profit, which is as it should be. But they are also in the business of handling materials which can and do have lethal consequences when released into the environment. The costs of such releases should be borne by them, so they have an incentive to avert and minimize releases and harm.

These were the principles in 1980, and they are embodied in S. 51 as well. The only change has been with respect to State and local governments. Even that change is very narrow and justifiable because of the special duties and obligations which fall on government. Governments acquire title or possession of property involuntarily; banks and other businesses do not. Governments are obliged to respond to toxic chemical emergencies to protect the public health and safety; chemical and other companies are not. Governments could, if they so choose, confer absolute immunity on themselves through the exercise of the sovereign's prerogative; individuals cannot.

For these reasons and others, the reported bill alters the law's liability standards for units of State and local government. But for all others, the standard remains, as it should, unchanged.

Mr. President, I would now like to explain a few technical provisions of S. 51 as reported from the Finance Committee, from my committee, and after review by the Senate Judiciary Committee.

ACCESS AND INFORMATION GATHERING

Section 115 of the bill clarifies and strengthens the President's authority under section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 to gain access at Superfund sites and to obtain information regarding hazardous substances, pollutants, and contaminants associated with those sites. It is of critical importance because the existing statute provides access and information gathering authority, but no explicit means to enforce such authority. Therefore, to enforce the authority the President must rely on other laws, which do not necessarily apply to Superfund substances, or on other provisions of CERCLA which provide implicit enforcement authority. This section of S. 51 will provide the President with clear enforcement mechanisms for CERCLA access and information gathering authorities that are similar to the authorities in other laws, such as the Resource Conservation and Recovery Act.

Access sometimes is necessary for sampling to determine the nature and extent of the contamination or to undertake the response action itself. Many times response actions have been severely hampered because parties refused EPA access to, or adjacent to, the facility. Some examples include Western Processing in Seattle, WA; Stringfellow in Glen Avon, CA; OMC in Waukegan, IL; Pepper Steel, in Medley, FL; and many others. Fund response action at the New Lyme site in Ashtabula County, OH, was also delayed because certain responsible parties refused to provide the Environmental Protection Agency with information regarding the materials sent to the site.

The section contains several important changes to the existing authority, including:

Subsection (1) makes explicit what has been implicit: The authority for the President to gain access or obtain information for the purposes of choosing or undertaking a response action.

Subsection (1)(A) clarifies and expands the kinds of information that the President may obtain and the parties from whom it may be obtained.

Subsection (1)(B) makes explicit the authority for the President to gain access not just to the Superfund site itself, but also adjacent to the site or to any "other place or property" associated with the hazardous substances, or where there is a release or threatened release or where entry is needed to properly determine or undertake a response action.

Subsection (1)(C) explicitly authorizes the President to inspect and obtain samples from the site itself or other places or locations where hazardous substances are suspected or are located. Subsection (1)(B) and this subsection are especially important because at many sites both soil and groundwater contamination extend beyond the actual property boundaries of the site. It is necessary to determine

the extent of the contamination before the proper remedy can be chosen.

Subsection (2) is the enforcement authority previously mentioned. Subsection (2)(A) provides EPA with the authority to issue administrative orders directing compliance with a request for access or information. Additionally, it authorizes EPA to ask that the Department of Justice commence a lawsuit to compel compliance. Subsection (2)(B) provides that in such a lawsuit the court, in appropriate circumstances, shall issue an injunction prohibiting interference with the exercise of EPA's authority or directing compliance with an administrative order. It also provides that the court may assess a civil penalty against any person failing to comply with a request or an administrative order.

These important changes will strengthen EPA's ability to obtain consensual compliance with access or information requests and to obtain compliance through administrative or judicial means when consent is not forthcoming. Moreover, when forced to compel compliance, EPA's statutory authority will be clear.

ADMINISTRATIVE ORDERS

Section 104(b) of the Comprehensive Environmental Response, compensation and Liability Act of 1980 currently authorizes the President to conduct a variety of investigations, studies, and information gathering activities. Remedial investigations and feasibility studies [RI/FS], are performed to serve as the basis for choosing the appropriate extent of remedy.

In many circumstances it may be appropriate for potentially responsible parties to conduct the RI/FS. They are more likely to conduct cleanup if they are involved in the decision concerning the appropriate remedy.

This amendment authorizes the President to issue section 104(b) administrative orders on consent to these parties for conduct of RI/FS.

Current law authorizes the President to issue administrative orders under section 106 if there is a finding of "imminent and substantial endangerment".

Because section 104(b) orders would not require findings of imminent and substantial endangerment, their use could speed up the issuance of orders by avoiding delay due to debate over the existence of endangerment. Thus, new 104(b) will increase the likelihood that private parties will agree to conduct the RI/FS.

Also, the Government's oversight can be most effectively conducted when parties conducting the RI/FS are subject to an administrative order.

Finally, private party conduct of the RI/FS and cleanup will free up Government resources to address other sites.

FEDERAL LIEN PROVISIONS

The provisions of S. 51 as reported would impose a Federal lien for Government response costs on real property subject to a Superfund cleanup. A statutory lien would allow the Federal Government to recover the enhanced value of the property and thus prevent the owner of the property from realizing a windfall from fund cleanup and restoration activities. The lien would be perfected as of the date security interest holders learned, or should have learned, of the commencement of a Government response action at a Superfund site.

New section 107(m) does not specify what priority a Superfund lien would have with respect to other liens or security interests. This will allow the courts to decide the relative priority of a Superfund lien.

Mr. President, the bill now before the Senate is the product of 18 months of concerted effort by the Committee on Environment and Public Works, together with 5 years of oversight of the Superfund Program. There has not been any period of time since the date of Superfund's enactment on December 11, 1980, to today that the committee has not devoted attention to the important and new undertaking by the Environmental Protection Agency. After a difficult and at times controversial beginning, the program has gathered momentum and is soundly managed. This bill will help increase that momentum and cure the few flaws which the committee has uncovered since 1980. This bill deserves the full support of every Member, regardless of philosophy or party, and I hope and believe each of you will agree.

Mr. President, I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I am very pleased to rise in support of S. 51, the Superfund Improvement Act of 1985. It is a special pleasure for me to stand in the well today, as the Senate turns to consideration of this bill. Since joining the committee, I have had no higher priority than seeing the Senate strengthen and extend the Superfund Program.

Funding for the Superfund Program will expire in just 14 days. Superfund revenues are virtually depleted and the Environmental Protection Agency has essentially shut down the program. It will obligate no new funds for cleanup at our toxic waste sites until the Congress reauthorizes Superfund. We are at the 11th hour and we must act promptly to minimize disruption to the Superfund Program.

Anticipating this potential situation, the senior Senator from Vermont brought a Superfund extension bill up in the Environment and Public Works Committee in 1984. With his leadership, the committee reported a bill to the full Senate for consideration last year, before we adjourned. Unfortunately, that bill was never scheduled for Senate action.

Mr. President, Senator STAFFORD introduced S. 51 on January 3, 1985, the very first day of the 99th Congress, to try and ensure that the clock would not run out on Superfund. I was proud to join him as an original cosponsor.

The Senate Environment and public Works Committee approved this bill on March 1. But it has taken almost 7 months for S. 51 to make its way through the Senate Finance and Judiciary Committees, and to the Senate floor. This delay in consideration of S. 51, and the failure of the House of Representatives to approve a Superfund authorization bill, makes it certain that we will have to take some temporary action to keep the program alive, until we can finalize a bill and send it to the President for his signature.

However, Mr. President, we would not be here today, considering this bill, if it were not for the diligence, concern, and persistent efforts of my colleague from Vermont, Senator STAFFORD, chairman of the Environment and Public Works Committee.

I want to take this opportunity to express my appreciation to the Senator from Vermont, my esteemed chairman, for his unwavering support for bringing this bill before the Senate. I commend him for his efforts.

In this, Mr. President, Senator STAFFORD was joined by the distinguished ranking minority member of the Environment and Public Works Committee, the Senator from Texas, Senator BENTSEN, who has played a critical role in shaping the bill before us in both the Environment and Public Works and Finance Committees. I would also like to commend the chairman and ranking minority member of the Environmental Pollution Subcommittee, Senators CHAFEE and MITCHELL, and other members of the committee anxious to see Senate action on this bill, for their support of the committee leadership in moving this bill through committee. Many of these members would be here this morning were it not for a very important markup which is taking place in the Finance Committee, on which they also serve.

The strong support S. 51 enjoys in the Senate is evidenced by the fact that 63 of my colleagues joined me in a letter, which I authored earlier this year to Senator DOLE, the majority leader, urging him to schedule the Superfund Improvement Act for full Senate action.

Mr. President, the cleanup of abandoned toxic waste sites is a pressing national need and it is a top priority for New Jersey. In no other State is

the Superfund Program more important. Fully 99 of the 850 sites on the National Priority List for Superfund cleanup are in New Jersey. The most dangerous site in the country, the Lipari landfill, is located in the suburbs of Camden. There is not one county in New Jersey free of abandoned toxic waste sites which threaten human health and the surrounding environment.

Not one site in New Jersey has been totally cleaned up. Cleanup work has begun on only 20 of the 99 sites on the Superfund list in New Jersey. New Jersey needs a bigger, faster paced Superfund Program. So do many other States around the country. By way of example, States like New York have a total of final and proposed sites of 59; California has 60; Ohio has 29; Pennsylvania has 59; Texas has 26; Minnesota has 39; and the total of just these few States is more than 280 sites that need prompt and immediate action.

In my State, and around the Nation, the Government is losing its credibility and the public is understandably frustrated and angry. There is just not enough money at current funding levels to make a dent in the problem.

In addition, in the 5 years we have had experience with the Superfund Program, as well as the Defense Department's toxic waste cleanup program, we have identified areas in which they must be strengthened and improved.

It is time to move faster, to rid our environment of the toxics that are poisoning our land and water, and threatening our citizens. That is why extension and improvement of the Superfund Program is so important to New Jersey and the Nation.

Mr. President, S. 51 provides funding over the next 5 years for the Superfund Program of $7.5 billion, more than four times as much as the current Superfund Program. Funding will be derived from two sources. An excise tax is levied on manufacturers that have sales receipts of more than $5 million per year in manufactured goods or raw materials. This broad-based tax would raise approximately $6 billion of the $7.5 billion of the expanded fund. I supported the efforts of Senators BENTSEN, MITCHELL, CHAFEE, BRADLEY, and others, on the Finance Committee, to develop a broader based tax to help pay for an expanded Superfund.

The remaining $1.5 billion would be raised through an extended tax on feedstocks and petroleum. Additional moneys would be added to the fund through cost recovery from parties responsible for cleanup, from interest collected on the fund, and from the postclosure liability fund.

Mr. President, S. 51 clearly addresses an issue that has hindered State efforts to set up their own superfunds. Because of a suit filed in New Jersey, which questioned the right of a State to tax the same sources taxed by the Federal Superfund, State Superfund programs have had a cloud over them. This has certainly been the case in New Jersey, where the State was extremely reluctant to spend funds out of our spillfund without this litigation being settled. S. 51 strikes the so-called preemption language in existing law which created this legal ambiguity. Approval of the bill will end years of litigation and free States to conduct aggressive cleanup programs with their own funds.

Mr. President, beyond increasing the size of the Superfund, S. 51 also makes important improvements to the current program.

S. 51 includes new health provisions that direct and authorize funds for the testing of toxic chemicals most commonly found at Superfund sites. It requires that health assessments be done at every site listed on the National Priority List, and that a more effective program be established for providing information to citizens who are worried about the health ramifications of exposure to nearby Superfund sites.

Mr. President, S. 51 also contains provisions to speed cleanup at Federal facilities. The extent of the contamination at hundreds of Federal facilities is just now coming to light.

The Federal facility amendments in S. 51 would require an expanded oversight role by the EPA. Inclusion of a Federal facility site on the national priority list would trigger schedules for cleanup at the site. These schedules would be implemented through interagency agreements, and accompanied by reports to Congress on the status and budgetary needs for completing cleanup and assuring long term operation and maintenance at sites at which interagency agreements are to be made.

Under S. 51, EPA would be required to concur in the selection of cleanup actions to be taken at Federal facilities. S. 51 also empowers EPA to issue corrective action orders at Federal facilities. Finally, this section of the bill reaffirms the original language of statute: That all provisions applicable to private parties are applicable to Federal facilities.

When the Senate begins its consideration of amendments, I intend to offer an amendment that will expand the Federal facility reporting requirements under this provision.

Mr. President, the bill also contains citizen suit provisions that provide citizens with the right to sue in Federal court to enforce nondiscretionary duties and to enforce standards, regulations, orders, and other requirements under the act. This provision is an important step in improving the tools that citizens have to ensure that the Superfund is implemented fairly and effectively.

Mr. President, I deeply appreciate the willingness of the members of the Environment and Public Works Committee to work in crafting an improved Superfund program, and one which is responsive to New Jersey's needs, as well as other States across the Nation. During the committee's markup of a Superfund extension bill in 1984, I offered a number of amendments, which were adopted at that time, and are carried over into this year's bill.

Key among those amendments are two designed to address ground-water contamination problems, prevalent in New Jersey and elsewhere around the country. Fully 60 percent of New Jersey's drinking water comes from ground water, and in the southern part of the State upward of 90 percent does. Contaminants leaching out of toxic waste sites threaten to contaminate our ground water, a precious resource in our drought plagued State.

My amendments requires EPA to clean up contaminated ground water and surface water as part of remedial action at Superfund sites, and mandate that EPA provide household replacement water, as well as drinking water, when contaminated water supplies or water supply systems are replaced by the agency.

S. 51 also contains several other amendments I sponsored in 1984 which refine Federal-State relationships under Superfund. The first of these provisions allows a State to spend its own money to conduct early cleanup at a Superfund site, with the assurance that it will be reimbursed by the fund for authorized expenditures. This amendment encourages States to use their own funds to move faster than the Federal program might permit, without being penalized for doing so.

The second of these provisions extends the statute of limitations for natural resources damage claims, which expired last December, before EPA issued regulations to inform State applications for reimbursement. The absence of these regulations made it impossible for States to submit acceptable applications for the money to which they are entitled under Superfund. However, this year, in recognition that public health risks must take priority in securing cleanup funds, S. 51 was amended to include a limitation on funds for natural resources damage claims.

Mr. President, I also want to express my appreciation to the chairman and other members of the committee for their cooperation in working with me this year on amendments to S. 51 to improve emergency planning and access by the public to information about chemicals in their communities.

These amendments stem from a hearing held by the Senate Environment and Public Works Committee in

February in the wake of a spate of chemical releases in New Jersey and the tragedy in Bhopal, India. I requested that this hearing be held in New Jersey to investigate what could be done to minimize the risks associated with chemical releases into the atmosphere. New Jersey poses a great challenge in this regard, because it is the most densely populated State in the Nation and is the third largest producer of chemicals in the United States. In addition to these emergency response issues, data collected by the Library of Congress for the committee indicated that daily exposure to chemicals emitted by chemical facilities was of sufficient magnitude and regularity, that these releases should be reported to the public.

Based on this hearing, the committee adopted two amendments that I sponsored to S. 51 in February.

These provisions would improve the notification and penalties provisions of the existing Superfund program by requiring immediate notification of State and local officials in the event of a release of a "reportable quantity" of a hazardous substance covered by Superfund. S. 51 strengthens the penalties for failure to notify by establishing civil penalties of up to $75,000 per day and increasing criminal penalties to up to 5 years in jail.

The lessons of the past year have underscored the importance of effective reporting requirements, and tough penalties for failure to report releases. Nowhere was this clearer than in West Virginia this summer when a toxic cloud of aldicarb oxime from a Union Carbide facility hung over the plant for 20 minutes before response officials were notified. It was another 20 minutes before the local community was notified, at which time the cloud had moved through the community, sending more than 130 workers and residents to area hospitals.

I intend to offer an amendment with Senators HUMPHREY, HEINZ, and MOYNIHAN to supplement these provisions and the emergency response provisions in Superfund when the Senate takes up amendments to the bill.

The second provision adopted by the committee establishes a hazardous substance inventory, to help assess the extent to which the public is exposed to chemicals which may have long-term, adverse impacts on the public health. The committee will be refining this provision, section 106, during consideration of S. 51. I very much appreciate the chairman's support for these provisions.

Finally, Mr. President, I want to thank the chairman for working with me and Senator MITCHELL on legislation to establish a viable indoor air pollution and radon detection and mitigation program within EPA.

Mr. President, the committee has produced a sound bill which should enjoy the support of the Senate. During consideration of the bill, several amendments may be offered to increase the size of the Superfund Program and improve other aspects of the program. These amendments pose a difficult choice for those of us who serve on the committee, and have worked so closely together to fashion S. 51. However, Mr. President, I intend to support amendments to further strengthen the bill, including amendments to increase the size of the fund.

In closing, Mr. President, I want to express my personal appreciation for the evenhanded and nonpartisan manner in which the Senator from Vermont conducted committee consideration of this bill and, in fact, the equitable and considerate manner in which he conducts all committee business. The Senator from Vermont has always gone out of his way to encourage me to participate in committee consideration of this bill and all committee work. For this I extend my deepest appreciation.

Mr. STAFFORD. Mr. President, will the Senator yield to me very briefly?

Mr. LAUTENBERG. Indeed I will, Mr. President.

Mr. STAFFORD. I simply wish to express my appreciation to the able Senator from New Jersey for his very kind words and my deep appreciation for all of the effort that he has made in helping us conduct committee business in the Environment and Public Works Committee this year. It has been a special pleasure for me personally to work with the Senator from New Jersey and I want him to know that.

Mr. LAUTENBERG. I thank the Chair.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, the Superfund Improvement Act of 1985 is the embodiment of a national commitment to achieve a large and very important national goal.

The Superfund legislation passed in 1980 was this Nation's mechanism to begin the work of cleaning up the hazardous substances releases and toxic waste sites which endanger the lives of American citizens.

From that beginning, we developed the means to consider the scope of the problems ahead, and we began the early stages of correcting them. With the legislation we consider today, this Nation will get down to business. We are resolved to rid ourselves and future generations of dangers that have been ignored for too long—tragedies that are waiting to happen unless we respond firmly to this national priority.

Before I discuss some of the important provisions of this bill, I want to acknowledge a number of our colleagues for the long hours and hard work they have devoted in getting us to this critical point of progress:

First, I recognize our chairman, the distinguished Senator from Vermont [Mr. STAFFORD] and the work he has done there. It has been a pleasure to work with him. There has been a virtual absence of partisanship in that committee. You do not really have a Republican or a Democratic position, you have a bipartisan position as to what we think is best for our country.

I recognize, too, the chairman of the Finance Committee [Mr. PACKWOOD] and the majority leader [Mr. DOLE] and the minority member of the Finance Committee [Mr. LONG] and my friend from New Jersey who has just finished speaking here [Mr. LAUTENBERG].

The bill before us today, S. 51, reauthorizes Superfund for another 5 years for a total of $7.5 billion. This is an increase in the authorized funding, which is justified by the increased cost of cleanup and the fact that the problem of uncontrolled releases of hazardous substances is greater than we envisioned 5 years ago when Superfund was first enacted.

In order to raise this sum of money, the Finance Committee voted to put in place an excise tax on manufactured goods. The Superfund excise tax we are talking about applies to goods either made in this country or imported into the country. Exports are exempt from the tax.

In other words, if this product is going to be shipped overseas, the tax is taken off it. If the product is being shipped into the country, the tax is placed on it.

The Superfund excise tax is both fair and simple. It is fair because hazardous waste dumps are a problem caused by manufacturers of every stripe. Chemical companies may produce chemicals; but other manufacturers use them and dispose of them. For example, there are estimates that, of the top 25 companies identified as parties responsible for the Stringfellow site in California, one of the worst dumps, there is not a chemical company among them—not one.

Even manufacturers that have not directly contributed to hazardous waste sites benefit from hazardous waste. I should like to find one manufacturer that does not use chemicals in any form. The Superfund excise tax seeks to recognize the national nature of the Superfund problem and spread the funding burden to manufacturers across the country.

As I said, the Superfund excise tax is also simple. It has been designed to keep additional paperwork to an absolute minimum. By and large, companies will be able to compute this tax with the same information that they use to figure their income tax. We have also minimized the number of

taxpayers by providing a generous exemption for small companies.

Finally, the Superfund excise tax has the significant advantage of what trade experts term "border neutrality." Since imports would be taxed and exports exempted, American companies will not be put at a competitive disadvantage against foreign companies as a result of this tax.

On balance, our choices are harsh and limited. A major role for general revenue is impossible in my opinion. Increases in the feedstock tax are inequitable and unwise. Waste taxes can play a role but not a pivotal role.

I must say when we started out trying to find a way to pay for this, that is where we hit, on a waste tax. We found it had a diminishing return and we found it inadequate in order to raise sufficient money for this purpose. The only real option is the one we have chosen—the development of this broad-based revenue source.

The amendments reported by the Committee on Environment and Public Works clarify the uses for the Superfund so that the funds are properly directed to reduce the hazards of abandoned waste sites. The proper scope of the program, remedial action selection, and other amendments will produce a more focused and effective Superfund Program.

An amendment to section 104 response authorities is of particular interest to me and to the State of Texas. This remedial action alternative language helps resolve a difficult problem for those involved in cleanup of hazardous substances. Under Superfund as originally written, it is unclear how clean a Superfund site must be before remedial action can be considered complete. S. 51 clarifies that, at a minimum, all remedial actions must assure protection of human health and the environment. This is the same performance standard required under the Solid Waste Disposal Act for hazardous waste disposal facilities.

S. 51 also clarifies that the design standards contained in section 3004 of the Solid Waste Disposal Act do not have to be applied to all Superfund sites. The size, topography, geology, hydrology, and mix of wastes at Superfund sites all vary considerably and a uniform remedy may not be the best solution for each of these sites. The most effective use of Superfund is for remedial actions to be relevant and appropriate to the circumstances of a specific site. This amendment to section 104 provides needed flexibility while assuring that human health and the environment will be adequately protected.

S. 51 also addresses the problems faced by remedial action contractors, who are finding it increasingly difficult to buy insurance for their Superfund activities. Without this insurance some of these contractors may choose not to seek Superfund contracts to clean up sites and the pace of cleanup could decline.

S. 51 provides that the EPA may include an indemnification provision in these remedial action contracts so that the EPA would act as an insurer of the contractors' actions. During a hearing held by the Committee on Environment and Public Works on the insurance issue, the contractors expressed their view that this discretionary authority would not be sufficient to keep them interested in Superfund contracts nor would it provide enough assurances to insurance companies so they would continue to issue insurance policies covering Superfund cleanup activities.

In response to these concerns, I introduced an amendment, cosponsored by the chairman of the committee, that would make such indemnification provisions mandatory in remedial action contracts. In this way, the contractors are assured that they will be indemnified for their nonnegligent actions and remedial actions at Superfund sites can continue apace.

S. 51 contains many other important provisions that will greatly enhance our ability to bring this critical national problem under control. Passage of this measure will be one of the most effective acts we could take to protect ourselves, our environment, and future generations from the threat of toxic contamination.

Mr. STAFFORD. Mr. President, before the most able Senator yields the floor will he yield to me for a second?

Mr. BENTSEN. I am delighted to yield at this point to the chairman.

Mr. STAFFORD. Mr. President, I want the RECORD at this point to show how much I have enjoyed working with the very able Senator from Texas over the years. One of the reasons our committee has been a bipartisan or nonpartisan committee and able to work together is the way the Senator from Texas has conducted himself as the ranking member and, before that, as the chairman of the Transportation Subcommittee when I served on it as the ranking member under his leadership. I want him to know how much I have enjoyed the years we have been able to serve together and how much I think the Senator from Texas has contributed over the years to the work of this subcommittee.

Mr. BENTSEN. Mr. President, I am very pleased at those comments. I must say as the years have passed, I have become more convinced of the advantages and values of seniority.

The PRESIDING OFFICER (Mr. RUDMAN). The Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to commend the able Senator from Vermont [Mr. STAFFORD], chairman of the Environment and Public Works Committee, for the work he has done on Superfund. We had some differences on amendments and we were able to work them out with him. I think we improved the bill. He was very cooperative, as he always is on matters of public interest. I commend him for the fine leadership he has shown on this important matter.

Mr. STAFFORD. Will the Senator yield briefly?

Mr. THURMOND. I am happy to yield.

Mr. STAFFORD. Mr. President. I want to express my appreciation for the cooperation the most able Senator from South Carolina [Mr. THURMOND], chairman of the Committee on the Judiciary and President pro tem of the Senate, has extended to us in working out mutually agreeable amendments which, for the Senator from South Carolina, myself, and the members of the committee, I shall be offering at the earliest opportunity as noncontroversial amendments. It has been a joy to work with the Senator.

Mr. THURMOND. I thank the Senator very much.

Mr. BENTSEN. Mr. President, I wish to say to the Senator that if we had that kind of cooperation we get from the Senator from South Carolina in working out our amendments, this democratic process would work much better and faster.

Mr. THURMOND. I thank the Senator. That is the way we ought to work for the good of the general public and that is what we have done here.

Mr. CHAFEE. Mr. President, the bill we are considering today, the Superfund Improvement Act of 1985, addresses one of the most important issues facing us today: How to speed up and improve the Federal program that is dedicated to cleaning up the thousands of sites that are contaminated with hazardous substances and toxic chemicals. Many of these sites present immediate threats to the health and safety of citizens all across the country. Too many of these sites present an equally dangerous, though less obvious, threat to the environment and the ground water that many of us use for drinking water.

Most Superfund sites are a tragic legacy of improper management and disposal of toxic wastes. Last year it became clear that the Resource Conservation and Recovery Act (RCRA), the Federal law governing the handling and disposal of such wastes, needed to be strengthened. Bold action was needed to prevent the creation of a new generation of Superfund sites. As author and floor manager of the 1984 RCRA amendments, it was reassuring to see that this body recognized the need and unanimously approved that legislation. Similarly, earlier this year, we unanimously approved amendments to the Clean

Water Act that will, among other things, institute new controls on toxic chemicals that have been finding their way into our precious rivers, lakes, bays, and oceans.

As we take bold steps regarding the future, we must take equally bold steps to address the errors of the past. That is what today's bill, S. 51, is all about.

Many of us recognized in 1980, when we first created Superfund, that the $1.6 billion, 5-year program was woefully inadequate. However, those figures were agreed to as part of a compromise that was necessary to even begin the program. Today, no one disputes the need to continue the program nor the need to greatly expand it. Although we are focusing on a new 5-year bill, it is widely acknowledged that the job of cleaning up these sites and protecting the public health will take much more than 5 additional years. Many of us believe that the ultimate cost will be even greater than the $10 billion or $13.5 billion fund that is being urged by some.

The Committee on Environment and Public Works, in agreeing to a $7.5-billion figure for the next 5 years, considered how to get the maximum cleanup progress. If EPA receives too much money in too short a period of time, I am uncertain that agency personnel could manage all the contracting work efficiently and money meant for cleanup could be squandered. At a $7.5-billion level, we will be expanding the current program almost five-fold and spending an average of $1.5 billion each year for the next 5 years. The Committee on Environment and Public Works and the Committee on Finance rejected the administration figure of $5.3 billion as too low to get the job done.

Expanding the program from $1.6 billion to $7.5 billion is a significant step and should provide for a more aggressive program when compared to the last 5 years. Such an increase will also set the stage for continued growth of the program.

Unlike the situation that existed when Superfund was first created in 1980, in the face of heavy opposition, the program now enjoys broad support. What is controversial is how Congress will raise billions of dollars in additional money needed to clean thousands of sites contaminated with toxic chemicals.

The controversy really boils down to two choices: Impose a broad-based tax that spreads the burden evenly through society, or impose a tax on those who generate hazardous waste.

The Senate is likely to take the broad-based approach; the House of Representatives appears ready to support some form of a "waste-end" tax on toxic material itself.

While a waste-end tax on toxic material is appealing on the surface—after all, why should not those who produce toxic substances foot the bill for cleaning up the mess that comes from its disposal?—further consideration shows such a levy is unworkable and counterproductive, for these reasons:

A waste-end tax creates incentives for unscrupulous producers of toxic material to avoid the levy by illegal dumping. Through RCRA, Congress has imposed severe restrictions on disposal of hazardous waste. Since waste-end taxes would be collected when toxic material is delivered to a RCRA-approved site, some producers would seek to avoid the tax by improper disposal.

Because a waste-end tax would encourage producers of toxic waste to seek ways of avoiding the levy, it is difficult to predict with certainty that the needed revenue could be raised; indeed, such a tax could prove insufficient to meet the needs of Superfund. The likelihood of a revenue shortfall is the most troublesome aspect of pending proposals to use waste-end taxes to finance all or part of the Superfund. If we want a $7.5 or $10 billion fund and plan on $1.5 billion or more of that coming from waste and taxes, we will undoubtedly be disappointed and will end up with a much smaller fund than predicted and needed.

A waste-end tax could well play havoc with regulation by the Environmental Protection Agency of hazardous waste generation and disposal. For valid reasons, all pending waste-end tax proposals would assign duties of collection to the Internal Revenue Service. But having a second Federal agency, the IRS, involved in decisions affecting the disposal of toxic waste would certainly lead to new confusion, making the EPA's job that much more difficult. Similarly, the constant changes in, and challenges to, EPA regulations would make it difficult for the IRS to administer the tax and issue its own regulations.

It is for these reasons that the Senate Finance Committee overwhelmingly rejected a waste-end tax when it recently considered extension and expansion of Superfund. Instead, the committee voted to raise $7.5 billion over the next 5 years by imposing a small excise tax on manufactured goods.

A broad-based tax on industry leaves no incentive for producers of toxic substances to avoid the law or resort to methods of disposal which could further damage the environment. Because such a tax is collected generally, the revenue base is assured. Finally, a broad-based tax would not force the IRS and the EPA to work at cross-purposes.

Existing law was enacted to put a stop to past practices of midnight dumping and unsafe disposal of hazardous waste. As appealing as a waste-end tax is at first blush, it could, in the end, encourage a new round of illegal dumping. As such, Congress should reject it.

The importance of Superfund is twofold. First, it provides a fund to finance direct action by the Government to clean up dangerous sites. Second, and perhaps even ore importantly, it establishes a legal system of liability and enforcement tools to make sure that those who produced the hazardous substances and those who created the threats to our health and environment must pay for cleanup of these sites. Fund-financed cleanups are intended to be a supplement to cleanups by private, responsible parties. Aggressive enforcement of the law will assure adherence to the oft-cited principle that "polluters must pay."

Mr. President, most of the Superfund comes from special taxes that were created specifically for the fund. Unless the Senate, the House, and the President act quickly, the authority to collect those taxes will expire on September 30 of this year and fund-financed cleanups will grind to a halt. Fortunately, the Senate is acting in a timely manner and the liability and enforcement provisions of the law will continue to be in effect.

If, as appears likely, the House of Representatives fails to pass a bill before September 30, and the Congress doesn't send a bill to the President by that date, the EPA and the Department of Justice should use their continuing authority to force cleanups by private responsible parties.

A simple 1-year extension of the law would be a mistake. The existing program needs to be expanded and strengthened. The need is now, not next year.

The overriding purpose of S. 51 is to expand and accelerate the Federal Government's program to clean up and otherwise protect the public health and environment from releases of hazardous substances and wastes. To this end, S. 51 not only provides additional money and time, but makes changes in the law which improve the pace and direction of cleanup efforts. Title I of the bill will establish cleanup standards to be applied so that human health and the environment is protected in every circumstance; a health program to assure that at each Superfund site, a thorough review and assessment is made of the threats posed to human health; a chemicals testing program to develop adequate information on frequently encountered hazardous substances; and a grant program to assist States that wish to establish demonstration systems of assistance for victims of hazardous substances and wastes.

The bill also includes an amendment that I offered on the siting of hazardous waste facilities.

A critical step in the implementation of a rational, safe hazardous waste program is the creation of new facilities employing the most advanced waste management technologies. But to establish newer, improved facilities, sites on which these facilities can operate must be found and made available. Although most States have enacted or have pending some forms of siting legislation, few, if any, have developed policies and siting programs that will assure continued facility capacity in the long term. Recognizing that, as a general rule, States are not moving aggressively to avoid the creation of future Superfund sites, an amendment on siting of hazardous waste facitities was adopted by the Committee on Environment and Public Works.

This section of the bill provides that, effective 3 years after enactment, a State shall not receive Superfund money for remedial actions unless the State provides assurances that there will be adequate capacity and access to RCRA-approved facilities for the treatment or disposal of all of that State's hazardous wastes for the next 20 years.

The availability of funds for removal actions is not affected. The short-term, emergency cleanup of, for example, a roadside spill or a stack of drums that are about to explode could proceed. What will be withheld are funds for "remedial actions," the long-term, permanent cleanup of sites on the National Priority List.

To avoid a cutoff of funds, each State is required to develop State policies and siting programs that will make the best use of existing facilities in the short term and will assure continued facility capacity in the long term. The details of the siting process will differ depending on the circumstances of each State.

A site in every State is not required. In some cases, multistate efforts may be appropriate. Use of binding agreements through interstate compacts guaranteeing access to a facility is only one example of how a State may provide the requisite assurances. State or local ownership and operation of facilities or contracts with private facilities may also suffice.

The rationale for this requirement is straightforward: Superfund money should not be spent in States that are taking insufficient steps to avoid the creation of future Superfund sites. Pressures from local citizens place the political system in an extremely vulnerable position. Local officials have to respond to the fears of local citizens. The broader social need for safe hazardous waste management facilities often has not been strongly represented in the siting process. A common result has been that facilities have not been sited, and there has been no significant increase in hazardous waste capacity over the past several years. While everyone wants hazardous waste managed safely, hardly anyone wishes it managed near them. This is the NIMBY syndrome (not in my backyard). Yet if the RCRA and Superfund Programs are to work—if public health and the environment are to be protected—the necessary sites must be available.

Mr. President, in conclusion, S. 51 is a good bill. It is a bill that deserves to be enacted into law. As a member of both the Committee on Environment and Public Works and the Committee on Finance, the two committees that have written and recommended passage of this bill, I urge my colleagues to support it. Time is of the essence. The issues of public health and environmental protection are too important to ignore. We have an opportunity to enact a fivefold expansion of the current Superfund and to correct many of the problems that have plagued EPA's management of the program. It is an opportunity we must not squander.

Mr. MITCHELL. Mr. President, we bring to the Senate today the Superfund Improvement Act of 1985. This bill is significant in several respects.

First, and most important, it embodies a continued commitment by the Federal Government to the protection of the health and welfare of the people of this country from the dangers of uncontrolled hazardous substances in the environment. The Superfund law enacted in 1980 is a public health statute. We have made a judgment with the bill before us today that the current law is fundamentally sound, its purposes worthy, and its provisions workable.

Second, this bill represents a judgment that the principle of liability upon which the law is based, that those responsible for harm to health and the environment should be held accountable for that harm, continues to be appropriate.

Third, this bill represents a continued commitment to dealing with uncontrolled hazardous substances in the environment even when a responsible party cannot be found, by providing an expanded fund to finance such cleanups.

Fourth, this bill makes improvements in the Superfund Program based on our first 5 years of experience with its implementation.

In 1980, the Superfund bill faced many obstacles to its passage. As we stand here today in 1985, much of the opposition to the basic concept of the establishment of a liability regime and a fund has dissipated. The continuation of both aspects of the law is no longer an issue. This is gratifying, in a sense, to those of us who stood before this body in 1980 and warned that the legacy of past haphazard waste disposal represented perhaps the most serious public health and environmental threat in our modern history. There is, however, no consolation in having been correct in our assessment of the need for the Superfund Program. We did not in fact understand 5 years ago the true dimension of the threat of uncontrolled toxic substances in the environment.

Since the passage of Superfund we have learned that the current estimate of abandoned waste sites across this country is at least 22,000 and growing. EPA anticipates that the national priorities list of the worst sites in the country, thus eligible for Superfund money, will grow to 1,500 or 2,500 over the next several years. According to EPA, "depending on assumptions about the size of the national priorities list, the average cost of a remedial action, and the level of responsible party contributions to cleanup actions, future funding needs could range from $7.6 billion to $22.7 billion, in 1983 dollars." This estimate of needs is based only on the more traditional waste sites and the more obvious hazardous releases into the environment. There are, however, a number of emerging problem areas which could expand dramatically the needs of the program, according to EPA. These include currently operating hazardous waste facilities which are expected to close soon, municipal landfills, industrial landfills, mining waste sites, leaking underground storage tanks, contamination from agricultural uses of pesticides and radioactive sites.

It is clear by any estimate that is used that the problem is even more of a health threat than the Congress thought, and that even this reauthorization of the law for an additional 5 years will be only another step in addressing it, not a complete solution. Indeed, until our modern technology advances to a point that we minimize dramatically the hazardous byproducts of our industrialized society, we can reduce but not eliminate the risk posed by hazardous waste.

Nevertheless, this is a strong piece of legislation which continues what we set in motion in 1980, at an accelerated pace, but one which is in fact realistic.

I would like to discuss in greater detail the aspects of this bill which are most significant in my view.

STRICT LIABILITY

One of the integral parts of the Superfund law is the standard of care, strict liability, which is imposed on those who generate, transport, store or dispose of hazardous substances. S. 51 retains that high standard of care. Under the standard of strict liability, the Federal Government does not dictate how a business must act, what it should make, how it should transport

its products, or what means of disposal it should use. It does, however, determine in advance what the legal consequences of such activities may be if they result in harm.

When the members of the Committee on Environment and Public Works first looked at the problem of uncontrolled releases of hazardous substances into the environment in 1980, we were confronted with a basic policy consideration: Who should be held liable and under what standard of liability? It was clear even 5 years ago that the Federal Government was not in a position to simply fund 100 percent of the remedial action required to make thousands of abandoned chemical dumpsites safe for surrounding communities. It was also clear then that waste sites were only part of the problem. An equally alarming problem was the devastating effect of ongoing releases of toxic chemicals into the environment through spills, discharges and intentional dumping.

Not only did we feel that the Federal Government could not fund by itself the necessary cleanup, we also felt that the Federal Government should not remedy by itself the consequences of dangerous activities by private parties.

We adopted the concept of strict liability for a number of reasons, the principal ones being fairness and equity. By imposing strict liability on the person creating a hazard, the Superfund law assures that those who caused the harm bear the cost of that harm, and encourages the elimination of as many risks as possible to avoid liability.

This standard of care is a concept well-recognized and accepted in courts of law for over 100 years. The leading case from which strict liability was developed, Rylands against Fletcher, articulated the theory in this way in 1868:

> We think that the true rule of law is that the person who for his own purposes brings on his land and collects and keeps there anything likely to do mischief if it escapes, must keep it at his peril, and if he does not do so is prima facie answerable for all the damage which is the natural consequence of its escape.

Since that decision was handed down, the concept of strict liability has been adopted in every State in this country. Even the few jurisdictions which reject Rylands against Fletcher by name have accepted the principle of the case under the guise of other theories; most frequently, those courts impose the same strict liability rule under the theory of nuisance.

The acceptance of the strict liability concept as the majority rule in this country is reflected in the adoption of strict liability by the American Law Institute as early as 1936. A second restatement was adopted in 1976. I would like to quote it, and remind this body that this was written before the Superfund law was even envisioned.

The second restatement says:

> One who carries on an abnormally dangerous activity is subject to liability for harm to the person, land or chattels of another resulting from the activity, although he has exercised the utmost care to prevent the harm.
>
> The liability stated in this section is not based upon any intent of the defendant to do harm to the plaintiff or to affect his interests, nor is it based upon any negligence, either in attempting to carry on the activity itself in the first instance, or in the manner in which it is carried on. The defendant is held liable although he has exercised the utmost care to prevent the harm to the plaintiff that has ensued. The liability arises out of the abnormal danger of the activity itself, and the risk that it creates, of harm to those in the vicinity. It is founded upon a policy of the law that imposes upon anyone who for his own purposes creates an abnormal risk of harm to his neighbor, the responsibility of relieving against that harm when it does in fact occur. The defendant't enterprise, in other words, is required to pay its way by compensating for the harm it causes, because of its special, abnormal and dangerous character.

This principle was not created in 1980 in the first Superfund law. It existed before 1980 in every State in the Union. The Congress simply made the judgment in 1980 that the principle of strict liability should be extended uniformly to activities involving hazardous substances. This standard of care has been effective in the past 5 years in securing numerous judgments and settlements with private parties at hazardous waste sites across the country, a result which could not have been achieved under a less demanding standard of liability such as negligence.

The standard of liability impsed under Superfund is derived from the standard of liability imposed under section 311 of the Clean Water Act, which is strict, joint and several. Courts have held that where appropriate, liability under Superfund may be joint and several, as a matter of Federal common law. This principle has been applied by courts on a case-by-case basis where the harm caused by hazardous substances is indivisible. When a responsible party can establish to the court's satisfaction that its contribution to a site, and therefore, its cleanup, is divisible, joint and several liability will not be impsed. This application is consistent with the restatement second of torts that:

> (1) Damages for harm are to be apportioned among two or more causes where
>
> (a) there are distinct harms, or
>
> (b) there is a reasonable basis for determining the contribution of each cause to a single harm.
>
> (2) Damages for any other harm cannot be apportioned among two or more causes.

It has been suggested by some that the use of joint and several liability is an extraordinary tool which is unfair in concept and punitive in its implementation. However, as the Administrator of the EPA, Lee Thomas, has stated, it is an extraordinary tool for an extraordinary problem. I believe that the Government has used this tool with restraint, and that its continued use is important to the enforcement program.

One proposed change to the law is a mandatory apportionment scheme under which the burden of proof would fall on the Government to establish the portion of the harm for which each party is responsible, and apportion the cleanup costs accordingly. While this may have a surface appeal, the impacts of such a change on the Superfund Enforcement Program would be far-reaching.

The Department of Justice as well as the Environmental Protection Agency have testified on this issue. According to the EPA, "a mandatory apportionment scheme would severely impair the effectiveness of the Superfund Enforcement Program. Substituting an apportionment scheme for the strict, joint and several liability regime established under the existing statute would delay cleanups and increase costs, without providing substantially increased fairness in cost apportionment among responsible parties."

I ask unanimous consent that a detailed description of the negative impacts of apportionment written by the Environmental Protection Agency be printed in the RECORD following my remarks.

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

(See exhibit 1.)

VICTIM COMPENSATION

Mr. MITCHELL. Mr. President, as many of the Members of the Senate recall, a provision of the 1980 bill approved by the Committee on Environment and Public Works provided compensation for medical expenses to persons injured by exposure to hazardous substances in the environment. Two alternative remedies were provided, an administrative system for reimbursement of out-of-pocket medical expenses and burial benefits, and a Federal cause of action in district court to recover the same expenses, as well as compensation for pain and suffering.

Under threat of a filibuster in the waning days of the 96th Congress, the proponents of our committee bill dropped that provision for compensation of human victims, and retained only compensation for damage to publically-owned natural resources.

Thus, for the past 5 years, we have had the incredible and unjustifiable standard that says that if certain property is damaged by hazardous waste release, there can be compensation; but if a human being is damaged by the same release, there can be no compensation from this fund.

We authorized instead of that a study of the adequacy of existing remedies to compensate persons injured through exposure to toxic substances in the environment.

The group which conducted the study was composed of representatives of four major legal organizations, the American Bar Association, the American Law Institute, the American Trial Lawyers Association, and the National Association of Attorneys General. Their report concluded:

This review of existing causes of action and barriers to recovery has shown that although causes of action do exist for some plaintiffs under some circumstances, a private litigant faces substantial substantive and procedural barriers in an action to recover damages for personal injury or property damage due to hazardous wastes, particularly where the individual claims are relatively small.

The study group made 10 recommendations, one of which was an administrative system of compensation. The bill before us does not fully implement that recommendation. Rather, it establishes a demonstration program of administrative victim assistance. I personally believe that such a program could be and should be operated in every State of the Nation, because no State is immune from the human health threat of hazardous substances in the environment.

However, this demonstration program would make available only $30 million per year up to ten areas of the country selected by the Environmental Protection Agency. Several limitations have been incorporated into this provision to address concerns raised by Members of this body and by other interested parties. The most obvious is, of course, the limited demonstration nature of the program, and the dollar limitation. This program can last no longer than 5 years and can spend no more than $30 million a year. The Congress must make an affirmative judgment to continue this program during the next authorization of the Superfund law. Otherwise, it will expire.

Other limitations include: A requirement that any fund expenditure under this program be repaid from a judgment or settlement received by a person for medical expenses; a requirement that this remedy be used only when a solvent responsible party is not available; a requirement that the benefits of this program are available only to those who have no other form of health insurance, either public or private; and the use of private insurance companies, not a new Federal bureaucracy, to administer the assistance programs.

I do not want to mislead anyone as to the adequacy of this provision as an ultimate solution. It is a bare minimum, designed to provide a safety net for those who are truly without recourse when injured by a toxic chemical in the environment. It is a pilot program designated to determine whether a mechanism for victim assistance can work without the drastic impacts predicted by its detractors.

I ask unanimous consent that a description of the provision be printed in the RECORD at this point.

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

SUMMARY OF VICTIM ASSISTANCE DEMONSTRATION PROGRAM—(SECTION 129 OF S. 51)

FUNDING

Funding of $30 million per year is authorized from the general revenue contribution to the Trust Fund for five years, a total of $150 million of the $7.5 billion Fund.

ELIGIBILITY

A geographic area for which a health assessment has been performed which reaches specified conclusions may be nominated by the State in which it is located for participation in a victim assistance demonstration program.

Section 116 of S. 51 already requires the Agency for Toxic Substances and Disease Registry to perform a health assessment at each site on the National Priorities List within two years and at sites nominated by individuals and doctors.

A health assessment is defined in S. 51 as an assessment of the potential risk to human health posed by an individual waste site. This determination is based on factors such as the nature and extent of contamination, the pathways of human exposure, the size and susceptibility of the community which is exposed, and identification of health effects assocated with the substances at a site. This information will be used to make a determination as to whether a hazardous substance at a site is associated with an illness in the surrounding community.

Section 129 specifies that in order for an area to be eligible, its health assessment must indicate that:

(1) There is a disease or injury for which the population of that area is at significantly increased risk as a result of the release of a hazardous substance;

(2) Such disease or injury has been demonstrated to be associated with exposure to a hazardous substance; and

(3) The area contains indiviudals who have been exposed to a hazardous substance in the environment.

SELECTION

From the areas nominated, the President will select no less than five and no more than ten areas for demonstration programs. The selection must take into account the extent of the problem at a given site and the experience of the State and local government in administering hazardous waste programs.

VICTIM ASSISTANCE

A State selected to operate an assistance program for a particular site will provide medical testing and certain health insurance benefits to members of the exposed population who have no other source of health insurance. The mechanism for providing assistance will be insurance policies which are secondary to all other coverage carried by an individual.

Persons who have a disease or injury identified in the health assessment document as being associated with the substance to which the individual has been exposed are eligible for past out-of-pocket medical expenses relating to that illness, and a secondary insurance policy for future out-of-pocket expenses relating to that illness.

Persons who have been exposed but have no present symptoms of an identified illness are eligible for a secondary insurance policy for periodic medical screening to determine the presence of the illness in the future.

LIMITATIONS

All insurance benefits are secondary to all other coverage available to a person in the exposed population. It is estimated that approximately 90% of the U.S. population has some form of medical benefits from a private or public source.

For private insurance policies, the determination as to whether a person has primary health insurance will be made as of thirty days prior to the date a State nominates an area for participation. This will guard against the modification or cancellation of an existing policy in expectation of benefits from this program.

No double recovery is allowed. The proceeds of any claim against a responsible party must be repaid to the Fund by any individual who has received assistance under this program.

Assistance under this provision is not available where a solvent responsible party is paying compensation or has accepted liability for medical assistance.

EVALUATION

The President is directed to submit annual reports, starting in FY 1987, on the implementation of this program, including an evaluation of each of the State programs.

Each participating State is directed to submit a report to the President and the Congress by January 1, 1990 on the implementation of its program.

Mr. MITCHELL. Mr. President, there are several additional modifications that we have made to improve the implementation of the program based on our experience. Most notable is the increased funding for the cleanup of those sites for which no responsible party can be found. Other significant changes in the law include an explicit directive to EPA to clean up all sites to levels that are protective of human health and the environment, and mandated health studies at all national priorities list sites.

Mr. President, I cannot emphasize strongly enough that this is a public health statute. A delay in the reauthorization of this law could mean literally continued harm to persons exposed to these toxic chemicals in the environment. This result can be avoided, and I am confident that we will act expeditiously to avoid it.

EXHIBIT 1

What are the enforcement program concerns related to eliminating joint and several liability? What will elimination of this standard of liability do to our present enforcement program? How would mandatory apportionment schemes be implemented?

ANSWER

As described in detail in the answer to question number 4, below, a mandatory apportionment scheme would severely impair the effectiveness of the CERCLA enforcement program. Substituting an apportionment scheme for the strict, joint and several

liability regime established under the existing statute would delay cleanups and increase costs, without providing substantially increased fairness in cost apportionment among responsible parties.

Under the theory of joint and several liability as currently interpreted by the courts, responsible parties have the task of apportioning costs among themselves, unless they can demonstrate to the court's satisfaction that the costs are divisible. An apportionment scheme would instead require courts or the Federal government to apportion the cost of cleanup among parties, or between responsible parties and the Fund, based on largely subjective factors and on evidence presented by the parties and the government.

Apportionment schemes would be most detrimental to the enforcement program if they authorized apportionment in advance of the government's action to compel responsible parties to undertake a cleanup. Under the existing system, courts may apportion costs following an adjudication of liability and a determination that parties are jointly and severally liable.

The specific drawbacks of a mandatory apportionment scheme are:

Delayed cleanups;

Reduced incentives for collective action and negotiation and an increased chance of litigation;

Complex administration; and

Inadequate consideration of fairness among different types of responsible parties.

The following sections discuss these drawbacks.

DELAY OF CLEANUP

EPA would have to determine the appropriate share of cleanup costs for each responsible party at a site before it could negotiate with responsible parties or litigate for cleanup. The government would then have to negotiate with each party individually. Even Fund cleanup would be more costly and slower because of the need to obtain the additional evidence during the Fund cleanup that would be needed for cost recovery actions. Evidence preservation may require, for example, the EPA's contractor perform a complete sampling and analyses of every drum during a removal action.

The government would be required to make a number of additional factual showings. For example, it would be under a much more difficult burden to show who put what substances where, whether particular substances migrated and to where they migrated, the cost of cleaning up particular substances, and the toxicities of particular substances both alone and in conjunction with other substances at the site. In many cases, EPA could not sustain this burden at all, because of the destruction or loss of responsible party records or because the waste management practices used at the site caused an indivisible harm. Thus, Section 106 actions would be made impracticable or impossible in many cases by the high costs of obtaining evidence and the increased time that it would take to get it. The unavailability of private party actions under Section 106 would in turn increase the burden on the Fund and on EPA's ability to undertake and manage response actions.

IMPACT ON NEGOTIATIONS

Apportionment discourages cooperation among responsible parties. Under joint and several liability, the government negotiates with PRPs as a group. Joint and several liability provides the incentive necessary to reach a collective settlement. This incentive would be destroyed if each party could be held liable for no more than a specific share.

Rather than assuming the responsibility for cleanup and negotiating costs among themselves, responsible parties would litigate with the government concerning the fairness of the apportionment scheme and of the scheme's application to them. Responsible parties are thus encouraged by apportionment to wait and fight the government's case against each of them.

COMPLEXITIES OF ADMINISTRATION

No single factor is likely to be adequate for apportioning costs among responsible parties. Apportionment schemes suggested for CERCLA have generally involved a mix of factors.

The following are typical of the factors suggested in apportionment schemes:

Ability of the parties to demonstrate that their contribution to a discharge, release or disposal of a hazardous waste could be distinguished;

The amount of hazardous waste involved;

The degree of toxicity of the hazardous waste involved;

The degree of involvement by the parties in the generation, transportation, treatment, storage or disposal of the wastes;

The degree of care exercised by the parties with respect to the hazardous waste concerned, taking into account the characteristics of such hazardous wastes; and

The degree of cooperation by the parties with Federal, State or local officials to prevent any harm to public health or the environment.

Application of the criteria would involve, for each party, answering complex factual questions and making subjective judgments on each criterion. Responsible parties are likely to seek administrative or judicial review of administrative decisions made by the government even if the government's determinations are entitled to some persumption of validity.

The standards used for assessing the degree of toxicity or hazardousness under an apportionment scheme would likely be subject to intense criticisms from responsible parties. For example, EPA received objections from commenters in developing the toxicity standards for use in listing sites on the NPL, because of the broad range of substances and effects that might be considered. Comparisons between different types of hazards may be viewed as subjective. The objections were the basis for criticisms of the NPL, which simply helps to identify priorities for cleanup. If the factors will be used to determine the extent of cleanup costs, they are likely to be a more intensive focus of criticism, disagreement, and, ultimately, litigation.

In any case, EPA resources would be diverted from identifying the appropriate remedy and overseeing cleanup to performing economic allocations among responsible parties and carrying out investigations designed for litigation needs.

Moreover, a mandatory apportionment scheme would require the government to sue all PRPs at a site, including de minimis parties, to get a complete cleanup or complete recovery of costs. This would present significant logistical problems at larger sites that have large number of PRPs and would lead to further unaffordable delay.

In addition, as a result of mandatory apportionment the government might be forced to develop or review response plans from each party that are tailored to its individual obligations. This could lead to insurmountable coordination problems with multiple parties working at the same site.

FAIRNESS AMONG RESPONSIBLE PARTIES

Our experience with responsible parties apportioning costs among themselves at sites has been good. Initially they disagree as to what methods are fair. Eventually, however, they negotiate a consensus. There is no reason to believe that an apportionment scheme imposed by the government will be viewed as any more fair than one which they develop themselves.

Determination of fairness are highly subjective, and no single government scheme is likely to be acceptable to all parties. For example, contributors of low-volume, high-toxicity wastes are likely to favor a volumetric approach, while contributors of high volumes of comparatively innocuous wastes are more likely to object to it.

In sum, although the concept of apportionment is attractive, the practical difficulties of a mandatory apportionment scheme would substantially interfere with attainment of the goals of CERCLA. Incentives for private party cleanup before litigation would be reduced, and the government would not be able to implement an apportionment scheme that is markedly more reasonable, fair, or efficient than apportionment as currently practiced by the parties and the courts. Apportionment before judgment would necessarily be based on inadequate base of information.

Mr. STAFFORD. Mr. President, I thank the able and distinguished Senator from Maine for his contribution to the development of the legislation we have before us and for his contribution over the years to the Committee on Environment and Public Works in many ways, especially in environmental fields. His understanding of the judiciary and the legal problems is probably the best of anyone on our committee and has been especially valuable to the committee and its work over the years since he has become a Member.

Mr. President, we hope that we may be in a position before 12 o'clock, when we understand the Senate will recess for 2 hours, to act on the committee amendments by unanimous consent. That has not yet been cleared, but it will be the chairman's intention to move, with the proper phraseology, that we do that before 12 o'clock, if clearance occurs.

In the meantime, for the committee, the chairman points out to Senators or members of their staffs who may be listening to the proceedings this morning that there are a number of amendments to this measure which have been worked out and can be dealt with promptly by the committee.

It is this Senator's understanding that we will revert to this measure when we have concluded work on the immigration bill this afternoon. I am unable to say what time that may occur; but in the hope and with the reasonable expectation that that may occur before it is time to close business for the day, I urge Senators and staff who may be listening to these proceed-

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ings for them that if they have amendments which we believe we can deal with on a prompt basis, they be available late this afternoon so that we can dispose of as many amendments as possible.

Mr. President, in view of the time we still have available, let me touch on some of the amendments which we hope we can dispose of today, in order to save the time of the Senate tomorrow.

There are the amendments agreed to between this Senator and members of the Committee on Environment and Public Works and Senator THURMOND and member of the Committee on the Judiciary with respect to some modest changes in S. 51 which the Judiciary Committee has suggested, as individual members, and which Senator THURMOND and I have agreed to, which I propose to offer on his behalf and mine this afternoon.

There are State standards, and amendments affecting them possibly to be offered by Senator HART. I should say parenthetically that things change so fast on a matter like this that I may recount some amendments which actually will not be put forward. But these as we understand it at the moment are likely amendments. There may be an amendment with respect to Government inheritance of sites. This amendment would exempt State and local governments from liability claims and cases where they unknowingly acquired property containing existing hazardous waste sites. That may be offered either by the committee or by Senator BENTSEN. There may be an amendment offered by the committee or Senator HEINZ with respect to post-closure liability fund.

This amendment would either repeal the post-closure fund or require modification that it be studied. The Senator from Vermont, chairman of the committee, may offer an amendment with respect to trigger overincrease. This amendment would increase the ceiling level within the fund at which point taxation would temporarily cease until obligations increased—in other words, not to impose tax when the money was not necessary.

We understand in the committee that Senator KASTEN may have a possible amendment. We also understand that Senator BENTSEN, who may be joined by the committee or the committee acting jointly, will offer an amendment with respect to methane recovery operators. We further understand that Senator WEICKER may offer an amendment with respect to lead studies. There may be an amendment offered by the committee with respect to hazardous substances inventory.

There may be an amendment offered by this Senator, Senator BENTSEN, and others with respect to risk retention programs. This amendment would enable companies to organize or pool together to provide self-insurance. The intent is to address the unwillingness of insurers to underwrite environmental pollution policies. There likely will be an amendment offered by Senator BRADLEY with respect to the use of lead solder. The committee, Senator BENTSEN, or all of us may jointly offer an amendment with respect to State and local responsibility.

There likely will be an amendment offered by Senators MITCHELL and LAUTENBERG with respect to requiring EPA to study effects of indoor air pollutants with emphasis on radon gas, a matter on which I believe the able Senator from Maine has held a hearing. These are some of the amendments which may be offered, and they are all relatively noncontroversial and in the opinion of this Senator as chairman of the committee will require very little time for disposition.

Mr. GORE. Mr. President, today we begin debate on S. 51, the Superfund Improvements Act of 1985. In my opinion, this is one of the most important pieces of legislation that this Senate will consider.

As my colleagues are all aware, the original Superfund law—the Comprehensive Environmental Response, Compensation and Liability Act [CERCLA]—was passed in 1980 in the final days of the 96th Congress. The legislation was the product of a long and deliberative process, during which the Congress and the Nation as a whole had become painfully aware of the great threat posed to our health and safety by abandoned hazardous waste sites.

It doesn't seem that long ago that the tragedy of Love Canal was first brought to the attention of the American public. Indeed, as a freshman Member of the House of Representatives in 1977, I participated in one of the first congressional hearings on Love Canal. Although we were somewhat new to the issue, it did not take long for those of us in Congress at that time to realize that Love Canal was only a small manifestation of a much, much larger problem.

Numerous hearings in the Congress soon revealed that for decades the Earth had been utilized as a garbage can for all the hazardous and toxic wastes that American industry could produce. Because no accurate records had been kept of the sites and the wastes that went in them, it was difficult to gauge exactly how large the problem was. Nonetheless, we knew that the thousands of sites of which we were aware were simply ticking time bombs waiting to explode. Something had to be done.

The answer that we came up with was the Superfund. To be sure, it was not a perfect solution; but it was a start. And more than anything else, it represented a commitment on the part of the Congress to make certain that the many dangerous hazardous waste sites located throuhout this country would in fact be cleaned up.

I was one of the principal authors of the Superfund law in 1980, and I take a special point of pride in it. I believe that it is a good law and one that has worked remarkably well over the last 5 years despite all the troubles that have plagued its administration. It has helped us begin to come to grips with the realities of our national hazardous waste problem and to rectify the tragedies that the indiscriminate disposal of waste can cause.

Today, as we being our debate on this legislation, the question is not whether we should reauthorize the Superfund, but what improvements must be made to the law to ensure that it is as effective as it can be. I believe that we have an obligation to the people of this country to make the Superfund as strong as it possibly can be.

The original Superfund plan was designed to raise a total of $1.6 billion over a 5-year period. Our experience with the program since its creation, however, has demonstrated beyond doubt that much, much more is needed. Indeed, it was clear very soon after the fund's establishment that $1.6 billion was not enough even to begin to clean up the 410 hazardous waste sites that were included on the original national priorities list. Today, that list exceeds 800 sites—and it is growing.

The broad dimensions of our hazardous waste problem were starkly illustrated by a report issued last December by the Environmental Protection Agency pursuant to section 301 of CERCLA. The purpose of that report was to review the effectiveness of the Superfund and to evaluate the future needs of the fund.

The findings of that report were incredible. EPA estimated that the national priorities list will eventually contain between 1,500 and 2,500 sites. EPA's baseline estimates, using its current program experience, was that the list will actually increase to approximately 1,800 sites. And remember these are only the very worst sites in the country. There are tens of thousands of other sites out there that are not on the list. The national priorities list is just the tip of the iceberg.

As disturbing as the number of priority sites was EPA's estimate of the cost to clean these sites up. EPA concluded that the future funding needs of the Superfund Program could range from $7.6 billion to $22.7 billion in fiscal year 1983 dollars. Specifically, EPA estimated that $11.7 billion would be needed to address the 1,800 sites that the agency anticipates will eventually comprise the national priorities list. Clearly, this is a far cry from the $1.6 billion raised by the present program.

Even more frightening are the estimates produced by the Congressional Office of Technology Assessment. In a report released in April of this year, OTA stated that the national priorities list could reach as many as 10,000 sites. The cost to clean up these sites would be staggering: $100 billion in OTA's opinion.

Regardless of which figures you believe, one thing is indisputable: The size of the Superfund will have to be increased—and it must be increased dramatically. I intend to support a greatly expanded Superfund, and I urge my colleagues to do the same.

In addition to increasing the amount of money in the Superfund itself, we must make sure that the law is as strong as it can be with regard to its liability and enforcement provisions. During the course of the deliberations on S. 51 there will likely be several attempts to weaken the provisions of the law. We must not let these attempts succeed. Indeed, if anything, we should seek to strengthen the law. We must make sure the EPA is equipped with every tool it needs to persuade those parties responsible for the waste to clean up the sites or to force them to pay for any cleanups that EPA must conduct itself. To do otherwise would be foolhardy.

Mr. President, I think that the duty of this body to enact the strongest possible Superfund bill is very clear. We know the size of the problem that confronts us. And we know what we must do about it. It is now time for us to do it.

FEDERAL FACILITIES

Mr. PROXMIRE. Mr. President, the Environment and Public Works Committee included almost all of S. 517 as the new Federal facilities section of Superfund.

I introduced S. 517 on February 27 with Senators HART, DIXON, SIMON, and GORE, and with the support of the National Wildlife Federation & Environmental Policy Institute.

Senator HART offered S. 517 during committee markup.

With my language, Superfund for the first time treats Federal wastesites, civilian and military, in the same way as private ones.

Under its terms, EPA is put on a schedule for assessing and ranking Federal sites. Affected Federal agencies are required to begin remedial actions for those sites so seriously polluted that they are included on the national priority list.

EPA enters into interagency agreements with those Federal agencies with priority sites, insuring cleanup as expeditiously as practicable.

I also favored inclusion in Superfund of my provision which authorized legal actions by EPA against Federal agencies which fail or refuse to comply with site cleanup requirements. Although this was omitted by committee, the newly added citizen suit section should provide an adequate substitute for enforcing agency compliance.

Mr. President, existing law requires Federal cleanup but almost none takes place because a series of Executive orders effectively nullify Defense Department compliance.

Unfortunately over 450 military installations contain seriously contaminated sites. Although the exact number of federally owned or operated toxic wastesites is still unknown, estimates by the National Wildlife Federation put the total as high as 1,400.

Even worse, the entire Defense Department completed only 11 remedial actions against toxic wastesites in an almost 10-year period. Civilian agencies performed no better.

The new Federal facilities section should change this dismal record and convert Uncle Sam into Mr. Clean.

I thank my colleagues once again for including it in the bill.

Mr. STAFFORD. Mr. President, unless there is someone else who wishes to speak, 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. STAFFORD. 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. STAFFORD. Mr. President, I wish to remind Members and staff who may be listening that it is the hope and expectation of the chairman of the Committee on Environment and Public Works that we will have an opportunity late in the afternoon to dispose of noncontroversial amendments. We would appreciate the cooperation of Senators who have such amendments in accomplishing that desire.

RECESS UNTIL 2 P.M.

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

Thereupon, at 12 noon, the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. EVANS].

IMMIGRATION REFORM AND CONTROL ACT OF 1985

The Senate resumed the consideration of S. 1200, to amend the Immigration and Nationality Act to effectively control the unauthorized immigration to the United States, and for other purposes.

AMENDMENT NO. 611

(Purpose: To express the sense of the Senate that the 60-cent per gallon tariff on imported ethanol should be immediately implemented)

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the Senate will now proceed to the consideration of the Exon amendment, No. 611 to S. 1200, to be equally divided and controlled by a rollcall vote in relation thereto. Who yields time?

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum, with the time of the quorum to be equally divided.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. EXON. Mr. President, What is the matter presently before the Senate and what time agreements have been entered into? And is time now running?

The PRESIDING OFFICER. The Exon amendment, No. 611, is before the Senate. There will be 5 minutes of debate divided equally. The quorum call was divided equally between sides.

Mr. EXON. I yield myself that portion of the 2½ minutes that might be necessary.

Mr. President, since the time is extremely limited, let me say that the sense-of-the Senate amendment that we are about to vote on simply and directly tells the Department of the Treasury that the Senate wants Treasury to implement past tariff restrictions on imported ethanol to be instituted forthwith. The bottom line on this situation is that on or about October 4 of last year, Treasury granted an 80-day waiver to Brazil, which they have been taking advantage of, that is currently allowing them to dump nearly a year's supply of ethanol into this country between August and November 1. This action must be reversed by executive action now, as each day's delay is devastating to the domestic ethanol interests, and also to the related agricultural interests that are suffering terribly now with the declining prices.

Mr. President, I reserve the remainder of my time.

Mr. SIMPSON. Mr. President, in response to the sponsor of the amendment, I agreed during the previous debate to accept this amendment. I do so once again. If the sponsor requests a rollcall vote, there is really nothing I can add except that the issue will be moot by the time we get to any kind of conference and get to that point. So,

unless someone else wishes to speak, I would say that we vote in favor of the amendment ringingly—I believe that is what the sponsor is seeking—and it will not become part of anything that will be conferenceable because it will not be timely.

Mr. EXON. Mr. President, I thank my friend and colleague, the distinguished leader of the overriding bill on which this amendment is placed. I agree with him. I simply say that I know this bill is not likely to become law by November 1. We are using this vehicle only to send a message that I think is the overwhelming opinion of the U.S. Senate that something must be done.

I am following up on a letter of a similar nature that was sent to the Secretary of the Treasury by the distinguished majority leader and the distinguished chairman of the Committee on Foreign Relations sometime ago. I hope that we have an overwhelming vote in favor. Let me say that there are Members of the body who are delayed from coming to the floor from other meetings. I simply would ask that the statements by those people be printed in the RECORD.

Mr. GRASSLEY. Mr. President, I wholeheartedly join in cosponsoring this amendment offered by Senator EXON and I urge my colleagues to vote in favor of it. We need to send a strong signal to the administration that congressional efforts and intent to improve farm income by developing new markets through a growing ethanol industry and to encourage our own energy self-sufficiency must not be circumvented.

As you know, Federal as well as State governments have invested considerable time and money toward encouraging the growth of the ethanol industry. Foremost in my support for these efforts were the benefits that farmers could reap through larger markets. Another primary concern was the need to set the United States on a course toward energy self-sufficiency. This Government assistance has consisted of tax exemptions for the sale of ethanol/gasoline blends, as well as loan guarantees for ethanol projects.

Congress then took steps to impose a special duty on imported fuel ethanol in order to offset these tax exemptions. Presently, this duty equals 60 cents per gallon plus a 3-percent ad valorem tax.

Subsequent Customs Service letter rulings greatly undermined congressional intent. These rulings created a huge loophole which would allow massive imports of ethanol if it were mixed with as little as 7 percent toulene or other additives.

I joined a number of my colleagues in protesting these rulings, and on August 2, 1985, Customs announced that they were reversing its earlier ruling and that the 60-cent-per-gallon duty will be applied to ethanol imports mixed with other additives.

The problem, however, is that this mixed ethanol can continue to be imported duty free into the United States until November 1, 1985. This will result in a flood of ethanol imports.

Estimates vary, but I have seen estimates as high as 1 billion gallons as to the amount of ethanol that could enter the United States if all the reliance claims that have been filed go through unchecked. This could cost American farmers 25 cents per bushel of corn and deal a severe blow to the ethanol industry. It would also undermine the administration's goal of controlling Government spending and reducing Federal deficits. The cost of the Government farm programs would skyrocket and hundreds of millions in import duties would be lost.

These duties must be imposed immediately, and I urge my colleagues to join us in sending this strong signal.

Mr. WILSON. Mr. President, I am a member of the Senate Agriculture Committee who has worked long and hard to ensure that American farmers are given the opportunity to develop needed outlets for their production and to compete fairly in the world market. Nevertheless, I rise in opposition to the resolution introduced by my colleague from Nebraska, Mr. EXON, urging that the 60-cent tariff per gallon on renewably derived ethanol imported for use as fuel be imposed immediately. The fuel ethanol issue is an extremely complex one, and the outcome could have extremely important implications for the citizens of California and other States where domestic fuel ethanol supplies are not now available and will not be available for the foreseeable future.

I do not wish to dwell on the specifics of the controversy surrounding the recent customs rulings concerning the dutiable status of certain fuel ethanol/petrochemical blends. I understand that these rulings date back to early January 1984, and that Customs' attorneys had the opportunity to evaluate at least six different requests during that period. The Commissioner of the Customs Service specifically stated back in December of last year that he was administratively unable to close the blends loophole, and S. 575 was introduced early this year to address that fact. However, as a result of an outcry by certain domestic fuel ethanol interests, the Customs Service revoked its rulings on August 2. Since then, the Court on International Trade has made two separate rulings, the most recent being handed down yesterday, on the propriety of the Customs grandfather decision which gave certain firms, with letter rulings and contracts based on good faith reliance on those rulings, until November 1 to bring product in subject to the 5-percent ad valorem duty, as opposed to the 60-percent duty under TSUS 901.50. It is my understanding that the court denied a preliminary injunction which was sought by certain domestic ethanol producers to prohibit the importation of ethanol. I believe that Congress should let the courts decide the merits of Customs' decision.

The resolution before us is important because it raises some questions about the proper approach to fuel ethanol imports, in light of some very recent regulatory developments regarding gasoline lead content. These new regulations, promulgated by the EPA early this year, require a 90-percent reduction in gasoline lead content by next January—from 1.1 grams per leaded gallon to 0.1 grams per leaded gallon. This massive reduction in lead levels has caused many gasoline refiners and blenders—especially the independents who must compete with the major petroleum companies—to seek out cost competitive, environmentally acceptable, and efficient new sources of octane. The success of these independent gasoline marketers in obtaining such sources of octane could very well determine their economic survival, and will certainly have an impact on the price motorists pay for their gasoline, and on the type of emissions that are spewed into their air. These issues are of great concern to the citizens of my home State of California.

It has been asserted that the impact of Customs' August 28 ruling will be to allow 600 million gallons of Brazilian ethanol to enter the United States almost duty free, which is the equivalent of 240 million bushels of U.S. corn and could depress corn prices by 15 cents per bushel. If I had evidence that this in fact were the case, I would be one of this resolution's strongest supporters. However, my review of the situation reveals not only that the volume of imported ethanol likely to come into the United States by November 1 will be far less than 600 million gallons, but also that the vast majority of these imports will flow into areas of the country where the U.S. fuel ethanol industry is not able to market.

The reality of this situation is that California, New York, Pennsylvania, and other high population areas on both coasts are clearly outside the marketing zone of the fledgling U.S. ethanol industry. U.S. ethanol producers currently require not only the Federal tax exemption to be competitive, but also depend on roughly 30 State tax exemptions. Because California, New York, and Pennsylvania and many other States do not have such tax exemptions and because the additional cost of transporting the ethanol from the midwest to these markets is substantial, imported ethanol coming

into these areas will not displace domestically produced ethanol. In fact, imports brought into States such as California can help reduce the huge octane gap created by the EPA lead phaseout decision—roughly 60 billion gallons of alcohol equivalent will be needed over the next decade, while the domestic industry's capacity stands at only 60 million gallons. Such imports could actually benefit the U.S. ethanol industry by ensuring that petroleum refiners and blenders do not commit to other forms of octane enhancers which would then prevent them from accepting ethanol several years from now when they have succeeded in expanding domestic production.

I am a strong believer in finding new domestic outlets for our farmers. I know the fuel ethanol industry is an important part of this strategy. Furthermore, I am committed to finding environmentally acceptable ways to enable our gasoline marketers to meet the octane gap created by the EPA's lead phaseout directive. Finally, it is critical to provide motorists with an efficient, competitively priced octane enhancing component.

I am painfully aware that we must be always alert to other countries attempting to take advantage of our open trading system, and harming our domestic industries in the process. However, in this particular instance, I believe that the interests of U.S. farmers, the ethanol industry, motorists, and our environment are advanced by allowing the responsible importation of fuel ethanol, particularly in areas of the United States where domestic ethanol supplies cannot reach.

It is my understanding that the current duty on imported fuel ethanol was imposed in the 96th Congress in the Omnibus Reconciliation Act of 1980. I know that I, and many of my colleagues, have not had the opportunity to review the appropriateness of the duty on imported ethanol in the hearing process or through debate on the floor. I hope that we have the opportunity at a later date to give this important issue the careful deliberation it deserves. Nevertheless, in the meantime, I would respectfully urge my colleagues to oppose this particular resolution.

Mr. DURENBERGER. Mr. President, I rise in support of the amendment of my colleague from Nebraska, Senator EXON, which expresses the sense of the Senate that the 60-cent-per-gallon tariff on imported ethanol should be immediately implemented.

Customs has allowed imports of ethanol/toluene blends to enter this country duty free for the past 6 months and will continue to enter duty free until November 1. The amendment before us today directs the Customs Service to immediately restore the congressionally mandated tariff on ethanol imports. I was astounded to learn of this indiscretion from farmers while I was at the Minnesota State Fair. And once the facts became clear, I was outraged.

Let me provide the Senate with a chronology of the events leading to this situation. In 1980, Congress, as part of an effort to promote a decentralized U.S. ethanol industry to provide for long term national energy security, imposed a 50-cent-per-gallon duty on ethanol imports. This was reaffirmed in 1984 as a part of the Deficit Reduction Act when we increased the exemption from 5 cents per gallon to 6 cents and raised the tariff accordingly to 60 cents.

On July 5, 1984, a letter was sent to the U.S. Customs Service from the U.S. Ambassador to Brazil, Diego Ascencio, requesting a letter ruling of dutiable status of anhydrous ethanol with additives to be used as gasoline additives. Mr. Ascenio wrote, "What the Brazilians are interested in is finding some formula to export a product of alcohol, but which is different enough to qualify for a lower tariff."

Later that month, it was reported that Brazil was considering exporting ethanol to the United States mixed with gasoline additives in order to circumvent the ethanol tariff.

On September 12, 1984, a letter was sent by Arthur P. Schifflin, Chief of the Central Classification Branch of the U.S. Customs Service, allowing 80 to 90 percent ethanol blended with benzene, toluene, and xylene to qualify for a duty of 5 percent ad valorem, rather than the fuel ethanol duty of 3 percent ad valorem plus 60 cents per gallon.

From January through June 1985, private letter rulings were issued by the Area Director of the Port of New York John J. Martuge interpreting the Tariff Schedule of the United States [TSUS] and the September 1984 letter to allow 92 to 93 percent ethanol mixed with 7 to 8 percent toluene to be imported subject only to the 5 percent ad valorem duty.

From the time these letter rulings were issued through August 2, 1985, 20 million gallons of ethanol blended with toluene entered the United States from Brazil duty free.

On August 2, 1985, the U.S. Customs Service, under pressure from the U.S. ethanol industry, reversed its earlier interpretation of the two items of the TSUS and revoked the letter rulings permitting ethanol-petrochemical blends to qualify for the lower, 5 percent ad valorem duty. Customs also stated that "with respect to any entries made after the effective date of the instant ruling, Customs would consider all facts and evidence in connection with claims of reliance on the ruling previously issued." The question that remained unanswered was how much of this blended ethanol would enter the United States free of the 60-cent duty.

Then on August 27, 1985, the Customs and U.S. Treasury compromised on the August 2 decision. Customs announced it will allow a 90-day grace period (until November 1) for entry of imported ethanol blend at the lower duty. It is estimated that anywhere from 30 million to 600 million gallons of ethanol blend, contracted prior to August 2, could enter the country at the lower duty under this restricted grandfather clause.

The effect of the higher estimate is staggering to a federal government with a deficit the size of ours and to the American agricultural economy that is in as bad a shape as ours is in.

Corn and feedgrains. 600 million gallons of ethanol is the equivalent of 240 million bushels of corn. This loss of consumption would depress corn prices by at least 15 cents per bushel and reduce farm income by $1 billion.

Farm program. The CCC would acquire this quantity of grain at an initial outlay of about $1 billion—plus 30 cents per bushel per year for storage and 25 cents per year per bushel for interest. Furthermore, deficiency payments would increase.

Lost revenues. Up to $350 million in import duties would be lost to the general treasury. Because imported ethanol is eligible for State as well as Federal subsidies established to benefit the domestic industry, State treasuries would also suffer.

Domestic ethanol industry. The domestic industry would be virtually shut down under the onslaught of ethanol imports.

In Minnesota, we have two small plants operating at 4.5 million gallons capacity. But we also have 11 proposed plants totaling over 40 million gallons. Record corn crops are projected this fall. Minnesota's projected harvest is a record 750 million bushels. It is essential for Minnesota farmers to have markets for their products. Customs has jeopardized the establishment of a strong ethanol industry in Minnesota.

We in this body are all to aware of the problems in the farm sector of this Nation. I urge my colleagues to support the Exon amendment and send a clear, strong signal to the American farmer, and an equally strong signal to the Treasury Department to immediately impose the 60-cent duty on ethanol imports.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. BOSCHWITZ. Will the Senator yield?

Mr. SIMPSON. Mr. President, I shall yield to the Senator from Minnesota 30 seconds if he wishes.

The PRESIDING OFFICER. All time has expired.

Since all time has expired, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

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

The result was announced—yeas 82, nays 15—as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—82

Abdnor	Glenn	Mitchell
Andrews	Goldwater	Moynihan
Armstrong	Gore	Murkowski
Baucus	Grassley	Nickles
Bentsen	Harkin	Nunn
Biden	Hart	Packwood
Bingaman	Hawkins	Pell
Boren	Hecht	Pressler
Boschwitz	Heflin	Proxmire
Bumpers	Heinz	Pryor
Burdick	Helms	Quayle
Byrd	Hollings	Riegle
Chafee	Johnston	Rockefeller
Chiles	Kassebaum	Sarbanes
Cohen	Kasten	Sasser
Cranston	Kennedy	Simon
Danforth	Kerry	Simpson
DeConcini	Lautenberg	Specter
Denton	Laxalt	Stafford
Dixon	Leahy	Stennis
Dodd	Levin	Stevens
Dole	Long	Symms
Domenici	Lugar	Thurmond
Durenberger	Matsunaga	Trible
Eagleton	McClure	Warner
Exon	McConnell	Zorinsky
Ford	Melcher	
Garn	Metzenbaum	

NAYS—15

Bradley	Gramm	Roth
Cochran	Hatch	Rudman
D'Amato	Humphrey	Wallop
Evans	Mathias	Weicker
Gorton	Mattingly	Wilson

NOT VOTING—3

East	Hatfield	Inouye

So the amendment (No. 611) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 618

(Purpose: To provide that no agency or instrument of the United States, or any corporation or other entity created by act of Congress shall extend any loan or other form of credit of whatever nature to any government or agency thereof, of any country in North America which allows access to its ports to any nuclear weapons delivery-capable Soviet naval vessel (except vessels in extremis) at any time after September 20, 1985)

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the Symms amendment, No. 618, on which there will be 5 minutes of debate, to be equally divided and controlled, to be followed by a rollcall vote on or in relation thereto.

Mr. SYMMS. Mr. President, I ask the distinguished manager whether it is his intention to move to table both amendments.

Mr. SIMPSON. No.

Mr. SYMMS. We do not need two votes on this. It is really one amendment.

Mr. SIMPSON. It will be my intention to move to table the first-degree amendment.

Mr. SYMMS. So the vote will be on that.

Mr. President, I say to my colleagues that what this amendment does to this: It is totally consistent with the purpose of the authors of the bill, and that is to help control the borders of the United States. I think that we in this body are most naive if we think that this legislation is going to help control our borders if Soviet expansionism continues in the North American Continent and in Central America.

It is a very clear effort on the part of the Mexican Government to cozy up to the Sandinistas by inviting the Soviet fleet to make ports of call in Vera Cruz.

I would like to have this issue aired separately, as the distinguished chairman has discussed. I believe it is consistent with the legislation, however.

I also think it is important that we vote on it now, that we send a strong signal now that we do not take kindly to the flirtation between the Mexican Government and the Soviets, that we have a clear-cut foreign policy to support our friends and to encourage our friends in Mexico not to support our enemies.

● Mr. PELL. Mr. President, I oppose and urge that we table this amendment which, if adopted, would damage our always sensitive relationship with Mexico and our other neighbors in North America. Furthermore, it could backfire and result in the banning of our nuclear capable vessels from these very same ports.

Mexico is a sovereign and independent nation, very much aware of the important role it plays in the world, especially in the Western Hemisphere. The days of the Big Stick are over. Mexico has the right to conduct its own affairs and a visit by Soviet naval ships does not constitute a threat to the United States. It is a quantum leap from a visit by naval ships to the establishment of a permanent naval squadron in Vera Cruz. Mexico has nothing to gain from that other than the wrath of the United States, its most important partner.

Under the Treaty of Tlatelolco, which established a nuclear-free zone in the Western Hemisphere, a permanent nuclear capability would surely be out of the question. The nuclear powers, including the Soviet Union and the United States, are pledged under additional protocol II to the treaty to respect the treaty in all of its express aims and provisions. It would be a violation of a solemn commitment for the Soviets to introduce nuclear weapons into the region. We and the other parties would be correct to object strenuously. I would expect the Mexicans, who took the lead in development of the treaty, to be among the strongest in refusals to allow the development of nuclear weapons by an outside power.

However, there is another aspect to this matter. The United States has steadfastly maintained the right of the nuclear nations to the transit through the region of ships and aircraft which may or may not be carrying nuclear weapons. This right includes port visits, and the United States has consistently rejected previous Soviet attempts to have transit and transport rights on port visits considered inconsistent with the treaty. Thus, for us to try to penalize Mexicans in the event of visits by Soviet ships would be to undermine our own well-considered position and could, indeed, cause us to be hoisted with our own petard.

Finally, we should be careful not to exaggerate the importance of the naval visit. A consequence of high-profile rhetoric and a stern rebuke like this could very well result in consequences far more damaging to United States-Mexican relations than a visit by Soviet naval vessels.●

A DANGEROUSLY PRECIPITOUS ACTION

● Mr. BIDEN. Mr. President, the possibility that the Soviet Union might obtain porting privileges in Mexican harbors would be a matter of grave concern. Thus it is that a rumor to this effect has moved the Reagan administration to address the Mexican Government with a firm declaration of United States interests, delivered through bilateral diplomatic channels. It is as yet, however, entirely unclear whether this rumor has any foundation. Possibly the rumor is only that; possibly Soviet porting privileges are under discussion inside the Mexican Government.

What we can know at this point, however, is that if the issue is indeed under consideration at this point, efforts by the Congress to intimidate the Mexican Government would be likely to have only one effect; and that is to back the Mexicans into a corner and move them toward approving such a decision as a way of affirming their independence from the United States.

The amendment under consideration would cut off United States loans to Mexico if porting privilege were granted to Soviet nuclear-capable vessels. Such a cutoff would have three effects. First, it would terminate some $1 billion in yearly agricultural sales to

Mexico, financed by CCC credits. Second, it would prevent some $200 to $300 in annual Eximbank credits that finance United States-Mexican trade. Third, it would end a $10 million a year narcotics program designed to stem the flow of drugs into the United States.

It requires no great analytic skill to discern that each of these cutoffs would directly damage American interests. They would also, of course, damage the Mexican economy. But even that represents indirect damage to American interests, for the Mexican Government's ability to repay some $30 to $40 billion in bank loans to the United States and its ability to stem the tide of economic refugees into the United States are dependent upon improved strength in the Mexican economy.

No one in this body would deal lightly with the issue of Soviet porting privileges in Mexico. And no one in this body should deal lightly with the overall importance of Mexico to the United States. For both of these reasons, the Senate should not today act hastily on the basis of an unsubstantiated rumor, when such action might well have the effect of moving Mexico in the very direction we wish to avoid and thus toward a period of difficulty in United States-Mexican relations that neither nation can afford.

Let us allow the administration and the Mexican Government time to handle this matter on a discreet diplomatic level, recognizing that Congressional action should be contemplated in the light of substantiated facts rather than provocative rumors. If such action is called for, there will be ample time.●

Mr. SYMMS. Mr. President, I would like to restate the issues in my amendments. A vote to table my amendments is a vote in favor of Soviet nuclear naval squardrons in Mexico and a vote against

The Monroe Doctrine, the most fundamental principle of American foreign policy.

Mr. President, the Washington Post has blacked out all reporting for the last 5 days on my amendments, but the American people know which way to vote on this issue, and the American people will be informed about how Senators voted.

Mr. President, I ask unanimous consent that some excerpts from an excellent book related to my amendment be printed in the RECORD. The exerpts are from the book entitled "James Monroe: An Appreciation—Highlights of His Life and the Monroe Doctrine," by Miles P. DuVal, Jr., captain, U.S. Navy, retired.

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

JAMES MONROE: AN APPRECIATION—HIGHLIGHTS OF HIS LIFE AND THE MONROE DOCTRINE

(By Miles P. DuVal, Jr., Captain, U.S. Navy, Retired)

(The opinions or assertions of the writer contained herein are those of a private individual and are not to be construed as official expressions or as reflecting the views of the Department of the Navy or of the James Monroe Memorial Foundation.)

To: Our Early Statemen Who Made the United States Great

This book has been published by The James Monroe Memorial Foundation from the Jessie Ball DuPont Fund and the Helen Marie and Jaquelin E. Taylor Fund.

FOREWARD

The unauthorized surrender to Panama in 1978 by the United States of its sovereign control over the strategic Panama Canal and its indispensable protective frame of the Canal Zone, in spite of the overwhelming opposition by the American people, was one of the gravest errors in American history.

Quickly followed in 1979 by the overthrow by subversive forces, with Cuban and Panamanian support, of the constitutionally elected government of Nicaragua, violence has developed into an alarming series of planned events, which include the deep humiliation of the United States in Iran, Soviet occupation of Afghanistan, terroristic violence in El Salvador, and ominous threats to other countries of the Americas.

These lawless occurrences have served to attract attention to early American history, especially the Monroe Doctrine, for the protection of the entire Western Hemisphere, particularly in the Caribbean danger zone.

Fortunately, Capitan DuVal, a recognized historian of the Panama Canal, has presented in brief form the highlights of the remarkable career of President James Monroe and the essential features of the Monroe Doctrine for the protection of the entire Western Hemisphere.

I join in the timely appeal for the "universalization" of the Monroe Doctrine as the "doctrine of the world."—Jesse Helms, United States Senator, Washington, DC., April 28, 1980.

AUTHOR'S PREFACE

The published works on James Monroe are voluminous but few tell the story of his life and the Monroe Doctrine in brief and simple terms.

The preparation of this study has been a truly thrilling experience enabling me, in a way, to re-live some of the episodes in Monroe's eventful life.

For their helpful cooperation, I am indebted to:

Mrs. Helen Marie Taylor, President of the James Monroe Memorial Foundation, "Meadowfarm", Orange, Virginia;

Mrs. Mamie Vest, Roanoke, Virginia, who designed this publication in association with Mrs. Helen Marie Taylor;

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Professor Joseph E. Jeffs, Librarian of Georgetown University;

Mrs. Alis Loehr of Fredericksburg, Virginia; and the staff of the James Monroe Law Office Museum and Memorial Library of Fredericksburg, Virginia;

Honorable Lucas D. Phillips, of Leesburg, Virginia; and Captain Frank A. Manson, U.S. Navy, Retired, eminent naval historian; and Colonel Samuel T. Dickens, U.S. Air Force, Retired.

I wish to express my special appreciation to Dr. Harry Ammon of Southern Illinois University at Carbondale, Illinois, for his 1971 monumental volume: *James Monroe: The Quest for National Identity.*—Miles O. DuVal, Jr., Washington, DC, April 28, 1981.

National honor is national property of the highest value. The sentiment in the mind of every citizen is national strength.—James Monroe,[1] First Inaugural Address, March 4, 1817.

. . . the Monroe Doctrine centers around the Isthmus of Panama. . . . Alfred Thayer Mahan,[2] Naval Historian and Strategist.

The Monroe Doctrine is not a policy of aggression: it is a policy of self defense. . . . It still remains an assertion of the principle of national security.—Charles Evans Hughes,[3] Secretary of State.

PROLOGUE

When the War for American Independence started in 1775, the thirteen English colonies were located in the narrow strip between the Atlantic Ocean and Appalachian highlands from Massachusetts to Georgia, but our far-visioned leaders at that time were already thinking continentally. At the end of the Revolutionary War in 1783 the territory of the United States extended westward to the Mississippi River, northward to Canada, and southward to the Spanish Floridas. With the Louisiana Purchase of 1803, the young republic was well on the way toward its further westward expansion.

Following the example of the United States, Latin American colonies, taking advantage of wars in Europe, declared their independence and by 1822 some had been recognized by the United States.

After the downfall of Napoleon in 1814, certain European nations began considering intervening in Central and South American revolutions to restore control over the liberated colonies to Spain. In addition, Czarist imperialism was extending its influence southward from Alaska, reaching as far as Fort Ross, which is about 50 miles north of San Francisco.

Concerned about the proposals of European powers and Czarist expansions, President James Monroe, following the warning in the Farewell Address of George Washington and after the most careful consideration, boldly proclaimed in his annual message to the U.S. Congress on December 2, 1823, three major principles governing the foreign relations of the United States, initially known as the "principles of President Monroe" but later as the Monroe Doctrine.

Those principles were:

(1) "No further European colonization in the New World;"

(2) "Abstention" by the United States from European "political affairs"; and

(3) Opposition by the United States to European intervention in the governments of the Western Hemisphere.[4]

What are the highlights of Monroe's life and the story of how he attained great fame by becoming the architect of the famous Monroe Doctrine?

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[1] *Inaugural Addresses*, p. 32.

[2] *Seager*, p. 488.

[3] *Clark*, p. 179.

[4] *Encyclopaedia Britannica*, 1974, Vol. 12, p. 388.

VII: PRESIDENT OF THE UNITED STATES, LAST 2 YEARS, 1823–1825, AND THE MONROE DOCTRINE

In mid 1823, President Monroe, deeply concerned about the extension of Czarist imperialism southward from Alaska and diplomatic reports of proposed intervention by European powers of the Holy Alliance to restore the former Spanish colonies to their mother country, saw a solution in dispatches received from Richard Rush, U.S. Minister in London. In these, Rush outlined an offer by British Foreign Minister, George Canning for a British-United States joint declaration.

When Secretary Adams returned from New England in October, Monroe showed him the Rush dispatches and the next day left Washington for his home, "Oak Hill, in Loudoun County, to reflect on a matter that he instinctively recognized as "momentous," and without discussing it with Adams. He saw the underlying question involved as one of despotism versus liberty for the Western Hemisphere and felt that the time for proper action had come.

On October 17, he forwarded the diplomatic reports on these matters to both former Presidents Jefferson and Madison stating that his own impression was that the United States "ought to meet the proposal of the British govt., and to make it known, that we would view an interference on the part of the European powers, and especially an attack on the Colonies (in Latin America), by them, as an attack on ourselves, presuming that if they succeeded with them, they would extend it to us." [27]

In a most thoughtful letter, Jefferson replied on October 24, stating that the question presented by the reports sent him represented "the most momentous which has ever been offered to my contemplation since that of independence. That made us a nation, this sets our compass and points the course which we are to steer through the ocean of time opening on us." [28]

Emphasizing the timeliness of such action, Jefferson continued: "Our first and fundamental maxim should be, never to entangle ourselves in the broils of Europe, our second, never to suffer Europe to intermeddle with cis-Atlantic affairs. America, North and South, has a set of interests distinct from those of Europe, and particularly her own. She should therefore have a system of her own, separate and apart from that of Europe. While the last is laboring to become the domicile of despotism, our endeavor should surely be, to make our hemisphere that of freedom." [29]

Madison replied on October 30 approving Monroe's main ideas and stating that with British co-operation the United States "have nothing to fear from the rest of Europe." [30]

Fortified by the support of his two immediate predecessors, President Monroe then drafted, at his palatial home, "Oak Hill," the principles designed to meet the situation for inclusion in his seventh annual message to the Congress.

After extensive discussions in his cabinet starting on November 7, President Monroe, on December 2, 1823, in that message to the Congress, promulgated his policy for Hemispheric protection in what was initially known as the "principles of President Monroe" but by 1852 became known as the Monroe Doctrine. Significant parts of the message follow:

"In the discussions to which this interest has given rise, . . . the occasion has been judged proper for asserting, as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European Power." [31]

"We owe it, therefore to candor and to the amicable relations existing between the United States and those Powers, to declare, that we should consider any attempt on their part to extend their system to any portion of this hemisphere, as dangerous our peace and safety. With the existing colonies or dependencies of any European Power, we have not interfered, and shall not interfere. But, with the Governments who have declared their independence, and maintained it, and whose independence we have, on great consideration, and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing, them, or controlling, in any other manner, their destiny, by any European Power in any other light than as the manifestation of an unfriendly disposition towards the United States." [32]

"Our policy, in regard to Europe, which was adopted at an early stage of the wars which have so long agitated that quarter of the globe, . . . is, not to interfere in the internal concerns of any of its Powers; to consider the Government *de facto* as the legitimate Government for us; to cultivate friendly relations with it, and to preserve those relations by a frank, firm, and manly policy; meeting, in all instances, the just claims of every Power; submitting to injuries of none." [33]

Much has been published as to who was or was not the author of the principles promulgated by Monroe. Their major features trace back to American experience in colonial wars, Jefferson's forecast [34] in 1793, Washington's Farewell Address in 1797, and John Quincy Adams' development of the non-colonization principle.[35] But it was President Monroe who had the vision, ability, initiative and courage to make the declaration at a crucial period in history.

To make clear the importance of the Monroe declaration as a measure of self-defense for U.S. foreign policy, its seven major points for the Western Hemisphere are reiterated:

1. The *"American continents,"* which include North, South and Central America, are not subject to future colonization by any European powers;

2. Any attempt by the *"allied powers"* to extend their system to "any part" of this hemisphere would be *"dangerous to our peace and safety;"*

3. "With the existing colonies or dependencies of any European power we have not interfered and shall not interfere;"

4. As to Spanish colonies that had declared and maintained their independence and had been recognized, the United States "could not view any interposition for the purpose of oppressing them or of controlling in any manner their destiny, *by any European power*, in any light other than as the manifestation of an *unfriendly disposition towards the United States;"*

5. The United States declared that it was "impossible that the *allied powers* should extend their political *system to any part of either continent* without *endangering our peace and happiness"* and that the United States would not "behold such interposition by the allied powers in any form with indifference;"

6. It was "the true policy of the United States" to leave the revolted colonies and Spain to themselves to resolve their own problems;[36] and

7. In regard to Europe, the crucial point was that the United States should not interfere in the internal concerns of any of its Powers.[37]

In 1823, the "allied powers" were Austria, France, Russia and Prussia, known as the Holy Alliance. Spain and her former colonies were not included.

Strongly supported in the Congress, enthusiastically received by the People of the United States, understood in the newly liberated countries of the Americas, hailed in Great Britain and discussed in the chancelleries of Europe, the doctrine became a cornerstone of United States foreign policy for generations. Daniel Webster described it as "a bright page in our history" that "did honor to the sagacity of the Government, . . . elevated the hopes, and gratified the patriotism of the People." [38]

But Monroe was not satisfied with only one pronouncement of his "principles." In his eighth and last annual message to the Congress on December 7, 1824, he included a strong followup. In this he stressed that the new Latin American states are "settling down under Governments elective and representative in every branch, similar to our own," that we have "no concern in the wars of European Governments," that it is to the interest of the United States to "preserve the most friendly relations with every power," and that in regard to our Latin American neighbors "it is impossible for the European Governments to interfere in their concerns."[39]

Viewed in perspective, the Monroe Doctrine was a "diplomatic declaration of independence" [40] for the United States as well as an "absolute guarantee" [41] of the "security and future independence" of Latin American countries and policy for Hemispheric defense.

In the midst of his work on his "principles" and concern over the election of his successor, President Monroe found relief during the late summer of 1824 by the first visit to America after the Revolution of General Lafayette, who was universally welcomed as the "Guest of the Nation." He entertained the general first in the White House and later at "Oak Hill."

One of the vital matters in which Monroe, along with Jefferson, had for many years been interested was suppression of the slave trade and the repatriation in Africa of free negroes by the American Colonization Society. In appreciation of President Monroe's support, the society's director named its first settlement Monrovia, which city remains as the capital of Liberia.

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[27] *Clark*, p. 97.
[28] *Ibid.*
[29] *Ibid.*
[30] *Ibid.*, p. 99.
[31] *Annals*, p. 14.
[32] *Ibid*, p. 22; also *Clark*, pp. 102-3; and *Ammon*, pp. 487-88.
[33] *Ibid*, p. 23.
[34] *Clark*, p. 12.
[35] *Perkins*, p. 8.
[36] *Clark*, pp. 4-5.
[37] *Annals*, p. 23.
[38] *Clark*, p. 110.
[39] *Richardson*, Vol. 28, p. 829.
[40] *Ammon*, p. 491.
[41] *Ibid.*, p. 478.

Recognizing that the end of his administration was not far distant, in his last annual message to the Congress he also expressed his feelings at the approaching departure which he welcomed: "having commenced my service in early youth, and continued it since with few and short intervals, I have witnessed the great difficulties to which our Union has been exposed, and admired the virtue and intelligence with which they have been surmounted. From the present prosperous and happy state I derive a gratification which I cannot express. That these blessings may be preserved and perpetuated will be the object of my fervent and unceasing prayers to the Supreme Ruler of the Universe." [42]

When on March 4, 1825, he was succeeded by his Secretary of State, John Quincy Adams, ex-President Monroe could retire to "Oak Hill" and occupy himself with his farm, his papers, his books and his friends.

IX: SELECTED APPLICATIONS OF MONROE DOCTRINE 1824-1979

During the Monroe Administration starting in 1824 with Colombia there have been numerous situations between Latin American and European or other countries involving the principles of the Monroe Doctrine. The most frequent though not most crucial cases were those relating to Cuba, Mexico, Venzuela and Haiti.

A great U.S. naval leader who, in his early manhood, saw the Monroe Doctrine promulgated was Commodore Matthew C. Perry (1794-1858). After return from his historic voyage to open Japan, he made a most significant address in New York on March 6, 1856, foreseeing that the United States in time would take over the islands of the vast Pacific and place the Saxon race on the eastern shores of Asia and that her "great rival in future aggrandizement (Russia)" would extend "her power to the coasts of China and Siam." Then, obviously referring to the earlier Czarist southward movement from Alaska, he predicted that the "Saxon and the Cossack will meet once more, . . . on another field" in a struggle that would determine the "freedom or the slavery of the world."

Reflecting and extending the vision of Monroe beyond Europe and the Americas, he stated that "despotism or rational liberty must be the fate of civilized man." [44]

One of the most serious challenges the Monroe Doctrine ever faced was that in Mexico in 1863 when France, taking advantage of the U.S. Civil War, actively supported the establishment of Archduke Maximilian of Austria as the Emperor of Mexico.

After Lee's surrender at Appomatox on April 9, 1865, the United States sent an army of some 50,000 to the Rio Grande under General Sheridan. Other measures that followed finally persuaded Emperor Napoleon III of France to withdraw his troops in the spring of 1867 with the result that Maximilian was overthrown by Mexican forces and on June 19 executed.

Another major case was an 1895 dispute between Great Britain and Venezuela concerning the latter's boundary with British Guiana. In a note for the British Government on July 20, Secretary of State Olney discussed the Monroe Doctrine extensively in relation to the Guiana question urging arbitration, which evoked a lengthy response. President Cleveland, fully realizing the "responsibility incurred" and the "consequences" that could follow, in a special message to the Congress on December 17, transmitted significant parts of the correspondence and called for an appropriation to cover the expenses of a Presidential Commission to ascertain the facts and expressed his determination to "resist by every means" [45] British aggression over Venezuelan territory. Result: a peaceful solution was resolved.

The eminent diplomatic historian, Samuel Flagg Bemis, described the Spanish-American War as the "Great Aberration of 1899." [46] Among its consequences was the predominance of the United States in the Caribbean and Central America coupled with assurance of U.S. control over the Isthmian Canal.

In 1903-04, the same period when Panama gained its independence from Colombia and ceded the Canal Zone to the United States, difficulties developed between Venezuela and European countries over monetary claims, resulting in a pacific naval blockade by Great Britain, Germany and Italy against Venezuela.

In his annual message to the Congress on December 6, 1904, President Theodore Roosevelt asserted that "chronic wrongdoing, or an impotence which results in general loosening of the ties of civilized society, may in America, as elsewhere, ultimately require intervention by some civilized nation, and in the Western Hemisphere the adherence of the United States to the Monroe Doctrine may force [it] . . . to the exercise of an international police power." [47]

It was only natural after the default in 1904 of Dominican Republic bonds that this event threatened to bring about another Venezuelan type of crisis. To meet that situation, President Theodore Roosevelt in 1905 announced what was known as the "Roosevelt Corollary" [48] to the Monroe Doctrine by the United States accepting the responsibility for supervising customs receipts and the payment of debts—a policy that made possible the eventual abandonment of the policy of intervention and rescission of the "Corollary." [49]

After reports that a Japanese fishing company proposed to lease a large tract of land from Mexico facing Magdalena Bay in lower California well located for constructing a naval base, the U.S. Senate in 1912 adopted the Lodge Resolution stating that the "United States could not see without grave concern the possession of such harbor or other place by any corporation or association which has such a relation to another Government, not American, as to give that Government practical power of control for national purposes." Thus this policy application to an Asiatic country as well as European became "part and parcel of the Monroe Doctrine." [50]

In 1938, President Franklin D. Roosevelt described his policy in regards to Latin American countries as that of the "good neighbor." [51] That action meant the ending of protectorates and, eventually, a weakening of the United States in its position in exclusive sovereign control over the U.S. Canal Zone and Panama Canal.

In 1935, the governments of the American Republics at Buenos Aires, in the interest of Hemispheric solidarity, agreed to what amounted to the Pan Americanization of the Monroe Doctrine and started upon a 12 year search for a "security umbrella." The result was the adoption in 1947 of the Inter-American Treaty of Reciprocal Assistance, generally known as the Rio Treaty. It condemned war, agreed that the threat of or use of force is inconsistent with the UN Charter, and that an armed attack against an American state was considered an attack on "all the American States." [52]

This met the problems of direct aggression but not those of infiltration and subversion that characterize the operations of the international revolutionary movement.

In an effort to meet such threats, the Tenth Inter-American Conference at Caracas, Venezuela, March 1-28, 1954, adopted a "Declaration of Solidarity for the Preservation of the Political Integrity of the American States against International Communist Intervention." [53]

That measure condemned the international communist movement as constituting intervention in American affairs, expressed the determination of American states to protect their independence against such intervention, and declared that the "domination or control of the political institutions of any American State" by that movement "would constitute a threat" to their sovereignty and independence, calling for a meeting of consultation to consider appropriate action under existing treaties. The declaration proved insufficient but did lay the foundation for a wider support of the Monroe Doctrine.

Starting in 1959 with the establishment of a Marxist-Leninist regime in Cuba, followed by the Cuban Missile crisis [54] in 1962, Panamanian mob attacks on the U.S. Canal Zone in January 1964, and a military overthrow of a socialistic government of Brazil later that year, Congressional leaders became increasingly concerned about indirect "subversive aggression" against countries of the Western Hemisphere.

To meet those challenges, the House of Representatives, following the aim of the 1947 Rio Treaty and the words of President Franklin D. Roosevelt in 1935 to make the Monroe Doctrine a "joint concern of all the American republics," on September 20, 1965, adopted by a decisive vote a most significant resolution. It expressed the sense of the House (1) that any "subversive domination or threat of it violates the principles of the Monroe Doctrine, and of collective security" as set forth in the acts and resolutions of the American Republics; and (2) that any one or more of the contracting parties to the Rio Treaty may, "in the exercise of the individual or collective self-defense" resort to the use of "armed force under the declarations and principles" established by the American Republics to "forestall or combat intervention, domination, control, and colonization in whatever form, by the subversive forces known as international communism and its agencies in the Western Hemisphere." [55]

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[42] *Richardson*, Vol. 2, p. 832.

[44] *Perry*, p. 28, contains full text of this prophecy; also in *Morison*, p. 429.

[45] *Clark*, p. 170.

[46] *Bemis*, p. 463.

[47] *Clark*, p. 174.

[48] *Bemis*, p. 528.

[49] *Dozer*, p. 20.

[50] *Bemis*, p. 535.

[51] *Ibid.*, p. 774.

[52] Department of State Publication 3380. Inter-American Treaty of Reciprocal Assistance, proclaimed December 9, 1948, p. 23.

[53] Department of State *Bulletin*, Vol. XXX, No. 774 (April 26, 1954), p. 638.

[54] *Lazo*, pp. 335-417 contains extensive discussion.

[55] *Congressional Record* (89th Congress), Vol III, Pt. 18 (Sept. 20, 1965), pp. 24347-64.

In spite of this action by the House of Representatives, situations in the strategic Caribbean continued to develop with covert support from the communist beachhead in Cuba, the first overthrow after the Panama Canal giveaway being that in 1979 in Nicaragua.

EPILOGUE

The influence of Monroe can now be evaluated objectively. It transcends the boundaries of Virginia and, indeed, of the United States, Europe and the Western Hemisphere.

Were it possible for him to return to earth, he would see his labors far more enduring than he probably realize, that they would be.

As to his 1823 "principles," he would find them a major element in U.S. diplomatic history, universally known as the Monroe Doctrine, with his name thus immortalized.

In regard to the Louisiana Purchase, he would see that vast area extended to the Pacific and subdivided into states on the "same footing" as the thirteen original states.

As to the Florida Acquisition, he would find it as vital parts of our union of States retaining many evidences of its Spanish origin.

In regard to the United States, he would see it extended westward into the vast Pacific with control over "multitudes" of its islands and northward to include Alaska.

As to the entire world, he would find it divided along the lines that he foresaw into two antagonistic camps with the United States as the leader of the Free World and the U.S.S.R. of its socialist empire, and engaged in a gigantic struggle the outcome of which could determine the freedom or the slavery of the world.

It was the Declaration of Independence prepared by Jefferson that made the United States a nation; the U.S. Constitution, largely the contribution of Washington and Madison, that provided a government to implement its objectives; and the Monroe Doctrine that set the course to follow through the "ocean of time" then opening.

Indispensable in properly meeting the challenges as grave domestic and foreign crisis continue to mount, especially in the strategic Caribbean and the Middle East, is a return to the study of basic American history and the fundamental principles that made the United States the greatest power the world has ever seen. This includes the re-assertion by the President and the Congress in clear and forceful terms of the principles of the Monroe Doctrine in a call for its universalization to make it the "doctrine of the world."[56]

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. SYMMS. I yield.

Mr. KENNEDY. Would the effect of the amendment be that it would also eliminate the guest worker program from Mexico as well, so that that would be terminated?

Mr. SYMMS. I am not certain. The effect of the amendment is aimed at credit.

Mr. KENNEDY. The Senator wants to cut off credits. Why not cut out the whole guest worker program and really put the pressure on?

[56] *Van Alstyne*, p. 594, quoting the words of Woodrow Wilson.

Mr. SYMMS. The effect of the amendment would be that the Soviet fleet would not be calling at Vera Cruz if this amendment were adopted, because it would send a strong signal that the Mexican Government would understand, that the United States will not be tolerant and stand idly by while Soviet vessels steam into ports in Mexico. I think that the Mexican Government, under those circumstances, would see the wisdom of not having the Soviet fleet come into their ports.

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

Mr. SIMPSON. Mr. President, how much time do I have in opposition?

The PRESIDING OFFICER. Two and a half minutes.

Mr. SIMPSON. Let me take 30 seconds.

This is a critically important foreign policy issue. There is no question about that. I think it needs hearings in the Foreign Relations Committee. Senator LUGAR would agree. This is an inappropriate vehicle at this time—sending all of the wrong messages—as we deal with the critical issue of illegal immigration.

I yield to the Senator from Virginia, my friend, Mr. WARNER.

Mr. WARNER. Mr. President, I rise in strong opposition to the Symms amendment for several reasons. First and foremost, this amendment has implications on the operation of our U.S. Navy; that is, it could be so interpreted. Right now we are encountering difficulties with our own ships, which are nuclear capable, making port calls in New Zealand. It is a very sensitive issue elsewhere throughout the world. It is important for our ships to be able to make these port calls. This amendment, if it were adopted, would be used as a precedent, I think, to complicate the operation of our own fleet.

Second, the President, in a speech to the European Parliament in Strasbourg, France on May 8, 1985, spoke of the need to increase military-to-military contact between the United States and the Soviet Union. As I read the spirit of this amendment, it could preclude a Soviet ship calling at a U.S. port as a part of an exchange visit between the United States and a Soviet naval unit. Such a result would be inconsistent with the President's objective to enhance the military-to-military link between the two superpowers.

Last, Mr. President, this amendment would ban U.S. agricultural and Exim-Bank credits to Mexico. I am informed that we export to Mexico over $1 billion in agricultural products and hundreds of millions of dollars of industrial equipment. It appears that this amendment would have an adverse effect on that trade by barring the necessary financing arrangements.

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

Mr. WARNER. I yield.

Mr. SYMMS. Mr. President, only if the Soviet Navy makes ports of call. It does not have anything to do with New Zealand. The Senator should not confuse this issue. There is a big difference between the Soviet Navy and the U.S. Navy, and the values of these two systems. I think it also reinforces our dedication to the Monroe Doctrine and another great Virginian as is the Senator from Virginia.

Mr. WARNER. I believe we should refer to the language of the amendment. It says, "* * * allows access to its ports to any nuclear weapons delivery-capable Soviet Naval vessel." This is a very sensitive issue which could have an adverse impact on our own fleet operations. This amendment could establish a precedent that would impede those operations.

The PRESIDING OFFICER. All time has expired.

Mr. SIMPSON. Mr. President, I move to table the first degree amendment of Senator SYMMS, 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 question is on agreeing to the motion of the Senator from Wyoming to lay on the table the amendment of the Senator from Idaho. On this question, the yeas and nays have been ordered, and the clerk will call the roll. The Chair would observe that it would be helpful for the reading clerk if all Members voted from their seats.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. INOUYE] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER (Mr. EVANS). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 66, nays 30, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—66

Andrews	Dixon	Johnston
Baucus	Dodd	Kassebaum
Bentsen	Dole	Kennedy
Biden	Domenici	Kerry
Bingaman	Durenberger	Lautenberg
Boschwitz	Eagleton	Leahy
Bradley	Evans	Levin
Bumpers	Exon	Lugar
Burdick	Glenn	Mathias
Byrd	Goldwater	Matsunaga
Chafee	Gore	Melcher
Chiles	Gorton	Metzenbaum
Cochran	Harkin	Mitchell
Cranston	Hart	Moynihan
Danforth	Heinz	Murkowski
DeConcini	Hollings	Nunn

Packwood	Rockefeller	Simpson
Pell	Roth	Specter
Pressler	Rudman	Stafford
Proxmire	Sarbanes	Stevens
Quayle	Sasser	Warner
Riegle	Simon	Weicker

NAYS—30

Abdnor	Hatch	McClure
Armstrong	Hawkins	McConnell
Boren	Hecht	Nickles
Cohen	Heflin	Pryor
D'Amato	Helms	Symms
Denton	Humphrey	Thurmond
Ford	Kasten	Trible
Garn	Laxalt	Wallop
Gramm	Long	Wilson
Grassley	Mattingly	Zorinsky

NOT VOTING—4

East	Inouye
Hatfield	Stennis

So the motion to lay on the table was agreed to.

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

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 621

(Purpose: To provide exclusionary language to deal with certain undesirable aliens)

The PRESIDING OFFICER. The next amendment to be voted upon is amendment No. 621 offered by the Senator from Illinois [Mr. SIMON]. There will be 5 minutes of debate to be equally divided, to be followed immediately by a vote.

The Senator from Illinois.

Mr. SIMON. Mr. President, this is a simple amendment which says that notwithstanding any other provision of the act, the nonimmigrant visa for a visitor should not be denied to anyone because of their political beliefs.

I remember when I was in the Army stationed in Germany. I visited Hyde Park in London. There on the square, along with every kind of religious and political belief, a Communist leader was standing giving his speech.

A little lady with a cockney accent asked, "Why can't we speak in Moscow like you are speaking in London?"

That is the essence of what we stand for. We stand for freedom. Yet in our nonimmigrant visas, we shoot ourselves in the foot and embarrass ourselves over and over and over again.

Who has been on the list of people ineligible to come to our country? There have been people like Pierre Trudeau; Graham Greene, the British novelist; the Mexican Ambassador to France; a Canadian author, Farley Mowat, who wrote the book, "Never Cry Wolf." He wrote the book because B-52's were flying over his timbered land and he was going to come to the United States to lecture and we would not let him in.

Back in the sixties, a group of Japanese citizens wanted to come to the United States to protest U.S. policy on nuclear weapons and we would not let them in. All we are doing is embarrassing ourselves.

The one thing we stand for is freedom. We should not be moving in the opposite direction with our visas. I am pleased to say I have cosponsors on this amendment from both sides of the aisle.

I yield whatever time may be left to the ranking member of the minority on the Immigration Committee, Mr. KENNEDY.

Mr. KENNEDY. Mr. President, I welcome the opportunity to join as a cosponsor of the Simon amendment. I want to give assurance to the Members of this body that this proposal was reviewed in the Select Commission. There was a total review of our immigration exclusion policies. Although this does not go as far as the Select Commission recommended, it is completely consistent with the spirit of the Select Commission; so there has been a thorough review.

Second, we are considering provisions in this legislation that deal with visa waivers, G-4 visa cases, Hong Kong quotas, so it is appropriate that we consider this on this bill.

We voted on gasohol, we are going to vote on Social Security, we have voted on the parts of call of the Soviet Navy. In comparison, this amendment is a related question. It reaches, again, I think, at the heart of what this country is all about.

We complain about the Soviet system because of its monolithic teaching in terms of its political ideology. We want to show that a democratic society and system is open and flexible in comparison. The Simon amendment deals with any of the cases which can be realistically thought of as a threat to our country or terrorists. We are talking about the exchanges of ideas and speech which are enshrined in our Constitution. I hope this amendment will not be defeated.

Mr. SIMPSON. Mr. President, as you know, I have the same concerns about the exclusions in the Immigration and Nationality Act as does my friend from Illinois. I say this is not the place to examine this issue which has solely to do with legal immigration. There are 33 exclusions in the law as to how we prohibit people coming to the United States—psychopathic personalities, sexual deviants, mental defects, terms that we do not even know the meaning of in the present day. It is time to revisit that, but not here. I have promised hearings, and we will have hearings.

The Select Commission promised only to reexamine the issue. I pledge we will do that. We will do that. We will have hearings, produce a bill, we will have a rewriting of the INA. I have that bill ready to go when we finish our work on the issue of illegal immigration.

The issue is the McGovern amendment, providing for a waiver of exclusion, is already in force to take care of these people. The waiver works. I shall tell you how it works. Last year, there were 26,000 people covered under these exclusionary provisions and 25,400 of them were admitted with a waiver. So only 600 people were ultimately excluded from the United States out of the 26,000 originally excluded because the McGovern amendment does work. Therefore, I pledge we will have hearings later.

It is not an issue of free speech; it is an issue of archaic and arcane exclusions in the law and I hope we can deal with it at some other place and time, but not here.

Mr. DECONCINI. Will the Senator yield?

Mr. SIMPSON. I am happy to yield.

Mr. DECONCINI. I am not sure how many applications were made and how many were approved. Does the Senator from Wyoming have any estimate of the average time for those to be filed?

My point is that the Senator from Wyoming makes a good case to revisit this, but I wonder if it has not been used, perhaps, by INS as a philosophical reason not to let some people in, which ought not to be the primary purpose, in my judgment. I wonder if the Senator can enlighten us on that.

Mr. SIMPSON. Mr. President, the Secretary of State makes the recommendation for waiver. As far as I know, it is done rather swiftly. Oftentimes, we will find the people seeking the notoriety that goes along with their feelings about the United States, and their objections to this country, and their attempts to gain notoriety and perhaps fame for their cause. That is an important part of it.

The PRESIDING OFFICER (Mr. MATHIAS). All time for debate has expired.

Mr. SIMPSON. Mr. President, I move to lay on the table the Simon amendment.

Mr. KENNEDY. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Simon amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "nay."

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. INOUYE]

and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

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

The result was announced—yeas 66, nays 30—as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—66

Abdnor	Garn	Murkowski
Andrews	Glenn	Nickles
Armstrong	Goldwater	Nunn
Bentsen	Gorton	Packwood
Boschwitz	Gramm	Pressler
Bumpers	Grassley	Pryor
Burdick	Hatch	Quayle
Byrd	Hawkins	Rockefeller
Chafee	Hecht	Roth
Chiles	Heflin	Rudman
Cochran	Heinz	Sasser
Cohen	Helms	Simpson
D'Amato	Hollings	Specter
Danforth	Humphrey	Stafford
DeConcini	Kassebaum	Stevens
Denton	Kasten	Symms
Dixon	Laxalt	Thurmond
Dole	Long	Trible
Domenici	Lugar	Wallop
Durenberger	Mattingly	Warner
Evans	McClure	Weicker
Ford	McConnell	Wilson

NAYS—30

Baucus	Harkin	Melcher
Biden	Hart	Metzenbaum
Bingaman	Johnston	Mitchell
Boren	Kennedy	Moynihan
Bradley	Kerry	Pell
Cranston	Lautenberg	Proxmire
Dodd	Leahy	Riegle
Eagleton	Levin	Sarbanes
Exon	Mathias	Simon
Gore	Matsunaga	Zorinsky

NOT VOTING—4

East	Inouye
Hatfield	Stennis

So the motion to lay on the table was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 624

(Purpose: To require the Federal Government to reimburse State governments for the cost of incarcerating in State prisons illegal aliens and Marielito Cubans who commit felonies)

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the D'Amato amendment, No. 624, on which there will be 5 minutes of debate, to be equally divided and controlled, to be followed by a rollcall vote in relation thereto.

Mr. METZENBAUM. Mr. President, I wonder if the Senator from New York would be kind enough to permit me to call up an amendment out of order which has been worked out with the sponsor. There will not be any lengthy debate. I will not do it if the Senator objects to it.

Mr. D'AMATO. I would like to comply if there will be no rollcall vote.

Mr. METZENBAUM. There will not be a rollcall vote.

Mr. D'AMATO. I have no objection.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senator from Ohio may be permitted to call up an amendment at this point, notwithstanding the unanimous-consent agreement. I wish to call up an amendment pending at the desk and offer an amendment thereto and to act in connection therewith, and it is my anticipation that there will be no rollcall vote.

Mr. WALLOP. Mr. President, reserving the right to object, can the Senator give us any idea how long this will take? Some of us have scheduled the rest of the afternoon on the basis of the coming vote.

Mr. METZENBAUM. Three minutes.

Mr. WALLOP. I have no objection.

The PRESIDING OFFICER. Does the Senator from Ohio intend that this time shall be taken from the time of the Senator from New York—from the 5 minutes allotted for debate on the amendment of the Senator from New York?

Mr. METZENBAUM. No; I am not really even asking for 3 minutes. I am asking that I may go forward at this point, and in response to the Senator from Wyoming, I indicated that it would take about 3 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object——

Mr. METZENBAUM. Mr. President, the Senator from Wyoming [Mr. SIMPSON] has indicated to me that it is his preference to go forward with the D'Amato amendment at this point, and under those circumstances I withdraw my unanimous-consent request.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, we have debated this issue not only this week but also 2 weeks ago. It calls for the Federal Government to reimburse States for the actual cost incurred for the incarceration of illegal aliens who have committed felonies, who are in State custody, as well as Marielitos. It is simple and straightforward. It is what should be the law.

There is a block grant, but, notwithstanding that, that may not go into operation for 3 years. It is the responsibility of the Federal Government with respect to immigration. It is not the responsibility within the domain of the States, and therefore the issue is clear-cut. There is no need for further debate.

I yield back the remainder of my time.

Mr. SIMPSON. Mr. President, I appreciate very much what Senator D'AMATO has done with the language regarding for whom we are to reimburse the States, and that is the illegal alien felons. I have no problem with that, and I appreciate working with him on that redefinition.

The only problem with the amendment is that if we take away the issue of the changed language, with which I agree totally, we find here that Senator D'AMATO is asking for $50 million now, and I think that eventually we should reduce the figures of reimbursement. At a future time, I will do that. That is my objection to the amendment.

I am fully aware that the amendment probably had a charmed life before and may have again. We must revisit that issue. You cannot be paid twice out of the kitty, and we will revisit that later.

The PRESIDING OFFICER. Is there further discussion? Is all time yielded back? If all time is yielded back, the question is on agreeing to the amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Oregon [Mr. HATFIELD], are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "nay."

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. INOUYE] and the Senator from Mississippi [Mr. STENNIS], are necessarily absent.

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

The result was announced—yeas 74, nays 22, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—74

Abdnor	Gore	McClure
Andrews	Gorton	McConnell
Armstrong	Gramm	Melcher
Bentsen	Harkin	Metzenbaum
Biden	Hart	Moynihan
Bingaman	Hatch	Murkowski
Boren	Hawkins	Nickles
Boschwitz	Hecht	Nunn
Bumpers	Heflin	Pressler
Burdick	Heinz	Pryor
Byrd	Helms	Quayle
Chiles	Hollings	Riegle
Cochran	Humphrey	Rudman
Cranston	Johnston	Sarbanes
D'Amato	Kassebaum	Sasser
DeConcini	Kasten	Simon
Denton	Kennedy	Stafford
Dole	Kerry	Stevens
Domenici	Lautenberg	Symms
Durenberger	Laxalt	Thurmond
Eagleton	Levin	Trible
Evans	Long	Warner
Exon	Mathias	Weicker
Ford	Matsunaga	Wilson
Garn	Mattingly	

NAYS—22

Baucus	Goldwater	Rockefeller
Bradley	Grassley	Roth
Chafee	Leahy	Simpson
Cohen	Lugar	Specter
Danforth	Mitchell	Wallop
Dixon	Packwood	Zorinsky
Dodd	Pell	
Glenn	Proxmire	

NOT VOTING—4

East	Inouye
Hatfield	Stennis

So the amendment (No. 624) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMPSON. Mr. President, 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 minority leader.

Mr. BYRD. Mr. President, at this time I would like to ask the distinguished majority leader what the schedule is for the rest of the day with respect to rollcall votes.

Mr. DOLE. Mr. President, I am advised by the manager of the bill on this side that he may be completed with all except the Heinz-Bumpers amendments maybe by 5:30 this afternoon. Then we will attempt to figure out some way to resolve those issues. If not, I am advised that if it was satisfactory to the managers of the immigration bill, who would like to complete this bill this evening, that we could bring up the Superfund bill between 6 and 8 o'clock this evening. A number of Senators have engagements off the Hill. Superfund amendments, I am told, could be handled without votes during this period by Senators STAFFORD and BENTSEN. Then if we resolve the one remaining issue on immigration, we could complete that by 8 o'clock or shortly thereafter.

Mr. STAFFORD. I assume we have at least five or six amendments. When we get the floor again on Superfund we could call up amendments which were not controversial and which would only require voice votes.

Mr. BYRD. Mr. President, would the distinguished majority leader make an estimate as to whether we would be finished between 6 and 9 o'clock?

Mr. SIMPSON. Mr. President, the best I can inform the leaders is that we have a Cranston amendment which will be resolved, a Metzenbaum amendment, and a Heinz amendment, which is very difficult for me to deal with on immigration reform. I hope we can do something with that. It does not fit here in any sense.

We have Senator LEVIN with a colloquy and perhaps an amendment.

I do feel, having talked to Senator, WILSON and Senator LEVIN, if a rollcall vote is required, we can finish those items before 7 o'clock, I think without question. I do not see further spirited debate. We had debate yesterday and for several days previous to that.

We can be ready, I think, for a final passage vote by 7 o'clock, again depending on the dispositon of the Heinz Social Security proposal.

Mr. DOLE. Mr. President, in looking over my little card, there are a number of meetings this evening between 6 and 8. I am fearful that there might be some Members who have several meetings to attend who have to leave at 6 or maybe shortly thereafter. Maybe between 6 and 8:30 would be of help to Members.

Mr. BYRD. Good.

Mr. DOLE. I would be willing to assure Members at this time that there would be no rollcall votes between 6 and 8:30. I understand there will be no problem with voice votes. Hopefully by 6:30 we may have finished the immigration bill. If that is the case and final passage should be ordered, we can do that when we come back.

Mr. BYRD. I thank the distinguished majority leader.

Mr. BAUCUS. Does that mean that there will be votes after 8:30 this evening, Mr. President?

Mr. DOLE. If we dispose of the immigration bill prior to 6:30 I would advocate no votes after 8:30, but go ahead and dispose of all the Superfund amendments we can by voice vote and come back in the morning and start over. If that is an incentive, I would indicate again that if we can complete action on the immigration bill by 6:30, including final passage, that would be the last vote this evening. We could then still handle amendments to the Superfund by voice vote.

The PRESIDING OFFICER. Under the previous order, the Senator from Wyoming is recognized to offer an amendment.

Mr. SIMPSON. Mr. President, I am not going to offer that amendment. It is an amendment that would have come after Senator D'AMATO's amendment. I admire what he has done, and it is helpful. I still feel there is a question about double reimbursement for the States on those kinds of criminals within State institutions. I believe we will work that out in conference. We have reached an accord on the reimbursement of legalization and the funding of the bill in another subsequent amendment which will be accepted.

The PRESIDING OFFICER. The Senator from Wyoming does not have to offer his amendment as provided by the previous order.

The question now recurs on the amendment of the Senator from California [Mr. WILSON].

Mr. SIMPSON. Mr. President, if I may, I will ask the Senator from California to defer to the Senator from Ohio who has an amendment which will be acceptable.

Mr. WILSON. Mr. President, I am happy to defer.

Mr. METZENBAUM. I thank the Senator from California and the Senator from Wyoming.

AMENDMENT NO. 612

(Purpose: To improve housing for temporary agricultural workers)

Mr. METZENBAUM. Mr. President, I call up my amendment which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the Wilson amendment be temporarily laid aside?

Mr. METZENBAUM. Mr. President, I do.

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

Mr. METZENBAUM. Now, Mr. President, I ask that the amendment of the Senator from Ohio be called up at this time for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 612.

Mr. METZENBAUM. 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 44, line 19, insert "for a period of not to exceed two years from the date of enactment of this Act" after "permitted".

Mr. METZENBAUM. Mr. President, this is an amendment that was debated last week. It has to do with the temporary housing provisions of the bill. I have the feeling that the temporary housing provisions should be limited in time. My amendment limits that to a 2-year period. The managers of the bill have indicated that there may be a reason for a longer period. We have come to an agreement for a period of 3½ years plus an additional year to be granted by the Attorney General in the case of specific employers.

AMENDMENT NO. 612, AS MODIFIED

Mr. METZENBAUM. Mr. President, I send the amendment, as modified, to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 612, as modified.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment, as modified, be dispensed with.

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

The amendment, as modified, is as follows:

On page 44, line 19, insert "for a period of not to exceed three and one-half years from

the date of enactment of this Act" after "permitted".

On page 44, line 23, delete the period and add the following after "employment": "; *provided, however,* That the period specified in this paragraph may be extended for a particular employer by not more than one year by the Attorney General if the employer demonstrates that, despite all reasonable good faith efforts, initiated as soon as practicable after the enactment of this Act, furnishing of housing has been delayed due to failure to receive regulatory approval from State or local governmental entities."

Mr. METZENBAUM. Mr. President, this is an amendment that has been worked out but I would like the assurance by the Parliamentarian that the language is correct and the modification is appropriate before I ask for action on the amendment.

The PRESIDING OFFICER. The Senator from Ohio may modify his amendment as long as the yeas and nays have not been ordered.

Mr. METZENBAUM. The Senator from Ohio is aware of that rule. I therefore ask unanimous consent that I may modify the amendment. My amendment is a modification. I ask that my amendment be so modified.

The PRESIDING OFFICER. It is so modified.

Mr. METZENBAUM. Mr. President, I think we are ready to act in connection with this amendment. It is my understanding that the managers of the bill are ready to accept the amendment as modified.

Mr. SIMPSON. Mr. President, Senator METZENBAUM has amended his original proposal to sunset the right of employers of temporary agricultural workers to provide a housing allowance rather than the actual housing. He has amended from 2 years to 3.5 years, with a possibility of a 1-year extension beyond that, with the approval of the Attorney General if there are particular difficulties with zoning or other governmental regulations. That is the proposal. Is that correct?

Mr. METZENBAUM. That is correct. The 1-year extension applies to individual employers, not an across-the-board extension.

Mr. SIMPSON. And the Attorney General is involved with that decision instead of the Department of Labor. That would give the employers 4½ years, if necessary, to get the housing built. With that improvement mechanism, I can accept the amendment.

Mr. METZENBAUM. I thank my friend from Wyoming.

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

The amendment (No. 612, as modified) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 616

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from California.

Mr. WILSON. I thank the Chair.

Let me first inquire whether or not the unanimous-consent agreement that was propounded can be acted on. I do not know whether either side has yet completed the check.

Mr. SIMPSON. Mr. President, let me advise the Senator from California that it will take about another 5 minutes to determine whether we are able to obtain that unanimous-consent agreement, which will be 1 hour of debate on the Wilson amendment to be equally divided and that no amendment be in order to that amendment. The time, of course, could be yielded back. Then we would proceed to a vote on the Wilson amendment.

That is being presented to our colleagues. Therefore, at this time, with his concurrence, I shall suggest the absence of a quorum. We should have a response.

Mr. WILSON. I would suggest the absence of a quorum, Mr. President—

Mr. METZENBAUM. Mr. President, I shall object to that only that I may make some arguments against the Wilson amendment and not be limited by the time limitation.

The PRESIDING OFFICER. The Senator from California still holds the floor. If he does not yield for the purpose and he has suggested the absence of a quorum, the clerk will call the roll.

Mr. WILSON. I yield to the Senator from Ohio for a question.

Mr. METZENBAUM. Would the Senator from California have any objection to the Senator from Ohio debating this issue at this point while the Senator from California and the Senator from Wyoming are seeking unanimous consent for a time limit?

Mr. WILSON. No, Mr. President, none whatever. I would be happy to allow the Senator from Ohio to do that. It is only I hope, for our purposes to give time to secure unanimous consent.

I also observe that what we are seeking to do is to afford each side a half hour under the unanimous-consent agreement. But I have no objection to using the time for the debate of the bill in the interval.

Mr. METZENBAUM. Will the Senator from California yield for another question?

Mr. WILSON. Yes, Mr. President.

Mr. METZENBAUM. Am I correct in my understanding that this is the same amendment he previously offered, although in this case, the 350,000 cap is on the number of temporary workers?

Mr. WILSON. The amendment offered is virtually the same as that which was debated Thursday, with the exception that a single major substantive amendment has been made, or a change has been made. The change is the one that was the subject of a great deal of discussion and debate on Thursday. It had to do with the statement or the charge that the amendment contained an open-ended authorization for seasonal workers to enter the United States.

The change is to place a numerical cap for a period of 3 years upon the number of workers admitted for the harvesting of perishable agricultural products. That number is 350,000.

At the conclusion of the 3-year period, the Attorney General would then have a requirement placed upon him by the legislation that he determine what actual need is. That means he would, by consideration of the number of stated criteria in the law, beginning with the consideration of the availability of domestic workers, determine whether that number of 350,000 exceeds the need or is less than the need. He would then proceed to set a new cap.

The only variation from that would be for purposes of emergency, and again, that emergency is determined in the law by stated criteria.

Mr. METZENBAUM. Is this Senator correct that the 350,000 cap is at any one time; that during that period, we could have several million migrant workers come in, but provided that at no one time is there more than 350,000 in the United States?

Mr. WILSON. It is true that the figure of 350,000 is the limit at any one time just as, when we quote the Bureau of Labor statistics on employment or unemployment figures, it is the number of actual jobs involved or the people employed or unemployed at that one time. We do not multiply by 365 days the number of people who are employed.

To the other part of the Senator's question, is it conceivable that we could have several million people come in during a period of a year under this amendment, that is inconceivable. In fact, the number 350,000 is substantially less than half of the total workers which the Department of Agriculture estimates to be the minimum requirement for picking and harvesting of perishable commodities.

Mr. METZENBAUM. The fact is that we could have 350,000 workers, some of them go back, and we could have a continual turnover and we might have as many as 1 million or 1½ million during that 3-year period. That is entirely conceivable, is it not?

Mr. WILSON. What is conceivable is that we would have as many as 350,000 at a single time and over the 3-year period, it would be very difficult to say what the total number of different individuals comprising that limit would be.

Mr. METZENBAUM. I thank the Senator from California.

Does the Senator from California yield the floor so the Senator from Ohio may proceed?

Mr. WILSON. Yes, Mr. President, with the understanding that if we have news of the agreement, we shall be pleased to have the Senator from Ohio yield back.

Mr. METZENBAUM. I have no objection to doing that, Mr. President, but I do want to say that the Senator from Ohio does wish to be heard on this matter and does not wish to be placed in the position of objecting to the unanimous-consent agreement which limits the amount of debate, which would preclude my having adequate time to debate.

Mr. WILSON. Mr. President, may I inquire of the Senator from Ohio how much time he wishes to debate?

Mr. METZENBAUM. I do not know. I do not have a filibuster or anything of that kind in mind, but I do have a few things on my mind that I would like to share with my colleagues and the Senator from California.

Mr. WILSON. That is fine. I have no objection to that. I simply want to make clear the reason that the manager and I have agreed to have an hour is to afford Members of the body, who have indicated a desire to vote on this measure, an opportunity to do so, so that they can be available for other obligations. I yield to the Senator from Ohio.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. QUAYLE). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I did not speak to this issue the other day, and afterwards I had some concerns as to why I did not; pressure from obligations kept me from doing so, but this amendment is sort of in tandem with some of the trade legislation we have pending around the Senate, only in the trade legislation we are trying to keep foreign workers from stealing American jobs in foreign countries. This amendment makes it possible for foreign workers to come in and take jobs that Americans could otherwise hold.

The argument is made that American workers do not want those jobs, will not take those jobs. I reject that argument. I question how hard an effort has been made to obtain workers to do those jobs. I think it is a bad amendment. The purpose is simply to legalize the current system by enacting a massive migrant foreign worker program. The workers will be allowed to stay in the United States not a month, not 2 months, not 3 months, no, 9 months each year, 9 months a year, wandering from one employer to the next, taking jobs from American workers, working at low wages and in poor working conditions. That is precisely the current system, and that is what I thought we were trying to change in this law.

Examine what is in this bill now. There is a transitional program that allows growers to retain a total illegal workforce for 1 year, then to decrease it by a third for each of 2 years. And the legalization program provides that it will occur as soon as the Commission acts but not longer than 3 years. During that period the workers will be available to provide agricultural work. There is an expanded H-2 program, and that on its own without anything more in this bill would allow an enormous expansion of workers. So what we have is that the growers have come to the Congress and said, "We want a seasonal worker program to allow 350,000 more workers into the country."

Oh, yes, I should point out the seasonal worker that we are talking about is going to be here for up to 9 months. That is a pretty long season. If you travel across the country, I suppose you catch all the different seasons of the year. This amendment makes it possible for American workers to be deprived of the opportunity to have a job and earn a living. Why? What is there about the corporate farmer, the large agricultural farmers who say they have the right to import this labor? What efforts have they made? What evidence is there that they have gone out of their way to try to hire people from other parts of the country who would like to work on those farms? How can we face the American worker and tell him or her, "Congress has just authorized hundreds of thousands of foreign workers coming into the country each year and take his or her job? What kind of Senate is willing to sit by and not only permit imports to take away American workers' jobs but permit imported workers to take away the jobs of Americans? Why? Why is this necessary?"

It is not necessary, as a matter of fact. It is the wrong thing to do. This bill ought to have a preface to it. The preface ought to extol the power of big agriculture in this country. They have lived for years by knowingly employing hundreds of thousands of illegal workers and now they have the audacity to insist that the price of this bill is to make it possible for them to bring in up to 350,000 illegal workers at any one time for a period of 3 years, and then the number that the Attorney General sets at the end of that 3-year period.

Think about it. This amendment is nothing more than putting into the law a system which is based upon massive flaunting of our immigration laws, only now the Congress of the United States is being called upon to make all of that legal. Listen to what the Secretary of Labor had to say recently. Said he:

> I must express strong concerns about the potential adverse effect that a new large-scale flow of unskilled alien workers would have on our most disadvantaged workers, unskilled youths, especially blacks and Hispanics whose unemployment is a continuing cause of serious concern.

Unemployment has been high in agriculture—13½ percent in 1984, 14.3 percent currently. With the expanded temporary worker program, it will only go higher. Not only the Secretary of Labor has spoken to this suject, but there was a Select Commission on Immigration which reported to the Congress in 1981. It said at that time, "Most commissioners have concluded that the commission should not recommend the introduction of a large-scale temporary worker program." At another point the commission stated, "The commission believes that any slight expansion in the number of temporary workers admitted should be within the existing H-2 Program."

This is no slight expansion. It is a massive one.

Now, it is interesting that in the Senate, when we have a problem and we do not want to bite the bullet, we appoint a Commission; we figure that Commission will be fair, unbiased and judicial, it will hear all sides, and it will come in with its recommendation.

Well, the Commission has come in with its recommendation, and instead of abiding by the Commission's report the amendment of the Senator from California would totally flaunt that Commission report and go to exactly the opposite extreme.

Now, the growers say "Well, the Americans won't take the jobs in the field." I say nonsense. Unemployment in agriculture is high. Massive employment of illegal aliens only keeps working conditions bad and wages low.

American agricultural workers will accept the jobs that are available, provided they pay a decent wage and provided there are decent working conditions. Growers say that legalization will not make any difference. That is nonsense, too.

Will people flock to the cities because they are suddenly legal? Of course not. Will they uproot their families and change their lives totally? Of course not. The growers say that they need a massive pool of foreign workers or the crops cannot be picked. Let us take a look at the figures at the present time.

The currrent H-2 Program in this country uses 20,000 temporary agricultural workers each year. Let me read the numbers from various States. Total jobs certified under the program in 1984, 20,071; Arizona, 319; California, 443; Maryland, 146; West Virginia, 686; and so on, right down the list.

It is a small program now that is being expanded, and this provision that is already in the bill will expand it greatly. The fact is that the new

program could expand the current H-2 Program 10 times over.

Only if you are totally willing to ignore the interests of American workers, and only if you are willing to guarantee that there will be a huge work force of exploited, poorly treated foreign labor, can you provide any basis to vote for this amendment. But if you believe that the American worker is entitled to protection from foreign imports—only in this case, imports of foreign workers who will work for subminimum wages—you have to vote against this amendment. There is not any logical reason under the Sun to be for the Wilson amendment.

I am aware of the close vote the other day. That does not not make it right. I am not sure that my colleagues are aware of the fact that what we are doing is taking jobs away from American workers by importing foreign workers. I do not find that much less distasteful than I find foreign workers taking away the jobs of American workers if they are located in some far distant country.

I hope this body will see fit to again reject the amendment of my distinguished colleague from California.

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. KENNEDY. 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. KENNEDY. Mr. President, the Members of this body know we have debated this issue at considerable length on an earlier amendment offered by the Senator from California last week. I believe the chairman of the committee has made the case against it, along with other Members of the Senate.

Last week, we went into some detail as to exactly what this particular amendment would do. First of all, we explained to the Senate the provisions included in this legislation that deal with the issues which have been raised by the Senator from California dealing with perishable crops. That issue was considered for a great deal of time by the subcommittee and by the full Judiciary Committee. It appears to me that the recommendations which have been included in the pending legislation, which already provide for a fast track consideration of H-2 requests for perishable crops.

I believe that the steps that have been recommended in this legislation will deal with any of the types of emergencies that are being used as a justification for the Wilson amendment. I commend the chairman of the subcommittee for incorporating these in this legislation.

There is also a provision in here to establish a transition period, so that those in the past who have employed illegal aliens, there would at least be a phasing down or an adjustment period, which I think is extremely generous.

Mr. President, I think that the steps that have been taken by the members of the committee and that have been included in this legislation really deal with the challenge which has been put to the Senate by the Senator from California.

Mr. President, the amendment offered by Senator WILSON is really the same amendment that the Senate rejected last week, but this time with a cap of 350,000. He says that is to counter the argument that his foreign temporary worker program was open ended. Well, 350,000 is as close to throwing the doors wide open as its possible to do—especially when we consider that even during the last years of the Bracero Program, the number was only slightly higher than 200,000, and labor needs have been substantially reduced since then through technology.

The sponsors say this amendment isn't a new Bracero Program, and in one sense they are right: It doesn't even have the minimal proctections that the Bracero Program had. They simply throw the door open, making a foreign worker look for any job he can find in the geographical areas in which he is allowed, and fend for himself.

But in another far more important respect, this amendment creates precisely the fundamental flaw of the Bracero Program: Namely, contrary to the so-called protections in the amendment, it will have the same impact upon American wages and labor conditions that the Bracero Program had.

This fundamental flaw was succinctly reviewed last year by Monsignor Higgins of the U.S. Catholic Conference—and he should know, because he served as one of the members of the panel commissioned by President Eisenhower's Secretary of Labor, James Mitchell, whose recommendations finally led to the end of that program.

I ask unanimous consent that excerpts of this statement be printed at this point in the RECORD.

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

STATEMENT OF MSGR. GEORGE HIGGINS, CONSULTANT, U.S. CATHOLIC CONFERENCE

To put the present situation in the proper perspective, a brief review of the Bracero Program is, I think, in order. In enacting Public Law 78, Congress intended to accomplish two basic objectives—to obtain agricultural workers from Mexico to meet seasonal, temporary labor shortages and to ensure that our own domestic farmworkers would not be adversely affected by the employment of these workers.

The first objective was achieved for at its peak nearly 500,000 Mexican temporary workers were brought in. The second objective protecting the domestic work force from the effects of the Mexican importation was not achieved.

Ostensibly, adequate safeguards were provided. The law prohibited the importation of workers unless the Secretary could certify that, (A) sufficient domestic workers who were able, willing, and qualified were not available at the time and place needed to perform the work for which such workers were being recruited, (B) the employment of such workers would not adversely affect the wages and working conditions of domestic agricultural workers, (C) reasonable efforts had been made to attract domestic workers at wages and standard hours of work comparable to those offered foreign workers. However, the Secretary of Labor found it extremely difficult to administer these provisions.

Experience under the Bracero Program clearly demonstrates that the requirement that the importation of foreign workers not have an adverse effect on the wages and working conditions of the domestic work force is a meaningless condition. The record shows that under that program the importation of foreign workers had a seriously adverse effect on domestic labor standards. The Mitchell committee found that the Bracero Program which guaranteed growers at no administrative expense to themselves, an unlimited supply of cheap and docile labor was having a disastrous effect on the American labor force.

The report of the Mitchell committee made it abundantly clear that the Bracero Program had seriously hurt American citizens. The injury to domestic farmworkers was evident from no matter what angle the committee viewed the situation. Despite the efforts of the Department of Labor to require employers to recruit qualified U.S. workers, Mitchell consultants found many indications that domestic farmworkers were losing out to foreign labor. So strong were the preferences of some growers for a captive labor force that in some areas almost all of the seasonal work in certain occupations was performed by foreign workers. Even those domestic workers who were employed found the duration of their jobs shortened because the availability of foreign workers, particularly at peak harvest times, had compressed the work season.

Where foreign workers were used in large numbers, wage rates were prevented from rising to levels they would have attained if no foreign workers had been admitted. The very knowledge on the part of growers and workers that foreign workers were available weakened the domestic workers' bargaining position. Statistics compiled by the Mitchell consultants showed that wage rates in occupations and areas employing foreign workers had lagged behind the rising wage level for domestic farmworkers generally. They also showed that users of foreign workers often paid their domestic workers less than employers who did not use foreign workers.

Faced with these considerations, the Mitchell consultants concluded that renewing the program would postpone the adoption of necessary reforms and tend to increase rather than diminish domestic labor shortages. Accordingly, they recommended that the program be phased out as quickly as possible.

Mr. KENNEDY. Mr. President, today's problems are not much differ-

ent. Wages and labor standards of those engaged in perishable crops are still low. We know what the unemployment rate is. It is virtually double the national average, and in the off-season it doubles once again.

These are Americans, Mr. President; these are individuals with families, who are attempting to provide for their families, and who are unemployed.

I was talking last week to a distinguished Representative from Laredo, TX, who pointed out that they had 34 percent unemployment in his congressional district. These are American citizens or they would not be considered to be on the unemployment list.

What we are being asked to do here this afternoon by the Senator from California is to provide 350,000 foreign guest workers, when during the last year of the Bracero Program we only had 200,000. He is asking for 350,000 guest workers.

Mr. President, if this body accepts this amendment, 350,000 Americans will lose their jobs. We hear a great deal in this body about the problems of jobs and unemployment. We have heard a great deal, as we should, about the problems we are facing in our trade deficit and what that has meant in terms of losing jobs in the United States. But here we are taking jobs from Americans.

Finally, make no mistake about it: The Wilson amendment, if it is accepted, will sound the death knell for any immigration reform because of the position which has been taken by the chairman of the House Judiciary Committee and one, quite frankly, that I find makes a good deal of sense, is that this will really make a sham of this whole piece of legislation.

On the one hand, we are supposedly enacting employers' sanctions, to deal with the problems of undocumented aliens coming into the United States and taking American jobs, perhaps being exploited, and working for inadequate wages. We are trying to say that that is what this entire legislation is about; and, on the other hand, we say that we are going to take 350,000 guest workers in here also to take American jobs. Anybody who can tie together the logic of those two positions will have an extraordinary sense of logic.

But, Mr. President, that will be the effect of this amendment, the loss of American jobs, the loss to American families, and depressed wages.

As I said, we have already had a pilot program, so to speak, about what will happen under this amendment, and that was the bracero program, and the bracero program had some protections included in it that aren't even in this amendment. And we saw the exploitation that took place, what the impact it had on American workers and wages.

That record has been laid out in committee hearings, but that was a few years ago, and the memory of this body is short.

So, Mr. President, I would hope that this amendment would not be accepted. I believe that it is effectively a killer amendment. I think any of those Members of the Senate who have followed this issue over a long and difficult period of time know how complex the issues are in trying to fashion a balanced bill.

This effectively turns this bill on its head.

I know that there are perhaps those who want to kill the bill and, therefore, will vote in favor of this amendment.

I do not question in my own mind that that will be the effect—it will sound the death knell for this bill. I have my own concerns about the bill for entirely different reasons, which I have outlined at the outset of the debate, and I will speak to briefly to those at the conclusion of the debate.

So, Mr. President, I hope we will move to an early vote and that the amendment will be defeated.

Mr. WILSON. Mr. President, I call up amendment 616.

The PRESIDING OFFICER. That amendment is pending.

AMENDMENT NO. 616, AS MODIFIED

Mr. WILSON. All right.

Mr. President, then I send a modification to the desk. The modification is at the desk. It is 613.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 68, between lines 5 and 6, insert the following new section heading:

SEC. 125. TEMPORARY AGRICULTURAL WORKER PROGRAM.

Mr. WILSON. Mr. President, I now send to the desk an amendment in the second degree.

Mr. SIMPSON. Mr. President, may I ask for the yeas and nays? There is one amendment presented to us. I do not have a desire at this time to present any other amendment. But we do know what the pending amendment is, and I do not believe there is any requirement for further proceedings.

Mr. President, if I were to ask for the yeas and nays on the Wilson amendment, would that not foreclose the issue?

The PRESIDING OFFICER. The Senator certainly has the right to ask for the yeas and nays.

Does the Senator make that request?

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

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

Mr. SIMPSON. Mr. President, if I may ask the Senator from California to yield for the purpose of withdrawing my request for the yeas and nays, I shall leave that to the sponsor of the amendment and then if the sponsor will explain where we are procedurally, as he has just done so to me privately we can proceed.

Mr. WILSON. I thank the Senator from Wyoming.

Mr. President, what we are seeking to do here very simply is to fill the tree.

I have offered with the modification the first-degree amendment. I now ask for the yeas and nays on the amendment, after which it will be my intention to offer a second amendment and ask for the yeas and nays on that as well.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 614

(Purpose: To provide a seasonal agricultural worker program for employment in perishable commodities)

Mr. WILSON. Mr. President, I now send an amendment to the desk in the second degree, amendment No. 614.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 614 to amendment No. 616.

Mr. WILSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

In the proposed amendment, strike out all after "SEC. 125." and insert in lieu thereof the following: SEASONAL AGRICULTURAL WORKER PROGRAM.

(a) PROVIDING NEW "O" NONIMMIGRANT CLASSIFICATION FOR SEASONAL AGRICULTURAL WORKERS.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by this Act, is further amended—

(1) by inserting "and other than seasonal agricultural services in perishable commodities described in section 217(h)(1)" in subparagraph (H)(ii) after "section 216(h)(1)";

(2) by striking out "or" at the end of subparagraph (M):

(3) by striking out the period at the end of subparagraph (N) and inserting in lieu thereof "; or"; and

(4) by adding at the end the following new subparagraph:

"(O) an alien having a residence in a foreign country which he has no intention of abandoning who is coming to the United States to perform seasonal agriculural services in perishable commodities (as defined in section 217(h)(1)).".

(b) ADMISSION OF SEASONAL AGRICULTURAL WORKERS.—Chapter 2 of title II is amended by adding after section 216 the following new section:

"SEC. 217. ADMISSION OF SEASONAL AGRICULTURAL WORKERS.

(a) ESTABLISHMENT OF SEASONAL AGRICULTURAL WORKER PROGRAM.—The Attorney General, in consultation with the Secretary of Agriculture and the Secretary of Labor, shall by regulation establish a program (hereafter in this section referred to as 'the program') for the admission into the United States of seasonal agricultural workers (as defined in section 217(h)(2).

"(b) ADMISSION OF SEASONAL AGRICULTURAL WORKERS.—A petition to import an alien as a seasonal agricultural worker (as defined in section 217(h)(2)) may not be approved by the Attorney General unless the petitioner certifies to the Attorney General the following:

"(1) SEASONAL AGRICULTURAL EMPLOYER IN PERISHABLE COMMODITIES.—

"(A) NATURE OF PETITIONER.—The petitioner employs (or contracts for the employment of) individuals in seasonal agricultural services in perishable commodities, or is an association representing such employers or contractors.

"(B) REQUIREMENTS OF PETITIONS.—For each month concerned and for each agricultural employment region (designated under section 217(i)(1)) in which the petitioner is operating, the petition must specify—

"(i) the total number and qualifications of individuals in seasonal agricultural services in perishable commodities required in each month, and

"(ii) the type of agricultural work required to be performed by these workers.

"(2) WILL MAKE RECRUITING EFFORT.—The petitioner will make a good faith effort to recruit (as required by the Attorney General in regulations) in the area of intended employment, including the listing of employment opportunities with the appropriate office of a governmental employment service, and will accept for employment able, willing, and qualified workers referred by such office to perform seasonal agricultural services in perishable commodities until the commencement of the seasonal agricultural services for which the petitioner has recruited.

"(3) REPORT ON RECRUITMENT.—In the case of a petitioner that has employed seasonal agricultural workers during the previous 12 months, the petitioner will provide a summary of his efforts to recruit domestic workers to perform seasonal agricultural services in perishable commodities during that period.

"(4) ADEQUATE WORKING CONDITIONS.—The petitioner will provide such wages and working conditions as will not adversely effect the wages and working conditions of United States workers similarly employed

"(5) HOUSING.—The petitioner will furnish housing for nonimmigrants described in section 101(a)(15)(O) or, at the petitioner's option and instead of arranging for suitable housing accomodations, will substitute payment of a reasonable housing allowance to the provider of the housing, but only if the housing is otherwise available within the approximate area of employment.

"(6) NOTICE TO ATTORNEY GENERAL OF EMPLOYMENT.—The petitioner will notify the Attorney General of the entering into, or termination, of an employment relationship with a seasonal agricultural worker not later than 72 hours of the time the relationship is entered into or terminated.

"(7) EMPLOYMENT ONLY IN SEASONAL AGRICULTURAL EMPLOYMENT IN PERISHABLE COMMODITIES.—The petitioner will not employ a seasonal agricultural worker for services other than seasonal agricultural employment in perishable commodities.

"(8) LIMITATION ON THE USE OF "O" WORKERS IN PERISHABLE COMMODITIES.—The petitioner will not employ (or petition for the employment) of a nonimmigrant in any job opportunity under section 101(a)(15)(O) for seasonal agricultural services in perishable commodities when an application for employment in that job opportunity under section 101(a)(15)(N) is pending or approved.

"(9) JOB INFORMATION DISCLOSURE TO "O" WORKERS.—The petitioner shall, upon request, disclose in writing to seasonal agricultural workers when an offer of employment is made, the place of employment, the wage rates, the employee benefits to be provided, and any costs to be charged for each of them, the crops and kinds of activities for which the worker may be employed, and the anticipated period of employment.

"(c) SUSPENSION OF CERTIFICATION.—The Attorney General shall suspend a petitioner's certification under subsection (b) if any of the following conditions exist:

"(1) LABOR DISPUTE.—There is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification.

"(2) VIOLATION OF TERM OF PREVIOUS CERTIFICATION.—

"(A) IN GENERAL.—The employer at any time during the previous two-year period employed seasonal agricultural workers and the Attorney General has determined, after notice and opportunity for a hearing, that the employer at any time during that period—

"(i) substantially violated an essential term or condition of the labor certification under subsection (b) with respect to the employment of domestic or nonimmigrant workers, or

"(ii) has not paid any penalty for such violations which have been assessed by the Attorney General.

"(B) DISQUALIFICATION LIMITED TO ONE YEAR.—No employer may have its certification suspended under clause (A) for more than one year for any violation described in that clause.

"(3) NOT PROVIDING FOR WORKERS' COMPENSATION.—The employer has not provided the Attorney General with satisfactory assurances that if the employment for which the certification is sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

"(d) ROLES OF AGRICULTURAL ASSOCIATIONS.—

"(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to import an alien as a seasonal agricultural worker, and a labor certification with respect to such a worker, may be filed by an association representing seasonal agricultural employers which use agricultural services.

"(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If such an association is a joint or sole employer of seasonal agricultural workers, the certifications obtained under this section by the association may be used for the job opportunities of any of its members requiring such workers to perform agricultural services of a seasonal nature for which the certifications were obtained.

"(3) TREATMENT OF VIOLATIONS.—

"(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual member of such an association is determined to have committed an act that under subsection (c)(2) results in the suspension of certification with respect to the member, the suspension shall apply only to that member and does not apply to the association unless the Attorney General determines that the association or other member participated in, or had knowledge of and derived benefit from, the violation.

"(4) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—If an association representing agricultural employers as an agent, joint employer, or employer is determined to have committed an act that under subsection (c)(2) results in the suspension of certification with respect to the association, the suspension shall apply only to the asociation and does not apply to any individual member of the association unless the Attorney General determines that the member participated in, or had knowledge of and derived benefit from, the violation.

"(e) EXPEDITED ADMINISTRATIVE APPEAL OF SUSPENSION OF CERTIFICATION UNDER SUBSECTION (c)(2)—

"(1) Expedited procedures.—The Attorney General shall provide for an expedited procedure for the review of a suspension of certification under subsection (c)(2) or, at the applicant's request, for a de novo administrative hearing respecting the suspension. In the case of a request for such a review or hearing, the Attorney General shall provide that the review or hearing take place not later than 72 hours after the time the request is submitted.

"(f) HEARING DE NOVO BEFORE THE U.S. DISTRICT COURT.—

"(1) JURISDICTION.—On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in the District of Columbia, has jurisdiction to enjoin the Attorney General from suspending the complainant's certification under the program and to order the reinstatement of complainant's certification if it is improperly suspended. In such a case, the court shall determine the matter de novo and the burden is on the Attorney General to sustain his suspension.

"(2) PRECEDENCE OF CASES.—Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

"(g) MISCELLANEOUS PROVISIONS.—

"(1) AUTHORITY.—The Attorney General is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this section.

"(2) APPROPRIATE DOCUMENTATION.—The Attorney General shall provide for such endorsement of entry and exit documents of seasonal agricultural workers as may be necessary to carry out this section and to provide notice for purposes of section 274A.

"(3) PREEMPTION.—The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State

or local law regulating admissibility of nonimmigrant workers.

"(h) DEFINITIONS.—For purposes of this section:

"(1) SEASONAL AGRICULTURAL SERVICES IN PERISHABLE COMMODITIES.—The term "seasonal agricultural services in perishable commodities' means services in agricultural employment including planting, cultural practices, production, cultivation, growing, and harvesting involving perishable commodities (as defined by regulations of the Secretary of Agriculture).

"(2) SEASONAL AGRICULTURAL WORKER.—The term 'seasonal agricultural worker' means a nonimmigrant described in section 101(a)(15)(O).

"(3) CARIBBEAN BASIN.—The terms 'Caribbean Basin' and 'Caribbean Basin Countries' include those countries eligible to be designated by the President as 'beneficiary countries' under section 212(b) of the Caribbean Basin Economic Rocovery Act (19 U.S.C. 2702(b)).

"(i) ESTABLISHMENT OF NUMERICAL LIMITATIONS BY AGRICULTURAL EMPLOYMENT REGION.—

"(1) ESTABLISHMENT OF AGRICULTURAL EMPLOYMENT REGION.—For purposes of the administration of the program the Attorney General shall designate not more than 10 agricultural employment regions within the United States. The entire United States shall be encompassed by the area of all such regions.

"(2) NUMERICAL LIMITATIONS.—After considering the factors described in paragraph (3), if the Attorney General determines that seasonal agricultural workers are required for a month for an agricultural employment region, the Attorney General shall establish a numerical limitation on the number of nonimmigrant visas that may be issued for such workers for that month for that region, except until the end of the third year after the effective date of this Act, the Attorney General may not establish a numerical limitation on the number of such visas that may be issued at any given time in excess of 350,000.

"(3) FACTORS IN DETERMINATION.—In making the determination and establishing numerical limitations under paragraph (2), the Attorney General shall—

"(A) base the determinations and limitations on petitions filed under section 217(b)(1),

"(B) take into consideration the historical employment needs of agricultural employers and the availability of able, willing, and qualified domestic labor,

"(C) take into consideration the recruitment efforts undertaken by the Secretary of Labor under section 404(d)(1)(A), and

"(D) consult with the Secretary of Agriculture.

"(4) NUMERICAL LIMITATIONS AFTER THREE YEARS.—The Attorney General shall establish at the end of the third year after the effective date of this Act, a numerical limit on the total number of seasonal agricultural workers to be admitted into all employment regions in the United States under the program at any given time. In establishing a numerical limit under this paragraph, the Attorney General shall—

"(A) consider petitions filed under section 217(b)(1) during the preceding years of the program,

"(B) take into consideration the historical employment needs of agricultural employers and the availability of able, willing, and qualified domestic labor,

"(C) take into consideration the recruitment efforts undertaken by the Secretary of Labor under section 404(d)(1)(A),

"(D) consult with Secretary of Agriculture, and

"(E) consider the recommendation of the Commission on Agricultural Worker Programs on a numerical limit as provided under section 124(c)(5).

"(5) CHANGES IN NUMERICAL LIMITATIONS IN EXTRAORDINARY CIRCUMSTANCES.—

"(A) INADEQUATE MONTHLY AND REGIONAL LIMITATIONS.—If—

"(i) a numerical limitation has been established under paragraphs (2) or (4) for a region for a month, and

"(ii) a petitioner described in section 217(b)(1) establishes that extraordinary and unusual circumstances have resulted in a significant change in the petitioner's need for seasonal agricultural workers specified in the petition or in the availability of domestic workers who are able, willing, and qualified to perform seasonal agricultural employment, the petitioner may apply to the Attorney General (in such form and manner as the Attorney General shall provide) for an increase in the numerical limitations otherwise established under paragraphs (2) and (4) to accommodate the circumstances.

"(B) DETERMINATION.—The Attorney General shall make a determination on such an application within 72 hours of the date the application is completed. To the extent the application is approved, the Attorney General shall provide for an appropriate increase in the appropriate monthly and regional numerical limitation. The Attorney General may expand the number of workers admitted into the region for which the application is approved by transferring seasonal agricultural workers from another region with a lesser need or by admitting additional workers from foreign countries. In the event the limit on the admission of seasonal agricultural workers for all regions in the United States established under paragraph (4) has been reached at the time the application alleging extraordinary and unusual circumstances is filed, the Attorney General shall follow the procedures in subparagraph (C).

"(C) INCREASE IN THE NUMERICAL LIMITATION ESTABLISHED BY THE ATTORNEY GENERAL.—If—

"(i) a numerical limitation on the admission of seasonal agricultural workers into all employment regions has been established by the Attorney General under paragraph (4) and

"(ii) a petitioner described in section 217(b)(1) establishes under the provisions of subparagraphs (A) and (B) that extraordinary and unusual circumstances require an increase in the numerical limitation, the Attorney General may provide for an increase in the appropriate numerical limitation in an amount not to exceed 20 percent of the total number authorized for admission into all regions. Any such increase authorized by the Attorney General shall terminate upon the end of circumstances requiring it and shall not result in a permanent expansion of the numerical limit established by the Attorney General under paragraph (4).

"(j) ENTRY OF SEASONAL AGRICULTURAL WORKERS.—

"(1) ANNUAL TIME LIMITATION.—An alien may not be admitted to the United States as a seasonal agricultural worker under section 101(a)(15)(O) for a period of more than nine months in any calendar year. An alien admitted under section 101(a)(15)(O) during any calendar year will not be eligible for readmission into the United States until he has returned to his country of origin for a period of 3 months.

"(2) VIOLATORS DISQUALIFIED FOR 5 YEARS.—An alien may not be admitted to the United States as a seasonal agricultural worker if the alien was admitted to the United States as such a worker within the previous five-year period and the alien during that period violated a term of condition of such previous admission.

"(k) WAGES AND WORKING CONDITIONS.—The Attorney General, in consultation with the Secretaries of Agriculture and Labor, shall establish through regulation appropriate wages and working conditions as will not adversely affect the wages and working conditions of United States workers similarly employed in the area of intended employment.

"(1) ALLOCATION AND USE OF VISAS UNDER THE PROGRAM.—

"(1) IN GENERAL.—Nonimmigrant visas for seasonal agricultural workers, within the numerical limitations established under subsection (i)(2), shall be made available as follows:

"(A) PREVIOUS WORKERS.—Visas shall first be made available to qualified nonimmigrants who have previously been admitted as seasonal agricultural workers and who have fully complied with the terms and conditions of any such previous admission, providing priority in consideration among such aliens in the order of the length of time in which they were so employed.

"(B) OTHERS.—Any remaining visas shall be made available to other qualified nonimmigrants.

"(C) TREATMENT OF SPOUSES AND CHILDREN.—A spouse or child of a seasonal agricultural worker is not entitled to a nonimmigrant visa as such a worker by virtue of such relationship, whether or not accompanying or following to join the nonimmigrant, but may be provided a nonimmigrant visa as such a worker if the spouse or child also is a qualified as such a worker.

"(D) NO INDIVIDUAL EMPLOYER VISA PETITION REQUIRED.—An alien admitted pursuant to section 101(a)(15)(o) shall not be required to obtain any petition from any prospective employer within the United States in order to obtain a nonimmigrant visa under the program.

"(E) NO LIMITATION TO PARTICULAR EMPLOYER OR CROP.—A nonimmigrant visa issued under the program shall not limit the geographical area (other than by agricultural employment region) within which a seasonal agricultural worker may be employed or limit the type of seasonal agricultural employment services, in perishable commodities, the worker may perform.

"(F) DISQUALIFICATION FROM FEDERAL ASSISTANCE.—A seasonal agricultural worker under the program is not eligible for any program of financial assistance under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government.

"(G) ALLOCATION OF VISAS TO CARIBBEAN BASIN COUNTRIES.—The Attorney General, in consultation with the Secretaries of State and Agriculture, shall establish through regulations the allocation of visas to workers in specific countries under this section. A percentage of the visas issued shall be allocated to qualified workers in countries located in the Caribbean Basin.

"(m) TRUST FUND FOR PROGRAM ADMINISTRATION.—

"(1) ESTABLISHMENT.—The Attorney General shall establish by regulation a trust fund the purpose of which is to provide funds for the administration of the program and to provide a monetary incentive for seasonal agricultural workers in the program to return to their country of origin upon expiration of their visas under the program. The Attorney General shall promulgate such other regulations as may be necessary to carry out this subsection.

"(2) PAYMENTS INTO TRUST FUND.—In the case of employment of a seasonal agricultural worker under the program—

"(A) EMPLOYER PAYMENT.—The employer shall provide for payment into the trust fund established under this subsection of an amount equivalent to 11 percent of the wages of the worker.

"(B) WORKER PAYMENT.—There shall be deducted from the wages of the nonimmigrant and paid into such trust fund an amount equivalent to 20 percent of the wages of the worker.

"(C) WAGES DEFINED.—For purposes of this paragraph, the term 'wages' has the meaning given such term in section 3121(a) of the Internal Revenue Code of 1954, except that for these purposes paragraph (1) of that section shall not apply.

"(3) USE OF AMOUNTS IN TRUST FUND.—

"(A) EMPLOYER PAYMENTS AND INTEREST.—Except as provided in paragraph (B), amounts paid into the trust fund, and interest thereon, shall be used for the purpose of administering the program.

"(B) WORKER PAYMENTS.—Amounts described in paragraph (B) paid into the trust fund with respect to a worker and interest thereon shall be paid to the worker if—

"(i) the worker applies for payment within 30 days of the last day of employment under the program (as verified by the Attorney General) at the United States consulate nearest the worker's residence in the country of origin, and

"(ii) the worker complies with the terms and conditions of the program, including the obligation to be continuously employed (or actively seeking employment) in seasonal agricultural employment in perishable commodities.

"(4) EXPANSION OF CONSULATES.—The Secretary of State is authorized to take such steps as may be necessary in order to expand and establish consulates in foreign countries in which aliens are likely to apply for nonimmigrant status under the program.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 404 (8 U.S.C. 1101), as amended by sections 101(b) and 102(b) of this Act, is further amended by adding at the end the following new subsections:

"(d) AUTHORIZATIONS OF APPROPRIATIONS FOR SECRETARY OF LABOR.—(1) There are authorized to be appropriated to the Secretary of Labor for each fiscal year, beginning with fiscal year 1986, $10,000,000 for the purposes—

"(A) of recruiting domestic workers for temporary services which might otherwise be performed by seasonal agricultural workers described in section 217, and

"(B) of monitoring terms and conditions under which such temporary and seasonal agricultural workers (and domestic workers employed by the same employers) are employed in the United States.

"(e) AUTHORIZATION OF APPROPRIATIONS FOR SECRETARY OF AGRICULTURE.—There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1986, such sums as may be necessary for the purposes of enabling the Secretary of Agriculture to carry out the Secretary's duties and responsibilities under section 217.".

(d) PROHIBITING ADJUSTMENT OF STATUS OF TEMPORARY AGRICULTURAL WORKERS.—(1) Section 245(c) (8 U.S.C. 1255(c)), as amended by sections 113(a) and 122(e)(1) of this Act, is further amended by adding at the end the following new paragraph:

"(4) An alien (other than an immediate relative specified in section 210(b)) who entered the United States classified as a nonimmigrant under section 101(a)(15)(O).

(2) Section 248(1) (8 U.S.C. 1258(1)), as amended by section 122(e)(2), is further amended by striking out "(K) or (N)" and inserting in lieu thereof "(K), (N), or (O).".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), (c), and (d) of this section apply to petitions and applications filed under section 217 of the Immigration and Nationality Act on or after the first day of the twelfth month beginning after the date of the enactment of this Act (hereafter in this section referred to as the "effective date").

(f) REGULATIONS.—The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall approve all regulations to be issued implementing sections 101(a)(15)(O) and 217 of the Immigration and Nationality Act. Notwithstanding any other provision of law, final regulations to implement such sections shall first be issued, on an interim or other basis, not later than the effective date.

(g) DEPORTATION OF SEASONAL AGRICULTURAL WORKERS FOR FAILURE TO BE EMPLOYED OR SEEK EMPLOYMENT.—Section 241(a) (8 U.S.C. 1251(a)) is amended—

(1) by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or "; and

(2) by adding at the end the following new paragraph:

"(2) entered the United States as nonimmigrants under section 101(a)(15)(O) and failed to be continuously employed or actively seeking employment in seasonal agricultural employment in perishable commodities (as defined in section 217 (h)(1) in accordance with the usual and customary employment patterns and practices.".

(h) SENSE OF CONGRESS RESPECTING ADVISORY COMMISSION.—It is the sense of Congress that the President should establish an advisory commission which shall consult with the Government of Mexico and the governments of other appropriate countries and advise the Attorney General regarding the operation of the seasonal agricultural worker program established under section 217 of the Immigration and Nationality Act.

(1) Conforming Amendment to Table of Contents.—The table of contents is amended by inserting after the item relating to section 216, as added by section 122(h), the following new item.

"Sec. 217. Seasonal agricultural worker program.".

Mr. WILSON. Thank you, Mr. President.

Mr. President, I rise this afternoon on behalf of an amendment that will sound familiar to Members of this body. It is virtually identical to what was debated at length on Thursday of last week with one single major substantive change, and that change is in response to what occupied perhaps half of the debate or at least half of the criticism leveled by the proponents of the amendment against it and has to do with the charge that in an effort to create a seasonal worker program, this amendment would leave virtually open-ended, virtually without limitation the number of workers that could be brought into the United States as temporary workers who harvest perishable commodities.

Mr. President, the single change, the major substantive change of which I speak is that there is in this amendment offered this afternoon a cap, a numerical cap limiting to 350,000 the number of workers who may be in the United States at one time as legal temporary workers for the harvest of perishable commodities.

Mr. President, as I say fully half of the debate last week was concerned with that.

Let us dispense with that. This is not open ended. For the first 3 years of its existence this new program will have that limit, 350,000. At the conclusion of the 3-year period, the Attorney General is directed by the amendment to determine whether that number of 350,000 is adequate, whether it exceeds need or whether it is less than need. But in determining what the new cap shall be, he is required to set a cap, considering stated objective criteria in the law, the first of which is the availability of domestic workers.

Mr. President, growers of perishable commodities are in a very risky business. They would prefer hiring domestic workers for reasons that are obvious. Indeed, they do hire those domestic workers who are available. The fact, Mr. President, is that the Senator from Ohio, a nice man, is flatly misinformed on this point. There is simply an inadequacy and has historically been inadequacy of domestic workers who were willing to do this kind of work. It is difficult work. It is hard work. Often it is done in hot weather. It is for that reason that those who receive rather handsome wages are entitled to do so. We make no pretense that they do not earn the money.

I see my colleague from the State of Washington wincing slightly. Perhaps he thinks I should not have emphasized that this is hard, manual labor. It is. These are not machine-picked crops. They are perishable commodities. They cannot be mechanically harvested as can wheat or other crops with which my colleagues are familiar. There are some 200-plus perishable commodities that must be picked by hand. When we say perishable, we are not talking about those that can ripen on a tree and remain there for perhaps a month without injury. We are talking about those that must be harvested immediately when ripe as a function of weather, not the certification by the Secretary of Labor, or the crop risks being lost.

Those who are concerned with this amendment in terms of its being a killer amendment, the thrust of the remarks of my colleague from Massachusetts I think should review a little history. They should consider what happened in the House of Representatives last year because we were being told that with this amendment this bill cannot become law because it will not pass the House of Representatives.

Mr. President, history teaches us that this bill passed last year by five votes in the House of Representatives, but the amendment, virtually the same amendment before us this afternoon without the cap, passed by 56 votes. It is entirely arguable that this measure would not have passed in the House of Representatives last year without the perfecting amendment that created or sought to create a seasonal worker program.

Mr. President, I rise on behalf of 53,000 small farm families—farms—who grow perishable commodities in this country.

These are not large corporate operations. They are small. In many cases, they are 20 or 30 acres. Virtually all are under 200 acres. But let me just say to those in the audience, those of my colleagues who last week voted against this measure because some of those family farmers had been misinformed and had expressed to them the fear that this legislation would take away the H-2 provisions upon which they depend: That is simply not the case. This legislation leaves untouched the existing H-2 provisions.

It is true that Senator SIMPSON's bill makes changes, and there is a need to streamline that unwieldly and from the standpoint of perishable commodities it is unworkable legislation. But for those who wish the H-2 process to continue, it continues to exist because this amendment makes no change in it. What it does is afford to those farm families a choice. They can either continue with H-2 if it has worked for them, or if they are dealing with truly perishable commodities, those which need to be picked immediately if they are not to be lost, then they have the choice of this seasonal worker program.

Mr. President, let me add one point here that I think has received inadequate response. The fact of the matter is this is a humanitarian change. I listened with almost wry amusement as those of good heart but little information seek to paint this in terms of a new bracero program. It is anything but that. Recently Congressman LUNGREN made headlines in southern California by visiting in southern California holes in the Earth that were the living places of seasonal workers who because they are illegal fail to take advantage of housing that is afforded them. They are afraid to go to housing that is provided for them by growers because they fear a raid by the INS.

Mr. President, no one should have to live that way. No one should have to live in that fashion seeking to make a decent living in constant fear of apprehension. Let me say that the differences between this and the Bracero Program of many years ago are numerous, obligations are imposed upon the employer, and rights are given to the workers that simply did not exist under the old Bracero Program. Housing or housing allowance is provided. That was never true under the Bracero Program, or at least if so, it was volunteered by the grower. This is mandated by law. Workers Compensation or other insurance is mandated by this amendment. None was mandated by the Bracero Program. Workers may not under this legislation receive an adverse-effect wage which is to say that they may not be paid any less than the prevailing wage which has to be above the minimum wage, so the charge that these workers will contribute to a worsening of economic conditions and worsening conditions for American counterparts is flat nonsense.

Mr. President, in the interest of time and because others wish to be heard on this measure, let me simply say it leaves intact the H-2 provisions and offers a new choice to growers. It affords decent working conditions to foreign workers who no longer will have to be smuggled into the country by coyotes who extract $1,500 per person, and then continue to extort more from them. It will allow the survival of an industry, and if Mr. METZENBAUM is concerned as indeed we all should be with the loss of jobs overseas, let me tell the Senator that the effect of the failure of this amendment will be that not only will growers move their operations out of the country, but what we will lose as well are the tens of thousands of jobs in the packing sheds, in the truck yards, in the wholesale and retail grocery markets all between the fields and the ultimate consumer—whose livelihoods depend upon the timely adequate harvest of perishable commodities—will depend on the success of this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the distinguished Senator from Wyoming has struggled and campaigned through at least three Congresses with skill, care, thoughtfulness, and wit to deal with a terrible and depressing national problem. The present system of immigration and naturalization has broken down almost completely. It is without effective control. It has resulted in the presence in the United States of millions of illegal aliens here to seek employment, and often as a result of being badly exploited, and living hand to mouth in an underground existence.

The cure which has been proposed by the distinguished Senator from Wyoming is a new law which offers better and more effective controls over our borders, deals with the problem of seeking of employment by illegal aliens by providing for sanctions against employers who knowingly hire and utilize them, and which also provides for amnesty for people who have effectively become Americans by being here for an extended period of time and by having contributed to our society.

The problem which the Senator from Wyoming and his bill have given to a number of Members in this body, myself and the Senator from California include, is that we represent a number of basic, distinguished, and hard-working American farmers who grow crops which are highly labor intensive and which cannot be harvested by the use of machinery.

At the present time, they are forced to use large numbers of these illegal aliens, some of whom are clearly mistreated, in order to keep their businesses literally in operation because of an immense lack of interest in this kind of occupation on the part of many citizens. And so the solution is this amendment.

Had the Senator from Ohio studied the issue more carefully, he would have recognized how eloquent were the statements he made a moment ago on behalf of this amendment. He spoke of the way the present system, the use of vast numbers of aliens, depresses working conditions not only for those aliens but for many citizens as well. He stated that our amendment seeks to allow 350,000 illegal aliens to work in the United States.

It does exactly the opposite. It seeks to allow 350,000 legal workers in the United States, subject to the protection of all of the laws of the United States and the various States if, and only if, it is determined by the Attorney General that citizens are unavailable for these jobs.

He speaks of the benefits provided by the present system, the huge corporate farms. He certainly is not speaking of the farms in my State or in the State of the distinguished Senator from California, where, almost without exception, these farms are small, very, very modest in size, and run by individual families.

The solution to the problems which the Senator from Wyoming seeks to solve is, of course, to encourage a better system, to prefer the hiring of

citizens, and to permit the hiring of aliens for this kind of work only when citizens are not available, and subject to all of the protections of the laws of the United States with maximum encouragement for these noncitizens to return to their countries of origin when their work has been completed.

That is precisely what this amendment does. It prefers citizens. It limits the number of aliens in any event. It provides for the protection of those aliens while they are at work. It is the only guarantee that the family farms which we represent will be able to harvest their crops and provide them for the good, for the betterment, of the American people.

I am disappointed or puzzled, Mr. President, in only one respect in this connection. The Senator from Wyoming is so thoughtful and has worked so hard on this proposal that I fail to understand why it is that he continues to oppose an amendment which is such a vital necessity to a measurable number of Senators from States represented in this body. Almost without exception our colleagues accept the statements of Senators about conditions and needs in their own States. We are thoroughly and 100 percent convinced that the system proposed in this bill will not work for our States. It will result in one of two undesirable consequences: either we will continue to have employers who violate the law, or we will have a large number of farms which simply have to go out of business. They simply will be unable to plant, to grow, and to market the kind of products they do at the present time.

The amendment is thoughtful. It is limited. It is full of protections. It prefers citizens. And, Mr. President, it should be accepted by the sponsors of this bill and by the vast majority of the Members of this body.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I rise in support of the amendment offered by my colleague from California and associate myself with the remarks of my senior colleague from the State of Washington. This amendment, which would establish a seasonal agricultural worker program for the perishable commodities industry, is vital for our States and a number of others.

As Governor of the State of Washington, I had many occasions to attempt to better the conditions of those who worked in the perishable commodities industry. We worked hard and with some considerable success at improving the housing, the sanitation, and the availability of workmen's compensation to those migrant workers, both American and aliens, guestworkers, who came to help harvest Washington's crops.

I visited those camps on a number of occasions and have for many years visited, talked with, and I think understand something of the problems of our orchardists, most of whom, as pointed out by my colleagues, are small farmers, small businessmen.

My colleague from Massachusetts suggested that somehow this would have the effect of throwing American workers out of an opportunity to have a job; that it would be an amendment that would in the worst interest of unemployed American workers.

Let me suggest to my colleague from Massachusetts that many of the unemployed in the State of Washington are in the timber industry and in the timber counties of our State. Those are located in the northwest corner of Washington, basically on the Olympic Peninsula.

In order for one of those unemployed workers to take advantage of 2 or 3 days of emergency harvest, they would have to travel over one toll bridge, one toll ferryboat ride, and 9 hours on the highway to get from their homes to this orchard for harvest.

You may not quite understand the distances in the West, but that is the equivalent of starting from Boston and going through Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, and Maryland and arriving in Washington, DC, for 2 days of work. Hardly a practical idea.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. EVANS. Yes.

Mr. KENNEDY. Is the Senator suggesting that it is a shorter ride to come from Central America than to make that trip? I fail to follow the logic of the Senator's argument, saying that it is going to be a long trip for unemployed timberworkers. Is the Senator trying to suggest that it will not be a long trip to come from Central or South America to go up there for those 2 days of work as well?

Mr. EVANS. Many of these workers follow on from one crop to another. But it is not very practical for that man who has worked in the timber industry, who has lived all his life on the Olympic Peninsula, to start going from one crop to the next. If he chooses to do so, then I think this amendment does not do damage at all to that American worker. With the amendment adopted, the work would first go to American workers. It does not displace but it only augments the H-2 Program. It handles the problem. The legislation simply does not handle that emergency crop necessity when you get into a weather situation or another situation where even 72 hours is too long a period of time.

Mr. KENNEDY. Will the Senator yield?

Mr. EVANS. Yes.

Mr. KENNEDY. How is the worker in Mexico going to know what the weather is going to be in northern Washington? I have listened to the arguments out here that under the procedures which have been outlined in this bill, which is a 72-hour certification in the program, that that is not going to be capable of dealing with the problem because the weather is going to change, change in a matter of hours or days. How in the world is some agricultural worker going to know down in Mexico what the weather is going to be so he will know to go up there? This provision, unlike the H-2 provision, makes no survey about what the job needs are in those particular areas.

I know everyone wants to conclude on this, but I do want to mention that the figures I put in on unemployment rates were the unemployment figures for the agricultural workers in those areas and not the total State figures. They were supplied to us by the Department of Labor and the Department of Agriculture.

Mr. EVANS. Many of those who are classified as unemployed, of course, are unemployed for a portion of the year and are employed for a portion of the year. The portions of the year they are employed for are exactly those times of harvest. They are unemployed for the rest of the year.

I think the figures do not add up.

Mr. President, I think it is time to vote. I would suggest that those workers do not, as the Senator has stated, all come from Mexico.

They are on a migrant trail and are available at much quicker times and at much shorter distances than he suggests.

Mr. President, once again, I support the amendment offered by my colleague from California [Mr. WILSON] which would establish a seasonal agricultural worker program for the perishable commodities industry.

The amendment has been revised to address the key issue raised during the debate concerning the open-endedness of the proposal. The major criticism levied against the amendment was that without some sort of cap, a limitless number of guest workers would displace or domestic supply of labor.

The revision establishes a national cap of 350,000 on the number of temporary foreign workers allowed in the country at any one time for the next 3 years.

Adoption of the amendment is essential to the well-being of the perishable commodities industry. It is a unique industry and highly volatile to changing weather conditions.

The perishable commodities industry has relied heavily on foreign workers for approximately 50 years. Once the flow of illegal immigration has been stemmed there is no guarantee that adequate numbers of domestic workers will fill such jobs.

The amendment would supplement the H-2 Program. It would not replace

it. It is available only to those involved in the production of perishable commodities.

Time requirements of S. 1200 are unrealistic and unresponsive to the perishable commodities industry. Under the legislation, growers are required to predict weeks in advance how many workers they will need and when they will need them.

In the State of Washington, cherries represent a significant part of the perishable commodities industry. They can be harvested in less then 2 weeks. However, they can become unharvestable after a day of rainfall. Other examples include peaches, plums, and apricots. An unexpected hot spell can ripen these perishables in a matter of days.

H-2's existing 72-hour emergency provisions intended to resolve the need for workers earlier than anticipated is simply inadequate in light of the nature of the industry. This emergency provision is only available when the Department of Labor determines that a critical need exists. There is always the possibility that the Department of Labor couldn't render a decision within 72 hours.

Even if the Department of Labor made a decision within 72 hours the necessary paperwork, such as visas, documentation, and the employment contract would have to be approved. Foreign workers would also have to be recruited. It is highly unlikely that all this could be done within 1 week.

As I have mentioned, cherries are highly susceptible to rain. Last June in Washington State, farmers in the Yakima Valley had to triple their work force in a matter of hours because an impending rainstorm threatened the harvest. The crop would never have been harvested if the farmers used H-2.

The amendment has numerous safeguards: to participate in program, growers have to make a good faith effort to recruit domestic workers. They must also provide wages and working conditions comparable to those given domestic workers. They would not be able to depress wages and working conditions for domestic workers. Growers would also have to provide housing or a housing allowance to foreign workers as well as workmen's compensation or its equivalent.

The amendment has strong incentives to encourage foreign workers to return to their home countries by withholding a portion of their wages which would be returned to them through the U.S. Consulate upon their departure from the United States.

In conclusion, I must highlight that the revision to the Wilson amendment which caps the number of temporary foreign workers in the United States at 350,000 further clarifies that this is not an open-ended guest worker program. This cap should also be viewed together with the amendment's other safeguards. The Attorney General still has the authority to determine, in consultation with the Secretary of Labor, that there is an adequate number of able domestic workers to meet the needs of the perishable crops industry and thus no foreign workers will be admitted.

The pending amendment is essential to the well-being of the perishable commodities industry. I strongly believe it is equally essential to the interests of consumers and both foreign and domestic workers. It is consistent with our objective of immigration reform because it would provide both foreign and domestic workers with adequate protections and guaranteed rights.

I urge my colleagues to support this amendment as revised to the existing H-2 provisions of S. 1200.

The PRESIDING OFFICER (Mr. WALLOP). The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I have not participated in the debate today, so my remarks will be very short, because I think I have said what I intended to say as we dealt with this on the first go-round. Let me just state that we are told that this is a change, and it certainly is. The change is one that I think proves the point, that the amendment is a very large guest worker program.

Yesterday, there was discussion in the debate that many of you were not privy to because of the holiday we were recognizing. Nevertheless, it was a good debate.

We were told that the 350,000-person limit would only apply to a particular point in time in any month. The number of actual admissions in any calendar year could be much higher, particularly because not one of the workers under the Wilson amendment may remain in the country for longer than 9 months. I think it is important that we recognize the number of actual admissions in any calendar year will be much higher.

In addition, the cap of 350,000 only applies to the first 3 years of the Wilson program. After that, a section of the amendment kicks in and allows the Attorney General to set any limit he finds necessary—any limit he finds necessary—on the program.

When I asked that question, I was told, yes, the limit could be higher than 350,000 after 3 years. I believe that. That is the reason I have always resisted this amendment.

The amendment is directed allegedly to the perishable fruit industry, yet the irony of it is that there are people who have listened to this debate who somehow think that it has something to do with agriculture in their States, yet they come from States that use solely the H-2 Program, States that have never had any desire to use illegal, undocumented persons—or anybody illegal—are involved here, in this debate, as if this were critical to their State.

I could run through the list of States. I need not do that. I do not want to make any attempt to say that someone is not hearing correctly what we are saying. Let me say to my colleagues that there are 20 States that use the existing H-2 Program and have no desire to get into any other kind of program and they deal with perishable fruit. That is apples in the Northeast and apples in the Midwest. There is no requirement whatsoever to use illegal, undocumented workers in those areas because they use the H-2 Program. They have used it for years and it works. I have never had any problem trying to recognize California and their special needs or Washington and their special needs. What I have a lot of problem recognizing is why that should apply to the entire United States of America.

Again, without question, and we can get into semantics all we want to, but we are talking about an open-ended and broad-based program when we are told, as we were in the debate yesterday, yes, the limit could be higher and certainly will be higher after 3 years. And, indeed, it will. It is an extraordinary number. Please recall that in hearings we were told that there were 300,000 farm workers in California. A recent survey found 30 percent of them to be illegal.

All right, that is the case, and no one challenges that. Then California appears to need only 90,000 temporary workers if employer sanctions are passed.

Then please remember, as you hear other States enter the debate—Oregon, Washington, Arizona, Idaho—that they would also need foreign labor, and that is true. But their demand altogether would not equal California's. I think it is important that we remember that. There are many growers in that State that use the H-2 Program and have found that a very workable program.

So, here we are with the fact that the reason this Senator from Wyoming resists, in response to an inquiry, and opposes this amendment, and I appreciate the remarks of the Senator from Washington because I have had a deep admiration and respect for him—he has been a remarkable addition—both of the Senators from Washington have; both of them are an extraordinary addition to this place.

The reason I continue to resist the amendment is what we put into S. 1200. What we put into S. 1200 was, in essence, Panetta-Morrison revisited. If you will, go back and look at the original Panetta-Morrison amendment as it passed the House by a substantial vote—45 or 56-vote margin, something

like that—and then find out what happened in conference. We came back from conference and passed what had failed after 10 days, a Panetta-Morrison-Simpson amendment. That was voted on by Mr. PANETTA and Mr. MORRISON and Mr. SIMPSON. And that is exactly what is in S. 1200 word for word. It matches what I have always said.

I could never satisfy the perishable fruit growers. "There ain't no way." Anything I would do, they would vote against. Anything I would propose, they would reject, and they have. I hate to get down into that kind of attitude. It is not one of petulance, because to me, this is not a killer amendment. I do not perceive it as that. I perceive it as a difficult thing to deal with in conference; you betcha. It is going to be that. Especially when the chairman of the House Judiciary Committee has already made his statements about foreign guest worker temporary programs. It is going to be tough to deal with. Anybody who is in favor of immigration reform had best see that.

But it is not a killer amendment. I do not spend my time legislating with high drama; I try to use facts. But I can tell you, Mr. President, that the amendment will make it extremely difficult to deal with. The irony of it is, should it pass, that we have then disregarded exactly what we did in S. 1200, which is Panetta-Morrison-Simpson, which came out of the conference that failed. So we are going to find out that we have gone to a grower certification instead of a Government adjudication of the growers' needs.

We have no labor certification or adverse-effect wage test before the Wilson worker is admitted. We have no method to decrease the size of the Wilson program, and that is a feature specifically suggested by most thoughtful people on the issue.

Then the final curiosity is that what we provided in S. 1200 was all done for the perishable fruit people. And what did we do for the perishable fruit people? I can tell you what we did for them. Let us just review that so we see it.

We gave them a seasonal worker program, and it was limited. So what does it do? It was designed specifically to address the express concerns of the growers of perishable commodities. What we did for them was this: We gave them a 72-hour labor certification of U.S. workers. If the U.S. workers show up and are not qualified, they have a 72-hour labor certification.

We gave them a 72-hour admission procedure if the promised U.S. workers do not show up at all. And we gave them a certification in the case of changed climatic circumstances.

Then we gave them a procedure to allow those H-2 workers to remain in the country for a brief period of time after the expiration of their contract in order to respond to emergency situations. That is what we did in S. 1200.

It was not enough, and whatever we would do would not be enough.

Let me conclude my remarks: It was said, and I know you all heard—at least, if not, I would refresh your memory—that indeed we are going to find higher numbers than 350,000 per year. We are going to find in the event that this amendment is going to allow an increase in the cap or the Attorney General's cap in the event of extraordinary or unusual circumstances. The elbowroom in this bill to provide for that is very real. The amendment is a continual squeeze on the Attorney General. If one were wearing such a cap as has been described as an item of apparel, it would be mashed, to say the least. That is exactly what will happen to it.

A final comment. Some say, as it was said about the H-2 Program—and magnificently expanded and streamlined as we did in the conference and then in S. 1200—that "no perishable commodities grower can predict his date of need 65 days in advance." That has been a rather significant theme. This is true for some commodities. That is why even the current H-2 Program, regardless of this bill, allows a grower to slow down the arrival of H-2 workers 9 days or earlier before his date of need. Even the most extraordinarily active perishable grower starts to have an excellent idea about when the harvest will start. The current users of the H-2 Program commonly predict their date of need early and then they slow down the arrival of workers if necessary.

And so in S. 1200 the H-2 Program would retain all of that flexibility and allow for improvement. What is does not obtain apparently is the willingness of those in the perishable food industry to use the H-2 Program, and I do not blame some of them; they have had to deal with Departments of Labor in all administrations that tried to drive them goofy; they put it on them and took it away from them and dangled it at them. But that was previous Secretaries of Labor in all sorts of administrations with all sorts of philosophies. They managed to scotch it, to make it tough, make them sue and put them through the hoops. And that is why we have this flexibility, to allow for improvement. And again the cap on the Wilson program is less firm than it appears, I can assure you, Mr. President. That has already come out in the debate. And yet the flexibility of the H-2 Program, the streamlined, new H-2 Program under S. 1200 is much more significant than ever characterized by its critics.

So with that, I think Senators want to pay careful attention to the fact that they are going toward, in my mind, huge numbers of foreign workers in the United States. I am not going to call it a return to the bracero program, but I am going to say that it is a return to something we have not had since the late fifties and sixties. That is the peril of the amendment. Forget what we do with it. I assure Senators that the reasons I resist it are very clear to me. But where does it all stop?

Of all the constituent groups that grapple—and there are plenty of them and I have grappled with all of them. I feel like Hercules with the multiheaded Hydra. I have grappled with them all—there is no way to satisfy the perishable fruit growers. I can accommodate American Hispanics, I can accommodate the American AFL-CIO, I can accommodate the American Farm Bureau, I can accommodate even the ACLU. I can accommodate employer groups, Chambers of Commerce, I can accommodate and work with almost everybody in the whole spectrum of immigration reform, but there is one group that will never ever, ever be satisfied and will wait in the wings. If this passes, it will not be enough; they will do a number on the House one more time. That is the stuff Senators are dealing with when they get to this crew. They are heavy hitters; they spend big bucks, and they are quite effective, thank you.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, I will take 30 seconds.

I hope they are effective. I hope they are as effective as the Senator from Wyoming. I think he has earned their respect. I will only tell him that survival makes people try very hard to win, and that is hanging in the balance, survival. I join with those asking for the vote.

Mr. SIMPSON. Mr. President, I agree with that totally—survival does activate the glands, but let me tell you what activates it more—greed. That is exactly what we have, because I tell you what is going to happen when you do not get immigration reform and it all gets hung up in the shoals. You are not going to find anything acceptable to the perishable fruit growers. You are going to find exploitation deluxe. You are going to find the status quo. At least that is one thing they deal with in their midnight chambers, the status quo. And I know because I have talked with them and shared some time with them, Democrat and Republican alike. They say, "SIMPSON, this just can't go on, but this we need, and that we need. Oh, yes, you are right, it cannot go on."

Well, that is what is going to go on. Then I will be here. And I assure you, Mr. President, as we gear up for whatever it is—I did not seek this job, but

whatever it is we gear up for in future years, if we do nothing, then at least I want them to know that I will be glad to listen again to whatever they have to propose and see where it is that eventually they may be willing to deal with the realities of the game. It is not survival but greed.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from California. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ZORINSKY (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from North Carolina [Mr. EAST]. If he were present and voting, he would vote "yea." If I were voting, I would vote "nay." I therefore withhold my vote.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. INOUYE] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

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

The result was announced—yeas 51, nays 44, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—51

Abdnor	Gore	Mitchell
Armstrong	Gorton	Murkowski
Baucus	Gramm	Nickles
Bentsen	Hatch	Nunn
Boren	Hawkins	Pryor
Boschwitz	Hecht	Quayle
Bumpers	Heflin	Riegle
Cochran	Helms	Rudman
D'Amato	Hollings	Sasser
DeConcini	Humphrey	Specter
Denton	Kassebaum	Stevens
Dole	Laxalt	Symms
Domenici	Leahy	Thurmond
Evans	Lugar	Trible
Exon	Mattingly	Wallop
Garn	McClure	Warner
Goldwater	McConnell	Wilson

NAYS—44

Andrews	Ford	Melcher
Biden	Glenn	Metzenbaum
Bingaman	Grassley	Moynihan
Bradley	Harkin	Packwood
Burdick	Hart	Pell
Byrd	Heinz	Pressler
Chafee	Johnston	Proxmire
Chiles	Kasten	Rockefeller
Cohen	Kennedy	Roth
Cranston	Kerry	Sarbanes
Danforth	Lautenberg	Simon
Dixon	Levin	Simpson
Dodd	Long	Stafford
Durenberger	Mathias	Weicker
Eagleton	Matsunaga	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mr. Zorinsky, against.

NOT VOTING—4

East	Inouye
Hatfield	Stennis

So the amendment (No. 614) was agreed to.

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

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

The motion to lay on the table was agreed to.

ORDER TO VITIATE YEAS AND NAYS

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The question is on the first-degree amendment.

Mr. SIMPSON. Mr. President, I believe there was a motion to accept the yeas and nays on an underlying amendment, which I believe the Senator wishes to vitiate.

The PRESIDING OFFICER. The yeas and nays have been ordered on the underlying amendment.

Mr. WILSON. Mr. President, the Senator from Wyoming is correct. I ask unanimous consent to vitiate the request of the yeas and nays.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

The question recurs on the amendment. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from California (No. 616).

The amendment (No. 616), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, for the benefit of my colleagues, it would appear that we have perhaps one other amendment that would require a rollcall vote. That is the amendment of the Senator from Michigan [Mr. LEVIN]. We will know shortly on that. Then there will be an amendment of the Senator from California on reimbursement on which we have reached an accord. That will be accepted. Then there will be an amendment of Senator HEINZ which is still pending with regard to Social Security. I still await some disposition of that which may yet come. We shall see.

Mr. MOYNIHAN. Mr. President, will the distinguished assistant majority leader yield for a question in way of an observation? If the amendment of the Senator from Pennsylvania is called up and is made a rollcall vote, there will be an amendment offered in the same area from this side by the Senator from New York.

Mr. SIMPSON. Mr. President, at this time I am not certain as to whether the amendment of the Senator from Pennsylvania will be presented.

Perhaps I should yield to the majority leader, my colleague. It is obviously something that does not have very much to do with immigration reform. Yet it is something that the Senator is deeply desirous of having a rollcall vote on in a timely fashion. But as far as the immigration bill is concerned there is an amendment by the Senator from Michigan [Mr. LEVIN]. I believe we can then move on to final passage. We have already outlined a window from 6:30 to 8:30 this evening. So I yield to the majority leader. That is the status of the immigration bill.

Mr. DOLE. Mr. President, it is my understanding that there would be a lengthy discussion if in fact either side offered Social Security amendments. I am not certain whether that is the case or not. Obviously, it would be my hope that we could set aside Social Security amendments on the immigration bill, and maybe agree to have some freestanding debate on this issue. But if that is not the case, then I think I am not certain what the distinguished senior Senator from Louisiana has in mind. But he indicated earlier today that he would like to be heard. So if we can complete action on the bill by 6:30, including final passage, then we would go to the Superfund legislation for a couple of hours with no rollcall votes.

There would be no additional rollcall votes after we complete the immigration bill. But if we do not complete the immigration bill by 6:30 then we have a 2-hour window where we can take up amendments on Superfund. That can be dealt with, without a rollcall. And then we can come back at 8:30, go back on the immigration bill which essentially at that time I guess would be the Social Security amendments unless something else is offered such as South Africa, trade, debt ceiling, prayer, abortion, or some of the other areas that are germane to immigration. [Laughter.] Maybe just a package deal would be all right.

So hopefully we can dispose of the immigration bill by 6:30, if that is of any comfort. It probably is not.

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

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

Mr. SIMPSON. Mr. President, for the purpose of the proceeding, I ask unanimous consent that the pending amendment be temporarily laid aside for the Levin amendment.

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

AMENDMENT NO. 628

(Purpose: To provide for the status of aliens before legalization)

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. DECONCINI, and Mr. BENTSEN, proposes an amendment numbered 628.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 93, between lines 7 and 8, insert the following:

(k)(1) The Congress finds that because equities exist in a certain group of persons who, while at present in the United States illegally, arrived prior to January 1, 1980, this Act provides the prospect for legalization for such group of persons who meet the eligibility requirements of this Act.

(2) It is not the purpose of this Act to deny employment or to otherwise prevent such group of persons from qualifying for legalization.

(3) Notwithstanding any other provision of law, the Attorney General shall prescribe regulations to permit any person who would be eligible for legalization under section 202 to remain in the United States and to engage in employment until the end of the application period described in subsection (a)(1).

Mr. LEVIN. Mr. President, in addition to Senators DECONCINI and BENTSEN, I ask unanimous consent that the name of Senator BINGAMAN be added as a cosponsor of this amendment.

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

Mr. LEVIN. Mr. President, we have basically reached a conclusion in this bill, although we have not finally adopted it yet, that we are going to delay the legalization process for 3 years. We have a fairly narrow identified group of people who are here illegally, who have been here since before 1980, and we have said in the bill as it now stands that we believe that these people should be eligible for legalization. They have to wait 3 years. We have decided not to speed up that process. We decided, by defeat of the Kennedy amendment, that the legalization process should begin in 3 years. But the sanctions that are in this bill for hiring people who are here illegally begin in 6 months.

So we have a very unusual anomaly in this bill. We have a situation in which people who are going to be eligible for legalization, in this bill, rightly or wrongly, who are going to be eligible for legalization because they have been here long enough, are still not going to be hireable, cannot be hired legally, during this 3-year interim period.

The anomaly is this: What is going to happen to people who are eligible for legalization while they are waiting? Can they be hired legally? Are they going to be deported, although they are eligible for legalization 3 years down the road?

I cannot believe that it is the intention of this bill that we are going to make it illegal to hire somebody whom we are going to legalize a few years down the road. I cannot believe that we want to hold out the promise of legalization to people and then—that promise for many who cannot be hired.

This bill has reached a balanced compromise position. We have told a group of people who are here long enough to establish roots and have some equities, "You are going to be eligible for legalization. Wait 3 years."

In the name of common sense, we cannot then make it illegal to hire those people in this interim period. Common sense dictates that once we have reached the conclusion that they are going to be eligible for legalization, we not then take back what we already have given by saying, "But you can't work while you're waiting."

Mr. CRANSTON. Mr. President, will the Senator yield for a question?

Mr. LEVIN. I yield.

Mr. CRANSTON. Mr. President, I think the Senator has made a very eloquent and compelling case for the amendment. The bill, in its present form, would put people in limbo, where they are promised legalization and cannot work, and it would work a great injustice upon them, and upon their present and prospective employers, who might face new sanctions for hiring them.

My question is this: Would it not also work an injustice on taxpayers, because without being able to maintain employment those people would then probably go on welfare, and those costs for the public would be created?

Mr. LEVIN. That possibility is a very real one, and I thank the Senator for pointing it out.

There are many reasons not to put these people, this limited specific group of people we have identified, who have equities, into a never-never land, into a limbo world, where we say, "You are going to be eligible, but you can't be legally hired." We should not do it. In the name of common sense, we should not do it. In the name of consistency in the bill, we should not do it. In the name of fairness, we should not do it.

I am delighted, by the way, that a number of groups, including the Bar Association, have indicated support for this amendment.

One other word about this group of people: The Commissioner of Immigration and Naturalization has said, according to the New York Times of September 10, that "persons with more than 5 years of illegal residence in the United States would appear to have demonstrated a type of commitment" to this country needed to qualify for legal resident status.

That is the compromise we have reached. We have said:

If you have been here long enough to put down roots and to have this kind of contact with this country; if you have been here before 1980; if you have been here consistently since, we are going to make you eligible for legalization.

In the name of common sense, we should not create this state of limbo, this never-never land, where people whom we have decided are eligible for legalization are not legally hired.

This amendment does not seek to set forth the black-letter law as to how we should solve this anomaly. Instead, it directs the INS, by regulation, to provide that people who are going to be eligible for legalization should also be legally hired and not be subject to deportation.

Mr. President, I do not know that we have a time agreement, except informally. I indicated to the majority leader that I thought we could utilize 15 minutes, and I believe that the Senator from Arizona wants to use part of the time. Unless Senator SIMPSON wants to speak now, I yield to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I thank the distinguished Senator from Michigan.

Mr. President, I urge support for the Levin-DeConcini amendment to the Immigration Reform and Control Act of 1985. The amendment is necessary in order to achieve the stated purpose of the bill—to provide a humane approach to immigration reform.

I am as uncomfortable as anyone else in the United States with legalizing those who came to the United States illegally. I do not believe in rewarding lawbreakers or ignoring violations of our immigration law. It is my firm conviction that if this legalization is enacted, it will never be repeated. Let those who would seek to take unfair advantage of our generosity and humanity be forewarned. We will not repeat this extraordinary gesture.

But, Mr. President, in taking this step of legalizing those illegal aliens with the most equity and roots in the United States, we must be both fair and thorough. I believe we must admit that in the past we have done a very poor job of enforcing our immigration laws. Our failures in this regard have occurred for many reasons. Our policy of enforcement at our borders and our ports of entry has been lax and capricious. We have failed to enforce the terms of our visas for students and tourists. We have allowed several industries in the United States to become dependent on the employment of illegal aliens. All of these factors

have contributed to the present situation of an estimated 5 to 12 million people being in the United States illegally. We cannot and should not attempt to deport all of these people. I do not believe we have the resources or the will to implement massive national enforcement sweeps and deportations.

This legislation attempts to attack the illegal immigration problem in a new way. We would remove the economic magnet that draws people to the United States by denying them jobs. Although, I believe that this approach will increase discrimination against Hispanics and others of recent foreign ancestry, I think that if we are going to try this approach we should couple it with an inclusive legalization program to start the sanctions with a clean slate.

I support Senator LEVIN's efforts to see to it that those with reasonable expectations of being eligible for the legalization program are not subject to arbitrary and capricious apprehensions and deportations. I believe it is unfair to subject individuals who have already been continuously in the United States for at least 6 years to what amounts to the luck of the draw. A chance encounter with a Federal immigration official or State or local law enforcement officer would lead to denial of eligibility for a program that would have already been passed by Congress and that would appear in the laws and statutes of the United States.

The circumstances would also change under this bill for those with reasonable expectations of being eligible for the legislation program. Not only would the sanctions be in effect denying them the opportunity to work, but now to be eligible they should have to avoid detection of 9 years rather than 6.

Mr. President, the Levin amendment is an integral part of a human immigration reform policy. I urge all of my colleagues to resist the temptation to punish and penalize those who have come here illegally. I urge them to start the sanctions, if that is their decision, with a fresh start of immigration policy. Let us not implement a program of round-ups and deportations simply to deny those with the firmest roots in the United States the opportunity to become Americans.

Mr. President, I hope the Levin amendment can be adopted because it makes eminent sense. It is a fair approach. It really is granting voluntary status to those who can show that they have been here since 1980. I know it is the intent of the sponsor of the bill, Senator SIMPSON, that the Commission will in fact legalize these people some period of time during that 3 years. It seems to me a reasonable approach to adopt this amendment.

Mr. SIMPSON. Mr. President, let me quickly state the position of this manager. The Senator from Michigan, in his most extraordinary and unique way, has riveted upon a tough situation. I wish that perfection were part of immigration reform legislation. It is not. It reflects the human condition. We know more about our imperfections than we do our perfections. I know what he is trying to do, but let me tell you, Mr. President, that this amendment will greatly weaken the concept of triggered legalization. There is no question it cannot do anything else.

And that is what the Senate accepted on Friday by a vote of 65 to 26, the concept of triggered legalization. What it would do is effectively begin legalization immediately. There is no other way do describe it. It would begin legalization immediately by giving certain apprehended aliens the right to stay in the country and legally engage in employment. That is why we have appointed a legalization commission. That is why we have strived toward a triggered legalization.

This amendment also obviously requires some kind of entire adjudication by the INS on every apprehended alien who claims to qualify for legalization. The INS should provide nothing less to those people if they are to receive a benefit of legal stay and work authorization that could last for up to 3 years.

The potential for abuse in this provision is tremendous, and that statement, ironically, is as well intentioned by this Senator as anything I would do that would appear to be mean spirited. There is not any question about the potential for abuse. If every alien apprehended claims eligibility, the INS would not have sufficient facilities to detain them while their claim was being adjudicated. We would have to parole aliens out of detention while adjudicating their claims. It would be effectively releasing the people you just apprehended. If an illegal alien is released, you may be assured that it is unlikely you will see that illegal person again.

Mr. DECONCINI. Will the Senator yield for a question?

Mr. SIMPSON. So we have the legalization commission designed so that the legalization will start once the new enforcement starts to take effect. Thus, if the enforcement is effective, the legalization will be triggered and these folks will be protected. If the enforcement continues to be ineffective, these folks will not be at risk because of the ineffectiveness of enforcement.

Mr. DECONCINI. Will the Senator yield for a question?

Mr. SIMPSON. Yes.

Mr. DECONCINI. Is it the position of the Senator from Wyoming that because of our very lax enforcement now, if this bill is adopted and becomes law with the Commission without the Levin amendment, these people do not have to worry about it because they are not being picked up now and they will not be picked up then? Is that the defense for not trying to do something for them?

Mr. SIMPSON. Mr. President, that is a likely possibility.

Mr. DECONCINI. So we are at risk that we will continue the lax enforcement policies. Does it not make sense to the Senator from Wyoming to try to not have the pressure on any greater enforcement but to grant some kind of a direction to INS on how they ought to proceed? I think that is all the Senator from Michigan is suggesting.

Mr. SIMPSON. Mr. President, I know what the Senator from Michigan is seeking, and it comes from the spirit of the man. But we are dealing with people who are here illegally. They came to the United States illegally. They knew the risks, and they are here, and that is where we are in the United States. That is never going to change. I wish it were not that way but it is that way. We are dealing with an illegal population and we are saying to them—and I can pledge and have—we hope that enforcement does get up to speed because the minute it does, we are going to trigger legalization. That seems to be a concept embraced in this Chamber. That is what I am for. That is what the Senator from Arizona is for. That is what we all are for—when enforcement is in place and working and functioning, that we will trigger legalization. At that point, these people will no longer be at risk. That is what I am up to. And there are going to be persons who are here illegally, who knew the risks, who are not going to receive the extraordinary benefits of U.S. citizenship. That is just the way it is. I wish it were not that way. They will not even receive the extraordinary benefits now of permanent resident alien status. I wish that were not the case but that is the way it is.

Mr. SYMMS. Will the Senator yield for a question? Does the Senator care to speculate from what areas of employment most of these people will be deported if he prevails and the Senator from Michigan loses?

Mr. SIMPSON. Mr. President, I can show you where we find illegal undocumented persons in employment in the United States, and remember that the vast majority of persons who are apprehended as being illegals are in a procedure called voluntary departure. Ninety to 95 percent of them leave the United States voluntarily.

Mr. SYMMS. It appears that without the Levin amendment, what will happen is the INS will go out and round up a few people, they will get thrown out and the others that they

do not find will be fortunate enough to eventually become legal residents of the United States. It is highly discriminatory, it appears to this Senator, without the Levin amendment.

Mr. SIMPSON. Mr. President, on the border of the United States is where a great number of apprehensions take place, and the voluntary departures take place in the border area of the United States. But if the Senator from Idaho is speaking about the use of illegal undocumented persons or where they are or what industries, I can tell him that they are in assembly lines and agriculture and service industries, and they are in the internal part of the United States. The largest interior population is in Chicago, IL. A great number of El Salvadorans and Mexican illegals are in that area. The greatest majority of apprehended aliens have been in the United States less than 2 years; 70 to 90 percent of them have been here less than 2 years. Most are apprehended coming into this country.

The INS has told us—and I think shared it with Senator Levin—that they are not going to be conducting sweeps or roundups in residential areas in the interior of the United States. That is not their policy. They are not doing that now, nor are the resources available to them to do that. That is the situation with regard to this issue. When legalization is triggered, protections are provided for those who may apply. That is what this bill says. However, legalization is not triggered until the effective enforcement is in place; otherwise, the legalization will simply draw in untold numbers of additional persons and illegal aliens. So until there is effective enforcement, there will be much risk to these people who have been here for more than 5 years, have equity, have U.S. citizen children. We are not really doing much deporting of illegal undocumented persons who have U.S. citizen children.

We do not do that. We are not that kind of country. That is why we are gummed up in illegal immigration as we are. We do not like to do those things. But after there is effective enforcement, the legalization will be triggered.

We have loaded the Commission. You could not have a more loaded Legalization Commission, all of them committed to the issue. All of them must be from the ranks of those who favor legalization. And those people will be, then, protected.

I wish there were some other way to describe that, but there is no other way to describe it and it is sad. That is the way it is.

Mr. LEVIN. Mr. President, first, I thank my friend from Wyoming for his kind words.

The issue here is indeed a question of whether it makes sense to say that people are eligible for legalization tomorrow but that they cannot be hired today. That is the question. The tomorrow happens to be 3 years, but sanctions kick in 6 months. So during that 2½-year period, that maximum 2½-year period, between the time sanctions kick into place and the last time that we can begin the legalization process, we have a never-never land. We have employers who cannot hire people, although they are going to be eligible for legalization. We do not want sanctions to apply to employers, for heaven's sake, for hiring people who are going to be legal a month or a year, no more than 2½ years out. It does not make sense to do that.

My friend says we cannot be perfect, and he is right. And he has tried hard, and I know this, in taking on an enormous load, to make the effort to be as perfect as we can be. But we can improve the bill, even though we cannot achieve perfection. We surely did improve the bill. We can make it consistent internally.

Two new things have been added to the bottom line point the Senator adds. He says the bottom line is these people are here illegally. That is true. But the bill has decided that people who have been here since before 1980 are going to be eligible for legalization. That is a new, critical fact. And it makes no sense to tell people who are eligible for legalization, who the chief sponsor of the bill says should be eligible for legalization, it makes no sense to tell employers and employees alike that it is going to be illegal to hire those people that this bill says are going to be eligible for legalization. That is the new fact, that plus the sanctions going into effect. We have a new fact here.

It seems to me that the only logical way to avoid this terrible never-never world that we are going to create for that 2½-year period would be to tell the INS that they provide a means so that people who are going to be eligible for legalization should also be eligible to be hired.

I thank Senator DECONCINI for his support, Senator BENTSEN, and Senator BINGAMAN. And I also again commend my friend from Wyoming. He has taken on an extraordinarily difficult burden and I do not know of too many Senators who would be willing to carry the burden he has carried on this bill. I think he has done an extraordinary job in a very difficult area. I do think we can improve it by the adoption of this pending amendment.

Mr. KENNEDY. Mr. President, I shall take just a moment to urge the Senate to accept the amendment of the Senator from Michigan. I think the best way to deal with this particular problem is to put on the same track employer sanctions and the legalization program. We have debated that issue earlier. The Senate has made a decision on it. But for some reason, we have a skewed situation so that employer sanctions go in at one time and legalization at a different time. The amendment of the Senator from Michigan is just saying, let us not do an injustice to those individuals who are eligible for the legalization program.

I think the case for this amendment has been effectively made the voluntary agencies deeply concerned over the status of these undocumented aliens, and I ask unanimous consent that their statement in support of the amendment be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. KENNEDY. Mr. President, I do think it makes sense and does not provide too much of an administrative burden. I think it is an important correction if this amendment is accepted and I hope that we accept it.

EXHIBIT 1

NATIONAL OFFICE
MIGRATION AND REFUGEE SERVICES,
Washington, DC, September 16, 1985.

DEAR SENATOR: We write to you as organizations involved in immigration affairs to urge your support for an amendment sponsored by Senator Carl Levin to S. 1200, the pending Immigration Reform and Control Act, as well as an amendment potentially to be offered by Senator Howard Metzenbaum to reduce the period of time between enactment and the start of a legalization program.

These amendments are of fundamental importance to our constituencies. Under S. 1200, there will be a legalization program three years after enactment, or sooner if "triggered" by the Legalization Commission established in the bill. The Levin amendment in particular provides for an essential protection from deportation to undocumented persons who would clearly qualify for legalization, and who are apprehended prior to the official start of this program.

This amendment is required for the following reasons:

(1) Without it, qualified potential legalization applicants, if apprehended, will be deported before they even get a chance to apply for legalization. As the Committee Report on S. 1200 states, such qualified individuals would be offered by INS only "the choice of immediately leaving the United States or being placed in deportation proceedings." (p. 49) In fact, absent legislation to the contrary, INS has little choice but to deport legalization-qualified individuals before the legalization program begins.

(2) The amendment eliminates unnecessary disruption in employment. Without the amendment, legalization-eligible undocumented persons long employed in the U.S. can be removed from their jobs in the service industry, in agriculture, or in whatever sector they may be employed, and can then be deported. To uproot such individuals at this time would cause tremendous disruption in the lives of many, many people.

(3) The amendment avoids the waste of limited INS resources in the deportation of individuals who are going to qualify for legalization anyway. As the Committee Report notes, one of the reasons for the le-

galization program in the first place is that the U.S. is "unlikely to obtain as much enforcement for its dollar if the Immigration and Naturalization Service attempts to locate and deport those who have become well settled in this country, rather than to prevent new illegal entry." (p. 16)

It has been argued that to continue such deportation after enactment would simply be "business as usual." This ignores the fact that the whole purpose of S. 1200 is to alter significantly the conduct of immigration affairs. Upon enactment of S. 1200, *at least* two major new additions will be added to the immigration landscape: employer sanctions and legalization. The individuals who might benefit from Senator Levin's amendment, contrary to the status quo, would feel the additional enforcement pinch of emloyer sanctions should they lose or wish to change their jobs. But, in addition, the existence of an impending legalization should govern the treatment of those who would likely qualify for it.

The Levin amendment is not an early acceptance program for legalization. Its beneficiaries are conferred no permanent status by the measure. Once the legalization program formally begins, they will be subject to the same scrutiny and requirements as any other legalization applicant.

We urge your strongest support for these vital amendments.

Sincerely,

United States Catholic Conference, Church World Service of the National Council of Churches, Hebrew Immigrant Aid Society, American Civil Liberties Union, National Hispanic Bar Association, National Conference of Black Lawyers, Arizona Farmworkers Union, Mexican American Legal Defense and Educational Fund, National Council of La Raza, American Immigration Lawyers Association, Lutheran Immigration and Refugee Service, League of United Latin American Citizens, World Relief of the National Association of Evangelicals.

Mr. SIMPSON. Mr. President, I think we can go to a vote. I really appreciate the comments of my friend from Michigan as he speaks about things that do not make sense in immigration reform. I can tell him they really do not.

It does not make sense to leave 2 to 12 million people in an illegal status in the United States and we do that every time we duck this issue. Who is helping out there? Two to twelve million people and the conflict is heavy. Two to twelve million people are holding the sack and they have been holding it for 4 years in the United States of America. That does not make sense at all. It sure does not to me. That is really never-never land.

It is a wretched, tough situation, but immediate legislation is not going to solve the problem in this instance. I respectfully urge that we reject the amendment.

I shall move to table when the Senator has concluded.

Mr. LEVIN. Mr. President, let us make sure that we understand this does not provide for immediate legalization, it does not change the status of those people in any way. It just provides that the INS should, by regulation, make sure that we do not do something inconsistent with the left hand that we decided to do with the right hand when we decided that folks should be eligible for legalization in 3 years.

I thank my friend from Wyoming and I thank also the Senator from Massachusetts for his support.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator HATFIELD be added as a cosponsor.

The PRESIDING OFFICER. Withoug objection, it is so ordered.

Mr. SIMPSON. I move to lay the amendment on the table. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Michigan. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

I further announce that if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "nay."

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. INOUYE], the Senator from Arkansas [Mr. PRYOR], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

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

The result was announced yeas 54, nays 41—as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—54

Abdnor	Goldwater	Murkowski
Andrews	Gorton	Nickles
Armstrong	Grassley	Nunn
Boschwitz	Hawkins	Pressler
Burdick	Hecht	Proxmire
Byrd	Heflin	Quayle
Chafee	Heinz	Roth
Chiles	Helms	Rudman
Cochran	Hollings	Simpson
Cohen	Humphrey	Specter
D'Amato	Johnston	Stafford
Danforth	Kasten	Stevens
Denton	Laxalt	Thurmond
Dole	Long	Trible
Durenberger	Lugar	Wallop
Evans	Mathias	Warner
Ford	Mattingly	Weicker
Garn	McConnell	Zorinsky

NAYS—41

Baucus	Boren	DeConcini
Bentsen	Bradley	Dixon
Biden	Bumpers	Dodd
Bingaman	Cranston	Domenici
Eagleton	Kerry	Packwood
Exon	Lautenberg	Pell
Glenn	Leahy	Riegle
Gore	Levin	Rockefeller
Gramm	Matsunaga	Sarbanes
Harkin	McClure	Sasser
Hart	Melcher	Simon
Hatch	Metzenbaum	Symms
Kassebaum	Mitchell	Wilson
Kennedy	Moynihan	

NOT VOTING—5

East	Inouye	Stennis
Hatfield	Pryor	

So the motion to lay on the table was agreed to.

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

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I have consulted with a number of Senators on both sides of the aisle and I think the program for the rest of the evening is that there will not be much of a program. There will be no more rollcall votes. It is my hope that the distinguished manager of the bill might be able to complete action on immigration amendments. Then we could go on to the Superfund for 20 or 25 minutes as there are four or five amendments that can be agreed to rather quickly. Then we could go out until 9:30 a.m. tomorrow morning. That would leave pending the amendment by Senator HEINZ, a sense-of-the-Senate resolution on taking Social Security off budget.

It would be my hope that we could save the Social Security amendments until we get to the debt ceiling, which will not be but another 10 days. I understand the distinguished chairman of the Finance Committee is not excited about that possibility but he would not be surprised if he had an amendment or two on the debt ceiling.

Hopefully, both Senator HEINZ and Senator BUMPERS might be willing to hold their fire on Social Security for another day and permit the managers, who have done an outstanding job on the immigration bill, to go to third reading tomorrow morning. We will set a time for the vote on final passage of the immigration bill and then go back to the Superfund.

There will be no more rollcall votes on anything this evening.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I was wondering if I could make an inquiry of the distinguished floor manager of the bill on the subject of rebuttal presumption.

I would like to ask the distinguished manager a question. That is if he can explain how the affirmative defense and rebuttal presumption are sup-

posed to work. If he could make that explanation, I would appreciate it. I yield for that purpose.

Mr. SIMPSON. Mr. President——

Mr. SYMMS. I have two questions to ask.

Mr. SIMPSON. If the Senator wishes to ask the questions, I will certainly try to respond.

Mr. SYMMS. I want to know in the employer verification system if it eliminates documents where the employer will have to determine the status, how that is going to work?

Mr. SIMPSON. Mr. President, the employment verification system under the bill outlines the documents that an employer must check to determine the immigration status of his employees if he wants the benefit of the affirmative defense. Employers who follow the verification procedures then will have an affirmative defense if undocumented aliens are found in their employ.

The employers of four or more who fail to follow the verification procedures for all employees are then presumed to have knowingly hired any undocumented aliens found in their employ.

The presumption then can be rebutted if the employer presents clear and convincing evidence to the contrary. That is in the statute.

Mr. SYMMS. I thank the distinguished Senator very much.

How does this clear and convincing evidence standard in the presumption compare to the standard of the Government having to prove a violation of the employer sanction provisions?

Mr. SIMPSON. Mr. President, the employer sanction civil penalty may be assessed if a judge determines by a preponderance of the evidence that a violation has occurred. That is the normal standard for a civil penalty. This is a lesser standard than employers must meet to rebut the presumption.

The applicable language from the committee report is on page 32. I would refer the Senator to that. It says:

> These presumptions may be rebutted by presentation of "clear and convincing" evidence that such an employer . . . did not knowingly hire . . . an unauthorized alien. An employer who has not complied with the verification procedure may, for example, rebut the presumption if it can demonstrate that its employment procedure as applied are reasonably likely to avoid the employment of unauthorized aliens. An employer may not merely plead ignorance—wilful or unwilful—in order to overcome the presumption.

We felt that was very necessary. Various employer groups in the United States seemed to accept that.

Mr. SYMMS. Well, I thank the distinguished floor manager very much. If the employer then fails to check the records of all employees and that employer does not have the affirmative defense available for him for the employer sanctions violation—in other words, if they check them all and then they have those defenses, otherwise what would the situation be?

Mr. SIMPSON. That is designed to discourage discriminatory practices. With Senator KENNEDY's amendment—which I agreed to and supported—nondiscrimination practices and reports on discrimination are things that were done to discourage discrimination.

Mr. SYMMS. So, in other words, if an employer only asks Hispanic employees for documentation, he would then lose part of his defense?

Mr. SIMPSON. That is correct.

Mr. SYMMS. Thus, an employer who only checks the documents of Hispanic employees would be presumed to have knowingly hired an undocumented alien if such alien is later found to be in his employ?

Mr. SIMPSON. Mr. President, I want to hear that question again to be sure I respond properly.

Mr. SYMMS. The Senator responded yes to the previous question, in which I said an employer, who asks only Hispanic employees for documentation to verify the legal immigrant status and records that status, does not have an affirmative defense if one of his employees later turns out to be an undocumented alien, whether or not the person's documents were checked. And the Senator said that is correct.

Mr. SIMPSON. That is correct.

Mr. SYMMS. Thus, what I am saying, then, is that the employer who only checks Hispanic would be presumed to have knowingly hired undocumented aliens if such an alien is found in his employ. So, in other words, the Senator's purpose is protection of a discrimination.

Mr. SIMPSON. That is correct. Again, that is to discourage discrimination.

Mr. SYMMS. However, if an undocumented alien was one of the Hispanic workers whose records were checked and recorded and the employer produces these records to the immigration judge in a proceeding with the employer sanctions violations, would not such records be clear and convicing evidence to rebut the presumption the undocumented aliens were knowingly hired?

Mr. SIMPSON. I think it, indeed, would be very much that case.

Mr. SYMMS. If this is so, is not the purpose of a rebuttable presumption defeated and do not these provisions encourage discrimination verification of job applicants?

Mr. SIMPSON. Mr. President, the purpose of the rebuttable presumption is to encourage employers to check the documents of all employees. That is the purpose. The fact that an employer will not receive the benefit of an affirmative defense if he fails to follow the verification procedures with respect to all employees will discourage a selective checking and discrimination.

Mr. SYMMS. So what the Senator is saying, then, is that it is the intent of the authors of the legislation that if, in fact, an employer makes a good faith effort consistently and checks all the records of each applicant for a job, it would be presumed, then, that they did not knowingly hire an undocumented, illegal worker?

Mr. SIMPSON. Mr. President, under those circumstances, there would be no presumption against him and he would have an affirmative defense.

Mr. SYMMS. I thank the Senator very much for his time.

Mr. SIMPSON. I thank the Senator from Idaho for his thoughtful work throughout.

The Senator from California, I believe, has an amendment.

AMENDMENT NO. 629

(Purpose: To provide State legalization impact-assistance grants for six fiscal years, and for other purposes)

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

The PRESIDING OFFICER (Mr. GRAMM). The Senator is advised there are two amendments that would have to be set aside by unanimous consent before the consideration of his amendment would be in order.

Mr. WILSON. Mr. President, I ask unanimous consent that the pending amendments be set aside temporarily.

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

The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from California [Mr. WILSON], for himself, Mr. DURENBERGER, Mr. MOYNIHAN, and Mr. CRANSTON, proposes an amendment numbered 629.

Mr. WILSON. 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 reads as follows:

> On page 93, line 12, strike out "$600,000,000 for each of three" and insert in lieu thereof "$300,000,000 for each of the first two".
>
> On page 93, line 14, before the period insert a comma and the following: "and $600,000,000 for each of the next four fiscal years".
>
> On page 95, line 9, strike out "$600,000,000 for each of the three fiscal years" and insert in lieu thereof "$300,000,000 for each of the first two fiscal years and "$600,000,000 for each of the next four fiscal years".
>
> Beginning on page 96, line 5, strike out "Any" and all that follows through "made." on line 8 and insert in lieu thereof the following: "Any amount paid to a State for any of the following fiscal years and remaining

unobligated at the end of such year shall remain available to such State for the purposes for which it was made, as follows: Amounts appropriated for the first, second, third, fourth, and fifth fiscal years, as described in subsection (a), shall remain available for the next five, four, three, two, and one fiscal years thereafter, respectively.".

Beginning on page 94 with line 13, strike out all through line 7 on page 95 and insert in lieu thereof the following:

(2)(A) The amount of the allotment to a State under this section for a fiscal year shall bear the same proportion to the total allotments to States under this section for such fiscal year as the number of eligible legalized aliens (as defined in subsection (i)(3)) in such State that are applying for public programs of assistance (for which such aliens were not disqualified under section 202(h) at the time of such assistance) bears to the total number of such aliens that are applying for such assistance in all States.

Mr. WILSON. Mr. President, having discussed this yesterday with the distinguished manager of the bill, I will not take the time to repeat what is in the RECORD. I will only say that the mechanics of this amendment is to provide reimbursement to State and local governments for costs that they incur through meting out public assistance to those who become legalized citizens through the passage of S. 1200.

The mechanics are, simply, in the first year, $300 million is made available for that purpose, and in the second year $300 million, and in each of the ensuing 4 years—that is, years 3, 4, 5, and 6—following legalization there would be $600 million provided.

Let me hasten to add that only money actually expended will be reimbursed. Otherwise, funds authorized will not leave the U.S. Treasury. This is to afford protection to State and local taxpayers for the cost of public assistance that are meted out to the recipients of that public assistance who become legalized during the first 6 years after legalization. In this respect, it parallels the provisions of S. 1200, which hold the Federal Government harmless from application for public assistance during that same 6-year period.

Mr. President, I really do not need to take more time, other than I do wish to say I am offering this amendment on behalf of myself, Senator CRANSTON, Senator DURENBERGER, and Senator MOYNIHAN.

Additionally, there is a provision which Senator CRANSTON had crafted which we are folding into this measure with the concurrence of the manager. It is one that relates to the formula for distribution and would give the major share of that reimbursement as it should follow in accordance with the number of those legalized under S. 1200. I thank Senator CRANSTON for that.

Mr. CRANSTON. I am delighted that we have been able to agree on language which, in my judgment, substantially improves the fairness of the funding formula for reimbursement to States and their subsidiary governments for some of the costs they will incur under this bill.

Given the 6-year prohibition on Federal assistance to those legalized, the entire burden of public assistance—if needed—will fall on States and their subsidiaries.

While the D'Amato amendment, which I supported, addressed any costs resulting from imprisonment in prisons or jails, this amendment covers direct public assistance and health care subsidies, primarily furnished through services, rendered by county hospitals.

I know Los Angeles County is very concerned about that.

The amendment replaces a more complex formula that could have caused serious problems with one that allocates the available funds to States, based on their proportionate share of those legalized.

This new formula will help a great deal, and I am very grateful to the managers for accepting it.

Mr. SIMPSON. Mr. President, the amendment of the Senator from California is a thoughtful one. We have worked together in trying to resolve it. We want to see that reimbursement is made and that money is available to take care of the legalization costs.

I just wish to add, as I accept this amendment, that the expenses of welfare benefits to legalized aliens are a shared expense. Because the States receive sales taxes and property taxes and income taxes and other benefits from these "illegal taxpayers," the States should therefore share some cost of the benefits distributed to the legalized aliens. This amendment provides a reasonable Federal contribution for the 6 years during which legalized aliens are prohibited from receiving Federal welfare benefits. The total sum to be made available, $3 billion, is within the limit accepted by OMB on a previous bill. I can accept the amount.

Mr. President, I wish to clarify the position of those Members who have accepted the amended language to section 203(b)(2)(A) of S. 1200, which alters the formula for distributing the legalization reimbursement funds to the States. While the new formula is based on the actual payments that States make to eligible legalized aliens participating in programs of public assistance, we are in no way suggesting that the Federal Government should be responsible for all costs incurred by States in providing public assistance to eligible legalized aliens. This formula seems the most equitable under the circumstances, but it is not an endorsement of the concept of 100 percent Federal reimbursement.

Mr. WILSON. Mr. President, the amendment provides that the maximum reimbursement to State and local governments will not exceed the funds authorized by the amendment, even if the actual costs of such State and local public assistance should exceed the funding authorized by the amendment.

Mr. CRANSTON. Mr. President, that is also my understanding. The amendment substantially improves the distribution formula.

Mr. WILSON. Mr. President, I thank the distinguished manager. I really have nothing more to add.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment (No. 629) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I feel like the old bailiff in the court having called three times for additional activity. I do not believe there are any more amendments to the immigration bill, except the two that are pending, and those are the Heinz amendment and the Hatch amendment. I feel quite certain there will be other amendments in that particular area, as it deals with Social Security.

Mr. President, for the edification of colleagues, we will likely have another amendment or two on immigration, depending on what will take place. There is no time agreement. Of course, the bill is open. There will be a colloquy with Senator LEVIN, some technical amendments, and perhaps one or two other amendments. But at this point, from the standpoint of the managers of the bill, I think we have grappled with the tough issues. The toughest one of all, however, is getting to final passage. The Senate will work its will on whether to dabble further with Social Security on the immigration bill. I hope we will resolve that and I will certainly work to do that.

I believe that concludes the activity on the immigration bill at this time from this corner.

SUPERFUND IMPROVEMENT ACT OF 1985

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 51, Superfund, not to exceed 8:30 p.m. this evening for the purpose of considering amendments to be disposed of without rollcall votes.

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

The legislative clerk read as follows:

A bill (S. 51) to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes.

The Senate continued with the consideration of the bill.

AMENDMENT NO. 630

Mr. STAFFORD. Mr. President, I have a series of eight purely technical amendments to S. 51, seven of which have been requested by the Environmental Protection Agency to assure that the language in the bill not create any unnecessary complications or undesirable results. The eighth corrects a minor problem in the existing law.

Mr. President, the managing minority member of the committee has asked me to go ahead. He is temporarily engaged elsewhere, but he joins me in offering these amendments, which I send to the desk.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD], for himself and Mr. BENTSEN, proposes amendments numbered 630.

Mr. STAFFORD. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

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

The amendments are as follows:

On page 59, lines 19 and 20, strike out the phrase, "a facility" and insert in lieu thereof: "residential buildings or business or community structures".

On page 116, lines 23 and 24, strike out the phrase, "or disposal" each time it appears, and on line 24, strike "or" before "(B)".

On page 109, following line 14, insert the following new section 135 and renumber the following sections accordingly:

"NOTICE OF CERLCA ACTIONS

"SEC. . Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(i) NOTICE OF ACTIONS.—Whenever any action is brought under this Act in a court of the United States by a plaintiff other than the United States, the plaintiff shall provide a copy of the complaint to the Attorney General of the United States and to the Administrator.".

On page 71, after line 8, insert the following:

"(5) No person required to provide information or documents under this Act may claim that the information is entitled to protection under this section unless such claimant shows that:

"(A) the claimant has not disclosed the information to any other person, other than to an employee of the claimant or a person who is bound by a confidentiality agreement or to a person to whom the data has been supplied on a confidential basis in compliance with this Act, and the claimant has taken reasonable measures to protect the confidentiality of such information and intends to continue to take such measures;

"(B) the information could not reasonably be discovered by anyone other than such persons in the absence of disclosure; and

"(C) knowledge of such information gives the claimant an opportunity to obtain a signficant advantage over competitors who do not know such information and disclosure of the information is likely to cause substantial harm to the claimant's competitive position.

"(6) The following information with respect to any hazardous substance as defined in section 101(14) shall not be entitled to protection under this section:

"(A) The chemical name, CAS number, trade name, and common name of the hazardous substances;

"(B) The physical properties of the substance, including its boiling point, melting point, flash point, specific gravity, vapor density, solubility in water, and vapor pressure at 20 degrees celsius;

"(C) The hazards to health and the environment posed by the substance, including physical hazards (such as explosion) and potential acute and chronic health hazards;

"(D) The potential routes of human exposure to the substance at the facility, establishment, place, or property being investigated, entered, or inspected under this subsection.

"(E) The location of disposal of any waste stream;

"(F) The identity and quantity of any waste stream;

"(G) Any monitoring data or analysis of monitoring data pertaining to disposal activities;

"(H) Any hydrogeologic or geologic data; and

"(I) Any groundwater monitoring data.".

On page 118, following line 19, insert the following new section:

PROCUREMENT PROCEDURES

SEC. . Title 1 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new section at the end thereof:

"PROCUREMENT PROCEDURES

"SEC. . Notwithstanding any other provision of law, any executive agency may use competitive procedures or procedures other than competitive procedures to procure the services of experts for use in preparing or prosecuting a civil or criminal action under this Act, whether or not the expert is expected to testify at trial. The executive agency need not provide any written justification for the use of procedures other than competitive procedures when procuring such expert services under this Act and need not furnish for publication in the Commerce Business Daily or otherwise any notice of solitictation or synopsis with respect to such procurement.".

On page 94, strike lines 14-25, and on page 95, strike lines 1-15, and substitute the following:

"(c) In any case where a person liable under section 107 is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code, or where with reasonable diligence jurisdiction in the Federal Courts cannot be obtained over a person liable under section 107 likely to be solvent at the time of judgment, any claim authorized by section 107 or 111 may be asserted directly against the guarantor providing evidence of financial responsibility for that person. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the person liable under section 107 if any action had been brought against such person by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by such person.

"(d) The total liability under this Act of any guarantor shall be limited to the aggregate amount of the monetary limits of the policy of insurance, guarantee, surety bond, letter of credit, or similar instrument provided by the guarantor to the person liable under section 107: *Provided,* That nothing in the subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to the person liable under section 107 including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim: *Provided further,* That nothing in this subsection shall be construed, interpreted or applied to diminish the liability of any person under section 107 or 111 of the Act or other applicable law."

On page 161, after line 14, insert the following new section:

"HAZARDOUS MATERIALS TRANSPORTATION

"SEC. . (a) Section 306(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "within ninety days after the date of enactment of this Act" in the first sentence and inserting in lieu thereof "by June 1, 1986,"; and by inserting the words "and regulate" before the words "as a hazardous material".

"(b) Section 306(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting the words "and regulation" after "prior to the effective date of the listing".

On page 71, line 8, after the first period insert the following: "Notwithstanding any other provision of law, all requirements of the Atomic Energy Act and all executive orders concerning the handling of restricted data and national security information, including "need to know" requirements, shall be applicable any grant of access to properly classified information under any provision of this Act, including section 103.".

Mr. STAFFORD. Mr. President, as I said earlier, these are purely technical amendments which have been agreed to by the committee. They are offered by the Senator from Vermont for himself and the Senator from Texas [Mr. BENTSEN], as ranking minority member of the committee. I urge their adoption.

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

Mr. STAFFORD. Mr. President, I ask unanimous consent that the amendments be considered and voted en bloc.

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

So the amendment (No. 630) was agreed to.

Mr. STAFFORD. 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. STAFFORD. 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. 631

(Purpose: To clarify the liability of the United States for releases from facilities in which munitions-producing equipment is owned by the Department of Defense)

Mr. STAFFORD. Mr. President, I send an amendment to the desk in behalf of the Senator from Wisconsin [Mr. KASTEN]. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD], for Mr. KASTEN, proposes an amendment numbered 631.

Mr. STAFFORD. 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 47, after line 19, insert the following new section and renumber succeeding sections accordingly:

"DEDICATED DEFENSE PRODUCTION

"SEC. . Section 101(20) of the Comprehensive, Environmental, Response, Compensation, and Liability Act of 1980 is amended by adding the following subparagraph:

"( ) in the case of a facility containing any hazardous substance resulting from manufacturing operations dedicated to the production of munitions or ordnance parts for the Department of Defense (or any subdivision thereof) using equipment owned by such Department or subdivision, the term "owner or operator" shall include the United States Government;".

Mr. STAFFORD. Mr. President, the amendment that I have sent to the desk in behalf of Senator KASTEN has as its purpose to assign responsibility and liability to the Federal Government for the cost of cleanup of hazardous substances and other remedial actions at various sites. This responsibility should not apply exclusively to a private party who may have operated a Federal plant that is largely owned by the Government and operated in compliance with Federal guidelines.

● Mr. KASTEN. Mr. President, I have an amendment to S. 51 which I believe is not controversial. It has been cleared on both sides of the isle.

Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, commonly known as Superfund, Congress charged the Environmental Protection Agency with the responsibility of identifying and cleaning up hazardous waste dumps around the Nation.

The overriding concern of this legislation is to protect public health and safety. This means not only cleaning up surface contamination, but also subsurface and off site damage that may be caused by the improper disposal of toxic wastes.

It has become apparent since Congress enacted this legislation that far greater resources are required to adequately protect the public and the resources we all depend on.

Unfortunately, progress has been very slow in cleaning up existing sites. The reasons for this delay are varied, but I believe we will address three of the key reasons as the Senate reauthorizes this key legislation.

First, the funds available to cleanup abandoned sites must be greatly increased. Second, we must shorten the time that responsible parties can spend delaying action to cleanup contamination that they are responsible. And third, the Federal Government must begin to take responsibility for those sites that it is responsible for.

It is this third category that my amendment will address today. I believe that it is time for the Federal Government to begin to live up to the same obligations to protect public health that other producers are expected to comply with.

Specifically, this amendment addresses the cleanup of hazardous wastes that were produced by a partnership between the Government and private industry.

The purpose of my amendment is to assign responsibility and liability to the Federal Government for the costs of cleanup of hazardous substances and other remedial actions at such sites. This responsibility should not apply exclusively to the private party who may have operated a plant that is largely owned by the Government, and operated it in compliance with Federal guidelines.

Under this amendment, responsibility and liability is assigned to the Government on the basis of its ownership of the facility, property, and equipment used in producing a product and the resulting hazardous wastes.●

Mr. STAFFORD. Mr. President, on this side of the aisle, we are prepared to accept the Kasten amendment.

Mr. BENTSEN. Mr. President, I have worked on this amendment with the chairman of the committee and the staff. We think it is an appropriate amendment and we are prepared to accept it. We have no objection.

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

The amendment (No. 631) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 632

Mr. STAFFORD. Mr. President, I send an amendment to the desk on behalf of myself and Senator BENTSEN and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD], for himself and Mr. BENTSEN, proposes an amendment numbered 632.

Mr. STAFFORD. Mr. President, I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

STATE AND LOCAL GOVERNMENT LIABILITY

S. 51 is amended by—

(1) On page 88, line 14, inserting after "release" the following: "or threatened release"; and

(2) On page 88, line 7 inserting "(a)" immediately before "Section";

(3) On page 87, line 21, inserting the following:

"(b) Section 101(20) is amended by inserting immediately before the semicolon at the end of clause (A) the following: 'nor does such term include a unit of state or local government which acquired ownership or control involuntarily through bankruptcy, foreclosure, tax delinquency, abandonment, or similar means of alienation;'.".

"(c) Section 101(20) is further amended by deleting clause (iii) and substituting the following: '(iii) in the case of any facility, title or control of which was conveyed due to abandonment, bankruptcy, foreclosure, tax delinquency or similar means to a unit of state or local government, any person who owned, operated or otherwise controlled activities at such facility immediately beforehand.'."

SITES INHERITED BY STATE AND LOCAL GOVERNMENTS

Mr. STAFFORD. Mr. President, there are circumstances when State and local governments find themselves as the owners or operators of sites which are the subject of Superfund responses against their own volition. In some cases this may be due to the automatic shifting of title to real property due to nonpayment of taxes. In others, it may be that a facility has been abandoned and the responsibility shifted away from the original owner or operator to the State or local government. These are not cases where the law intended that governments bear the liability burdens of Superfund, even though they are technically "owners or operators" under the current definition of the law.

I am offering an amendment which would change that definition in recognition of the unique position which units of State and local governments occupy with respect to these facilities. My amendment would exempt units of State and local governments in cases where title or control has shifted to them by virtue of abandonment, bankruptcy, tax delinquency, foreclosure or similar means. The amendment does

not diminish the liability of these governments with respect to sites which they might have owned or operated in their own right. But it does not recognize the unique status of governments in terms of their obligation to protect the public, health, welfare and safety, during the course of which they sometimes acquire ownership or control for reasons unrelated to the disposal of hazardous substances.

In addition, my amendment would make one technical amendment to S. 51. The bill as reported holds State and local governments to a fault-based standard of care when they are responding to actual releases of hazardous substances. My amendment extends this same standard to cases where the release was merely threatened, thus allowing government to act to avert danger to the public before it has the opportunity to materialize.

I know of no opposition to or controversy associated with this amendment and hope that it can be adopted.

Mr. President, I know of no opposition or controversy associated with this amendment and on this side of the aisle we are prepared to accept it.

Mr. BENTSEN. Mr. President, this covers the situation, as the chairman said, where local governments inherit property, so to speak, through foreclosure or whatever route it might be, and develop a toxic waste site, and they would not be determined owner-operators under the provision of this law.

We have no objection to that amendment at all. It is a good amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 632) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STAFFORD. 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. STAFFORD. 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. 633

Mr. STAFFORD. Mr. President, on behalf of myself and Senator BENTSEN, I send an amendment to the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD], for himself and Mr. BENTSEN, proposes an amendment numbered 633.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

POLLUTION LIABILITY INSURANCE

Add the following at the end thereof:

"TITLE III

"AMENDMENTS RELATED TO THE INSURANCE OF POLLUTION LIABILITY

"SEC. 301. The Comprehensive Environmental Compensation and Liability Act of 1980 is amended by adding the following at the end thereof:

'TITLE IV—POLLUTION INSURANCE

"SECTION 401. This Title may be cited as the "Pollution Liability Insurance and Risk Retention Act".

DEFINITIONS

'Sec. 402. (a) As used in this Title—

'(1) "insurance" means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under applicable State or Federal law;

'(2) "pollution liability" means liability for injuries arising from the release of hazardous substances, pollutants or contaminants;

'(3) "risk retention group" means any corporation or other limited liability association taxable as a corporation, or as an insurance company, formed under the laws of any state

'(A) whose primary activity consists of assuming and spreading all, or any portion, of the pollution liability or of its group members;

'(B) which is organized for the primary purpose of conducting the activity described under subparagraph (A);

'(C) which is chartered or licensed as an insurance company and authorized to engage in the business of insurance under the laws of any State; and

'(D) which does not exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such a person.

'(4) "purchasing group" means any group of persons which has as one of its purposes the purchase of pollution liability insurance on a group basis; and

'(5) "State" means any State of the United States or the District of Columbia.

'(b) Nothing in this Title shall be construed to affect either the tort law or the law governing the interpretation of insurance contracts of any State, and the definitions of pollution liability and pollution liability insurance under any State law shall not be applied for the purposes of this Act, including recognition or qualification of risk retention groups or purchasing groups.

'SEC. 403. (a) Except as provided in this section, a risk retention group is exempt from any State law, rule, regulation, or order to the extent that such law, rule, regulation, or order would—

'(1) make unlawful, or regulate, directly or indirectly, the operation of a risk retention group except that the jurisdiction in which it is chartered may regulate the formation and operation of such a group and any State may require such a group to—

'(A) comply with the unfair claim settlement practices law of the State;

'(B) pay, on a nondiscriminatory basis, applicable premium and other taxes which are levied on admitted insurers and surplus line insurers, brokers, or policyholders under the laws of the State;

'(C) participate, on a nondiscriminatory basis, in any mechanism established or authorized under the law of the State for the equitable apportionment among insurers of pollution liability insurance losses and expenses incurred on policies written through such mechanism;

'(D) submit to the appropriate authority reports and other information required of licensed insurers under the laws of a State relating solely to pollution liability insurance losses and expenses;

'(E) register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process, and, upon request, furnish such commissioner a copy of any financial report submitted by the risk retention group to the commissioner of the chartering or licensing jurisdiction;

'(F) submit to an examination by the State insurance commissioner in any State in which the group is doing business to determine the group's financial condition, if—

'(i) the commissioner has reason to believe the risk retention group is in a financially impaired condition; and

'(ii) the commissioner of the jurisdiction in which the group is chartered has not begun or has refused to initiate an examination of the group; and

'(G) comply with a lawful order issued in a delinquency proceeding commenced by the State insurance commissioner if the commissioner of the jurisdiction in which the group is chartered has failed to initiate such a proceeding after notice of a finding of financial impairment under subparagraph (F) of this paragraph;

'(2) require or permit a risk retention group to participate in any insurance insolvency guaranty association to which an insurer licensed in the State is required to belong;

'(3) require any insurance policy issued to a risk retention group or any member of the group to be countersigned by an insurance agent or broker residing in that State; or

'(4) otherwise discriminate against a risk retention group or any of its members, except that nothing in this section shall be construed to affect the applicability of State laws generally applicable to persons or corporations.

'(c) The exemptions specified in subsection (a) apply to—

'(1) pollution liability insurance coverage provided by a risk retention group for—

'(A) such group; or

'(B) any person who is a member of such group;

'(2) the sale of pollution liability insurance coverage for a risk retention group; and

'(3) the provision of insurance related services or management services for a risk retention group or any member of such a group.

'(d) A State may require that a person acting, or offering to act, as an agent or broker for a risk retention group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

PURCHASING GROUPS

SEC. 404. (a) Except as provided in this section, a purchasing group is exempt from any State law, rule, regulation, or order to

the extent that such law, rule, regulation, or order would—

'(1) prohibit the establishment of a purchasing group;

'(2) make it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its member, advantages, based on their loss and expense experience, not afforded to other persons with respect to rates, policy forms, coverages, or other matters;

'(3) prohibit a purchasing group or its members from purchasing insurance on the group basis described in paragraph (2) of this subsection;

'(4) prohibit a purchasing group from obtaining insurance on a group basis because that group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time;

'(5) require that a purchasing group must have a minimum number of members, common ownership or affiliation, or a certain legal form;

'(6) require that a certain percentage of a purchasing group must obtain insurance on a group basis;

'(7) require that any insurance policy issued to a purchasing group or any members of the group be countersigned by an insurance agent or broker residing in that State; or

'(8) otherwise discriminate against a purchasing group or any of its members.

'(b) The exemptions specified in subsection (a) apply to—

'(1) pollution liability insurance, and comprehensive general liability insurance which includes this coverage, provided to—

'(A) a purchasing group; or

'(B) any person who is a member of a purchasing group; and

'(2) the sale of—

'(A) pollution liability insurance, and comprehensive general liability coverage;

'(B) insurance related services; or

'(C) management services;

to a purchasing group or member of the group.

'(c) A State may require that a person acting, or offering to act, as an agent or broker for a purchasing group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

'APPLICABILITY OF SECURITIES LAWS

'SEC. 405. (a) The ownership interests of members in a risk retention group shall be—

'(1) considered to be exempted securities for purposes of section 5 of the Securities Act of 1933 and for purposes of section 12 of the Securities Exchange Act of 1934; and

'(2) considered to be securities for purposes of the provisions of section 17 of the Securities Act of 1933 and the provisions of section 10 of the Securities Exchange Act of 1934.

'(b) A risk retention group shall not be considered to be an investment company for purposes of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

'(c) The ownership interests of members in a risk retention group shall not be considered securities for purposes of any State blue sky law.' "

Mr. STAFFORD. Mr. President, I am pleased to offer an amendment with Senator BENTSEN to the pending legislation to reauthorize the Superfund Program that will facilitate the ability of companies engaged in the generation, treatment, disposal, and storage of hazardous substances and hazardous wastes to obtain pollution liability insurance coverage. I am pleased to have as a cosponsor of this amendment, as I said, the ranking minority member of the committee, the distinguished Senator from Texas [Mr. BENTSEN].

As testimony before the Committee on Environment and Public Works graphically demonstrated, pollution liability insurance is becoming increasingly difficult to obtain. This is posing difficulty for all companies, and particular difficulty for the many firms who must meet the insurance requirements of the Resource Conservation and Recovery Act as well as other firms who participate as contractors, architects, and engineers in the cleanup of Superfund sites. Many of the reasons for the unavailability of pollution liability insurance have nothing to do with the Superfund law. However, the unavailability of insurance is frustrating the goals not only of the Superfund law, but other environmental statutes as well. I urge the Senate to adopt this amendment because it will provide an alternative way through which companies may obtain pollution liability insurance.

Amendment No. 225 would authorize the creation of risk retention programs for insuring environmental impairment liability. The effect of this amendment would be to allow groups of individuals or firms to share liability for damages caused by pollution of the environment. If private insurance is available or the commercial insurance market revives, individuals would still be free to purchase that coverage, and many would undoubtedly choose to do so. But, if commercial insurance is not available, they would be able to band together to provide their own pollution liability insurance coverage.

The authority to establish pollution liability risk retention groups authorized by this amendment is virtually identical to the authority to insure product liability risks granted under the Product Liability Risk Retention Act of 1981, 15 U.S.C. 3901, et seq. So we are not proposing an entirely new insurance scheme under this amendment; rather we are extending the concept of group self-insurance to a new category of risk—pollution liability. Congress passed the Risk Retention Act of 1981 because at that time product liability insurance was unavailable, or was offered at prices which were not reasonable and affordable, particularly to small businesses. Today, we face a similar, if not more acute, problem with regard to the availability of commercial pollution liability insurance. Therefore, it seems to us that authorizing self-insurance programs for pollution liability risks represents a modest but important step to facilitate the ability of firms to insure these risks.

This amendment is not a panacea for all problems created by the lack of pollution liability insurance. It simply creates the authority for companies to establish group self-insurance programs. Thus, while this amendment does not provide any quick solution to the lack of commercial pollution liability insurance markets, it provides a mechanism under which companies can take steps to insure these risks.

This amendment establishes no Federal regulatory authority and requires no expenditure of Federal funds. It will have no effect upon the Federal deficit. While this amendment establishes no Federal regulatory authority to license insurance companies, it does not effect the liability insurance requirements established under the Resource Conservation and Recovery Act. Any person or firm which is required to obtain pollution liability insurance under that act will still be required to maintain pollution liability coverage in the amount specified under regulations issued pursuant to that act.

It is important to note that a pollution liability risk retention group is authorized to sell only pollution liability insurance and may offer that insurance only to its own members. It may not sell insurance to the public and it may not offer automobile, life or health insurance either to its own members or the public. Thus, the insurance authority granted under this amendment is limited to insuring the pollution liability risks of firms who join together to establish a risk retention group.

One other feature of the bill deserves mention. In addition to authorizing risk retention groups, the amendment also authorizes establishing pollution liability "purchasing groups." A purchasing group is a group of firms who join together to purchase pollution liability insurance on a group basis. If their experience, safety standards, or technology demonstrate that they are a preferred risk, the group may be able to obtain pollution liability insurance coverage on a favorable basis. The amendment provides that a pollution liability purchasing group is exempt from all regulations which prohibit or restrict the sale of insurance on a group basis.

Finally, it should be noted that pollution liability is defined in the amendment as "liability for injuries arising from the release of hazardous substances, pollutants or contaminants." We intend that this definition be broadly construed to cover all liability arising out of pollution or contamination of the environment. This amendment authorizes coverage for sudden and accidental, as well as gradual pollution claims.

Mr. BENTSEN. Mr. President, I have been advised that we have had an inquiry concerning this particular amendment and a possible objection to it by one of the Members.

Mr. President, I ask unanimous consent that it be laid aside at this time.

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

Mr. STAFFORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STAFFORD. It would be the belief of the Senator from Vermont that the pending business in the Senate when we return to Superfund would be the amendment which I offered a few minutes ago with Senator BENTSEN.

The PRESIDING OFFICER. The Senator is correct.

Mr. STAFFORD. I thank the Chair.

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.

AMENDMENT NO. 634

(Purpose: To prohibit the use of lead pipes, lead solder, and lead flux in drinking water system)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], for himself and Mr. LAUTENBERG, proposes an amendment numbered 634.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

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

TITLE III—LEAD FREE DRINKING WATER

SHORT TITLE

SEC. 301. This title may be cited as the "Lead Free Drinking Water Act".

SAFE DRINKING WATER ACT AMENDMENTS

SEC. 302. (a) IN GENERAL.—Part B of Title XIX of the Public Health Service Act is amended by adding ats the end thereof the following new section:

"PROHIBITION ON USE OF LEAD PIPES, SOLDER, AND FLUX

SEC. 1417. (a) IN GENERAL.—

"(1) PROHIBITION.—Any pipe, solder, or flux, which is used after the date of enactment of the SDWA of 1985, in the installation or repair of—

"(A) any public water system, or

"(B) any plumbing in a residential or nonresidential facility providing water for human consumption which is connected to a public water system,

must be lead free (as defined in subsection (d)). This paragraph shall not apply to leaded joints necessary for the repair of cast iron pipes.

"(2) PUBLIC NOTICE OF ADVERSE EFFECTS.—Each community public water system shall provide notice, developed in consultation with the Administrator, to all users of the system with respect to—

"(A) the adverse health effects of exposure to lead, including a description of those populations which may be particularly sensitive to such exposure; and

"(B) any means reasonably available to such users for mitigating lead exposure from drinking water, taking into consideration the need to conserve water.

"(b) STATE ENFORCEMENT.—

"(1) ENFORCEMENT OF PROHIBITION.—The requirements of subsection (a)(1) shall apply to all States effective 24 months after the date of the enactment of this section. States shall enforce such requirements through State or local plumbing codes, or such other means of enforcement as the State may determine to be appropriate.

"(2) ENFORCEMENT OF PUBLIC NOTICE REQUIREMENTS.—The requirements of subsection (a)(2) shall apply to all States effective 24 months after the date of the enactment of this section.

"(c) PENALTIES.—If the Administrator determines that a State is not enforcing the requirements of subsection (a) as required pursuant to subsection (b), the Administrator may commence a civil action under section 1414(b).

"(d) DEFINITION OF LEAD FREE.—For purposes of this section, 'lead free' means solders and flux containing not more than 0.2 percent lead, and pipes and pipe fittings containing not more than 6.0 percent lead.".

(b) CIVIL ACTION.—Section 1414(b) of the Public Health Service Act is amended—

(1) in the matter preceding paragraph (1), by inserting ", or with section 1417," after "or 1416"; and

(2) in paragraph (1), by inserting ", or under section 1417" after "subsection (a)".

(c) NOTIFICATION TO STATES.—The Administrator of the Environmental Protection Agency shall notify all States with respect to the requirements of section 1417 of the Public Health Service Act within 90 days after the date of the enactment of this Act.

BAN ON LEAD WATER PIPES, SOLDER, AND FLUX IN VA AND HUD INSURED OR ASSISTED PROPERTY

SEC. 303. (a) PROHIBITION.—(1) The Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs may not insure or guarantee a mortgage or furnish assistance with respect to newly constructed residential property which contains a potable water system unless such system uses only lead free pipe, solder, and flux.

(2) For purposes of paragraph (1), "lead free" means solders and flux containing not more than 0.2 percent lead, and pipes and pipe fittings containing not more than 6.0 percent lead.

(b) EFFECTIVE DATE.—Subsection (a) shall become effective 24 months after the date of the enactment of this Act.

LEAD SOLDER AS A HAZARDOUS SUBSTANCE

SEC. 304. (a) IN GENERAL.—Section 2(f)(1) of the Federal Hazardous Substances Act is amended by adding at the end thereof the following:

"(E) Any solder which has a lead content in excess of 0.2 percent.".

(b) LABELING.—Section 4 of the Federal Hazardous Substances Act is amended by adding at the end thereof the following:

"(k) The introduction or delivery for introduction into interstate commerce of any lead solder which has a lead content in excess of 0.2 percent which does not prominently display a warning label stating the lead content of the solder and warning that the use of such solder in the making of joints or fittings in any private or public potable water supply system is prohibited.".

"(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 24 months after the date of the enactment of this Act.

Mr. BRADLEY. Mr. President, the amendment I send to the desk is on behalf of myself and my colleague from New Jersey, Mr. LAUTENBERG. The purpose of the amendment is to prevent further lead contamination of our Nation's drinking water.

Mr. President, we have long been aware that lead is a dangerous substance which seriously threatens public health. But we are only beginning to learn of the full health hazards associated with elevated lead levels in the blood. The risk of high blood pressure in adults, impairment of the central nervous system, retardation of learning ability in children, and birth defects all argue for prompt action to reduce the level of lead in our environment; and, that is precisely what this amendment will accomplish.

Most of the recent public attention has focused on the lead content in gasoline as a source of environmental contamination. I have spoken many times on the Senate floor on the most efficient manner in which to address this issue. But another source of lead merits our attention as well—that of lead in our drinking water. In fact, a 1983 EPA report entitled "The Health Hazards Associated With the Use of Lead To Transmit Drinking Water" clearly describes a "correlation between high concentrations of lead in drinking water and high blood levels." The report goes on to state that lead ingested from water can be a significant source of lead in humans.

Therefore, Mr. President, we know that lead is a health hazard. We also know that if lead is in drinking water it will end up in our bloodstream. But how does it get into our water and what can we do to stop this? The EPA has concluded that lead enters drinking water primarily as a result of the corrosive action of water on pipes, fittings, and solder. Several factors come into play. Two of the most important being the age of the plumbing system and the corrosiveness of the water. The highest levels are found in new systems with corrosive water that is allowed to stand for several hours. For example, the first several draws of water in the morning would be most contaminated. However, levels in

excess of the maximum contaminant level are not restricted to such circumstances.

How widespread is this problem? Mr. President, I first learned of this problem because in my home State of New Jersey we have confirmed cases of lead leaching into drinking water in Ocean County in amounts exceeding the EPA standard. However, it is important to note that this is truly a national problem. An informal survey performed by members of my staff revealed that 22 out of 29 States contacted have experienced difficulties with lead leaching into drinking water. The States not reporting any problems also admitted to not having performed extensive sampling. We questioned States from Maine to Texas to California. Leading the way in combating this problem are the States of Oregon, Wisconsin, Minnesota, New York, Massachusetts, and Delaware who have already banned the use of lead solder and pipes in potable water systems. The States of California and Virginia are considering similar legislation; and, I add, they have confidently predicted passage of such legislation. If EPA follows the recommendation of the National Academy of Sciences and reduces the level of lead acceptable in drinking water, as they are expected to do, the number of States which have contamination problems is sure to increase. In fact, the scope of this problem is international in nature with Denmark, West Germany, Great Britain, and the Netherlands all prohibiting the use of lead in drinking water systems.

Mr. President, now we return to the critical question, What can be done to rectify this problem? My amendment is a simple and effective vehicle for dealing with this problem. It attacks the issue from four vantage points, that of public water systems, private wells, new home construction, and plumbing repairs. First, it requires that States ban the use of lead solder and pipes in any new construction or repair of public water systems. Failure to implement such a ban could result in civil action by the Administrator against the State. Second, it prohibits the issuance of FHA mortgages to any newly constructed home which utilizes lead pipes or solder in its water delivery lines. Third, it mandates the Consumer Product Safety Commission to require a warning label on all packages of lead solder in order to protect unsuspecting homeowners who opt to perform some plumbing tasks on their own. Fourth, it requires that community public water systems carry out an information campaign to make people aware of the potential hazards associated with lead in drinking water and the steps being taken to avoid further problems.

Mr. President, alternatives to lead solder exist. They are distinguishable from lead solder; and are equally if not better able to provide an effective seal without adverse health consequences. Cost is not an issue since using alternate solders and pipes will result in a mere $10 increase in the price of a new home. This is a negligable amount when considering the health benefits to be gained. The logic is overwhelming to pursue the course of action I have outlined. Actually, there is no reason to retain lead as an acceptable material to be used in the transmission of potable water.

Mr. President, we place great emphasis, as a nation, on safe drinking water. In fact, we have recently passed legislation to amend the Safe Drinking Water Act which authorized $130 million for fiscal year 1986. Often, safe drinking water requires the use of expensive measures such as the addition of anti-corrosive chemicals or fancy purification methods. What I am proposing are simple, inexpensive, preventative steps we can take to avoid further contamination of our drinking water supplies. We are not asking anyone to rip up old plumbing systems. Rather, we focus on arresting the problem before it progresses further by limiting ourselves to new construction and repair. The choice is clear cut; do we take action, as a nation, to avoid further lead contamination or do we wait and run the risk of increased health hazards?

Mr. President, let me emphasize that three important questions were answered at hearings conducted by the Committee on Environment and Public Works on the Safe Drinking Water Act amendments and our Lead-Free Drinking Water Act. Is lead in drinking water a health hazard? Is lead contamination of drinking water widespread? What can be done to avoid the leaching of lead into drinking water? The witnesses were State public health officials, scientists, and engineering consultants. It is both accurate and fair to say that these witnesses spoke as one; each was against the use of lead pipes and lead solder in potable water systems. One witness went so far as to recommend a fivefold decrease in the EPA lead standard. Mr. President, as I have mentioned, we are virtually assured that EPA will continue to lower the drinking water lead standard. Again, this begs for us to act now to avoid future problems by eliminating sources of lead in drinking water.

Let me remind you, Mr. President, that often the biggest problems are encountered in new homes. These homes are usually owned by young couples with young children—children who are particularly susceptible to the adverse effects of lead. I hope my colleagues will join me in supporting this effort to protect our drinking water from further lead contamination.

Mr. President, that is the amendment. I thank the distinguished chairman of the committee for his interest. I know this was originally due to be offered several months ago and the Senator suggested that I pause, not offer it, and we would hold a hearing in the committee. A hearing was held. I think the bill has been improved as a result of that process.

Mr. LAUTENBERG. Mr. President, I am pleased to join my distinguished colleague from New Jersey, Senator BRADLEY, in offering this amendment to ban the future use of lead in water supply systems. This amendment is a revised version of our bill, S. 1197, and is intended to complement the Safe Drinking Water Act Amendments of 1985 approved in May by the Senate.

The Safe Drinking Water Act serves to protect the public against contaminants in drinking water. Our amendment seeks to assure that water cleansed of lead and other contaminants is not despoiled by lead while being transported to water taps.

Two and a half years ago, EPA determined that the largest source of lead in drinking water comes from the corrosion of pipes that carry water supplies. What this means is that no matter how much lead is taken out of drinking water by water supply companies, tap water will be contaminated as lead from lead pipes and lead solder connecting pipes is dissolved in drinking water on its way to the tap.

This problem may be exacerbated by acidified sources of drinking water. The low PH of the water—its acidity—makes the water more "aggressive" and thus more likely to corrode lead from pipes. New York, Minnesota and parts of eastern Canada already warn residents to run their water before using it, and advise pregnant women against its use altogether.

Numerous studies have demonstrated that infants and young children are especially susceptible to lead. Lead causes nervous disorders, learning disabilities, and weakens tolerance to disease. In addition, exposure to high levels of lead can cause cancer and birth defects.

It is clear that we must do everything possible to cut back on human exposure to lead, whether it is in drinking water, automobile exhausts or in paint and other products.

Our amendment is a positive step forward in accomplishing that goal. It prohibits the use of lead pipes, solder, and fluxes in repairs and installation of public drinking water systems. The amendment would require States to enforce the ban through State or local plumbing codes or other appropriate means. Any State which fails to implement the ban within 2 years will risk civil action by the EPA Administrator.

In addition, no new construction will be eligible for guaranteed or insured mortgages from the Veterans Administration or the Department of Housing

and Urban Development unless the water system uses lead free piping, solder, and flux. Lead free is defined as materials containing not more than 0.2 percent lead.

The bill also requires that public water supply systems, in consultation with the EPA, conduct an information campaign to notify users of their systems of the adverse health effects of lead and the means by which users can reduce the lead in their water supplies. The bill further requires notification through the use of labeling on lead pipes or lead solder sold in retail establishments. The intent of these labels is to inform the public that the use of lead in drinking water systems is prohibited under Federal law. The consumer product safety commission will enforce this provision through its network of field inspectors.

Mr. President, this amendment does not call for the retroactive removal of lead pipes or pipes containing lead. It simply requires that new pipes or pipes that are repaired do not contain lead. It is supported by a number of organizations and associations concerned about lead regulation, including the National Association of Full Service Plumbing, Heating, Cooling and Piping Product Wholesalers, which has members whose businesses will be impacted by this amendment. However, it recognizes that there are alternatives to lead and those alternatives should be used.

Mr. President, in my home State of New Jersey, lead from solder in drinking water pipes has been identified as a major source of exposure to lead. In one study, exposure to lead in drinking water was greater than exposure to lead from automobile emissions along major highways. The preliminary findings of a report by the New Jersey Department of Environmental Protection indicate that the problem is extensive: of 590 wells tested in Beachwood, NJ, 220 showed lead above the 50 ug/l maximum contaminant level set under the Safe Drinking Water Act. This pattern is repeated in many other areas of the Northeast and the Northwest.

Action has been taken to ban lead solder in Oregon, Wisconsin, Washington, Delaware, and New York, as well as in Denmark, West Germany, Great Britain and the Netherlands. Given the national and international character of our economy, we should protect citizens across the country by adding the United States to the list.

Mr. President, the problem of lead contamination in our Nation's drinking water is not new, and it will not simply disappear. If anything, it will get worse. As time passes, deterioration of lead pipes will continue to pose a serious health problem. This subject deserves our immediate attention. It is my hope that the Senate will approve this important amendment.

Mr. STAFFORD. Mr. President, on behalf of the majority, and especially in view of what the Senator from New Jersey has said, and the hearings which the committee held in respect to this matter, we are prepared to accept the Senator's amendment.

Mr. BENTSEN. Mr. President, on behalf of the minority, I think the Senator from New Jersey offered a very excellent amendment, and I am pleased to support it.

Mr. BRADLEY. Mr. President, I move the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (No. 634) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

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 Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:01 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3244. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1986, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 187. Concurrent resolution condemning the kidnaping of Ines Guadelupe Duarte Duran, daughter of President Jose Napoleon Duarte of El Salvador.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bill and joint resolutions:

S. 444. An act to amend the Alaska Native Claims Settlement Act;

H.J. Res. 128. Joint resolution designating the month of October 1985 as "National High-Tech Month"; and

H.J. Res. 299. Joint resolution recognizing the accomplishments over the past 50 years resulting from the passage of the Historic Sites Act of 1935, one of this Nation's landmark preservation laws.

The enrolled bill, S. 444, was subsequently signed by the President pro tempore [Mr. THURMOND].

At 3:48 p.m., a message from the House or Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 817) to authorize appropriations under the Earthquake Hazards Reduction Act of 1977 for fiscal years 1986 and 1987, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 818) to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3244. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1986, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following concurrent resolution was read and placed on the calendar:

H. Con. Res. 187. Concurrent resolution comdemning the kidnaping of Ines Guadelupe Duarte Duran, daughter of President Jose Napoleon Duarte of El Salvador.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 17, 1985, she has presented to the President of the United States the following enrolled bill:

S. 444. An act to amend the Alaska Native Claims Settlement Act.

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-1754. A communication from the Chairman of the D.C. Council, transmitting, pursuant to law, a copy of D.C. Act 6-73; to the Committee on Governmental Affairs.

EC-1755. A communication from the Secretary of Defense, transmitting, pursuant to law, notice of his intention to activate the new U.S. Space Command on September 23, 1985, in Colorado Springs, Colorado; to the Committee on Armed Services.

EC-1756. A communication from the Director of the Office of Personnel Management transmitting a draft of proposed legislation to improve government-wide authority to appoint and compensate experts and consultants as Federal employees; to the Committee on Governmental Affairs.

EC-1757. A communication from the Acting U.S. Postal Service Records Officer, transmitting, pursuant to law, notice of the Postal Service's participation in three computer records matching programs; to the Committee on Governmental Affairs.

EC-1758. A communication from the Deputy Secretary of Defense transmitting, pursuant to law, certification that the Phoenix weapons system is essential to the national security and a current unit cost increase of 44 percent; to the Committee on Armed Services.

EC-1759. A communication from the Administrator of GSA transmitting a draft of proposed legislation to change the methods of reimbursement and remove the statutory ceilings for traveler's subsistence expenses for Government civilian employees; to the Committee on Governmental Affairs.

EC-1760. A communication from the Assistant Secretary of the Interior transmitting a draft of proposed legislation to increase the appropriation ceiling for the North Loup Division, Pick-Sloan Missouri Basin Program, Nebraska; to the Committee on Energy and Natural Resources.

EC-1761. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for audit requirements for State and local governments; to the Committee on Labor and Human Resources.

EC-1762. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for Chapter 2 of the Education Consolidation and Improvement Act of 1981; to the Committee on Labor and Human Resources.

EC-1763. A communication from the Acting Assistant Secretary of Defense, transmitting, pursuant to law, a report on the value of property, supplies, and commodities provided by the Berlin Magistrate for the quarter ended June 30, 1985; to the Committee on Armed Services.

EC-1764. A communication from the Chairman of the Board of the U.S. Synthetic Fuels Corporation, transmitting, pursuant to law, Appendices to the Comprehensive Strategy Report; to the Committee on Energy and Natural Resources.

EC-1765. A communication from the Director of the Office of Legislative Affairs, AID, transmitting, pursuant to law, a justification for an increase in foreign assistance for Mauritius for fiscal year 1985; to the Committee on Foreign Relations.

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. MURKOWSKI (by request):

S. 1649. A bill to amend title 38, United States Code, to authorize the Veterans' Administration to make temporary and part-time appointments of certain health care personnel for periods in excess of 1 year; to the Committee on Veterans Affairs.

S. 1650. A bill to amend title 38, United States Code, to clarify the authority of the Chief Medical Director or designee regarding disciplinary actions on certain probationary title 38 health care employees; to the Committee on Veterans Affairs.

By Mr. GORTON (for himself and Mr. HEINZ):

S. 1651. A bill to extend for an additional 3 years the existing suspension of duty on p-hydroxybenzoic acid; to the Committee on Finance.

By Mr. HEINZ:

S. 1652. A bill to amend the Internal Revenue Code of 1954 to make permanent the exclusion for amounts received under qualified group legal services plans; to the Committee on Finance.

By Mr. JOHNSTON (for himself and Mr. MURKOWSKI):

S. 1653. A bill to provide for a fair and equitable disposition to certain coastal States of certain Federal Outer Continental Shelf revenues; to the Committee on Energy and Natural Resources.

By Mr. STEVENS (for himself, Mr. DENTON, Mr. DURENBERGER, Mr. LEAHY, Mr. MURKOWSKI, Mr. GARN, Mr. DOMENICI, Mr. BUMPERS, Mr. HEINZ, and Mr. BYRD):

S. 1654. A bill to amend title 18, United States Code, to provide for criminal forfeiture of proceeds derived from espionage activities and rewards for informants providing information leading to arrests in espionage cases; to the Committee on the Judiciary.

By Mr. COHEN (for himself, Mr. BURDICK, Mr. DECONCINI, Mr. DODD, Mr. STENNIS, Mr. DOLE, Mr. EAST, Mr. FORD, Mr. HATCH, Mr. HOLLINGS, Mr. HEINZ, Mr. MCCLURE, Mr. MITCHELL, Mr. NICKLES, Mr. PRYOR, Mr. THURMOND, Mr. DENTON, Mr. D'AMATO, Mr. MATTINGLY, Mr. COCHRAN, Mr. MCCONNELL, Mr. LEVIN, Mr. DIXON, Mr. LAUTENBERG, and Mr. EAGLETON):

S.J. Res. 201. A joint resolution to designate the week beginning September 22, 1985, as "National Needlework Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DODD:

S. Res. 222. A resolution expressing the support of the Senate for the agreement by opposition political parties in Chile calling for a transition to full democracy in that country, and for other purposes; to the Committee on Foreign Relations.

By Mr. QUAYLE:

S. Con. Res. 65. A concurrent resolution establishing procedures for expedited consideration by the Congress of certain bills and joint resolutions submitted by the President; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI (by request):

S. 1649. A bill to amend title 38, United States Code, to authorize the Veterans' Administration to make temporary and part-time appointments of certain health-care personnel for periods in excess of 1 year; to the Committee on Veterans' Affairs.

TEMPORARY AND PART-TIME APPOINTMENTS OF CERTAIN HEALTH-CARE PERSONNEL

● Mr. MURKOWSKI. Mr. President, S. 1649, a bill to amend title 38, United States Code, to authorize the Veterans' Administration to make temporary and part-time appointments of certain health-care personnel for periods in excess of 1 year.

Mr. President, I rise to introduce, by request, a bill which would authorize the Veterans' Administration to make temporary and part-time appointments of certified or registered respiratory therapists, licensed physical therapists, and licensed practical or vocational nurses for periods in excess of 1 year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1649

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) section 4114(a)(1) of title 38, United States Code, is amended by inserting "certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses," after "dental auxiliaries," in clause (A), and by inserting ", certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses" after "dental auxiliaries" in clause (B);

(b) Section 4114(a)(2) of title 38, United States Code, is amended by striking out "paragraph (1) of section 4104" and inserting in lieu thereof "paragraphs (1) and (3) of section 4104";

(c) Section 4114(a)(3)(A) of title 38, United States Code, is amended—

(1) by striking out "and" after "physician assistants,";

(2) by inserting after "dental auxiliaries" the following: ", certified or registered respiratory therapists, licensed physical therapists, and licensed practical or vocational nurses"; and

(3) by striking out "paragraph (1)" and inserting in lieu thereof "paragraphs (1) and (3)"; and

(d) Section 4114(a)(3)(B) is amended by inserting after "dental auxiliaries," the following: "certified or registered respiratory therapists, licensed physical therapists, and licensed practical or vocational nurses,".●

By Mr. MURKOWSKI (by request):

S. 1650. A bill to amend title 38, United States Code, to clarify the authority of the Chief Medical Director or designee regarding disciplinary actions on certain probationary title 38 health care employees; to the Committee on Veterans' Affairs.

AUTHORIZATION OF CERTAIN DISCIPLINARY ACTIONS ON CERTAIN PROBATIONARY HEALTH CARE EMPLOYEES

● Mr. MURKOWSKI. Mr. President, S. 1650, a bill to amend title 38, United States Code, to clarify the authority of the Chief Medical Director of the Veterans' Administration or designee regarding disciplinary actions on certain probationary title 38 health care employees.

Mr. President, I rise to introduce, by request, a bill which would clarify the authority of the Chief Medical Director or designee to accept, reject, or modify recommendations made by professional standards boards as a result of their reviews of the performance of probationary medical professionals.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1650

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 4106(b) of title 38, United States Code, is amended to read as follows:

"(b) Appointments under section 4104(1) of this title shall be subject to a probationary period of two years. The record of performance of each person serving under such appointment may be reviewed at any time during that period by a board or boards appointed in accordance with regulations issued by the Administrator. Procedures governing the review of employee performance during the probationary period shall be established in regulations issued by the Administrator. The board(s) shall recommend to the Chief Medical Director, or designee, action consistent with the ability of the employee, as determined by the board(s), to perform efficiently. The Chief Medical Director, or designee, may accept, reject, or modify the recommendation of the board(s). If the Chief Medical Director, or designee, takes action not recommended by the board(s), a statement of the reasons therefor shall be prepared and made part of the record."●

By Mr. HEINZ:

S. 1652. A bill to amend the Internal Revenue Code of 1954 to make permanent the exclusion for amounts received under qualified group legal services plans; to the Committee on Finance.

EXCLUSION OF AMOUNTS UNDER QUALIFIED GROUP LEGAL SERVICES PLANS

● Mr. HEINZ. Mr. President, today I am introducing legislation to extend the tax exclusion for employer-provided prepaid group legal services which under current law will expire on December 31, 1985. Section 120 of the Internal Revenue Code excludes from the gross income of employees the amount of employer contributions and the value of benefits associated with employer-provided prepaid group legal services plans. This provision was originally enacted in 1976 for 5 years, and has been extended on two previous occasions.

The President's tax reform proposal, so-called Treasury II, calls for the permanent extension of the tax exclusion for employer-provided prepaid group legal services. I rise today to introduce a bill which continues this exclusion. I know I speak for my colleagues in both Houses when I say that we all seek legislation to create a simpler, fairer, and more efficient tax system. However, given the enormity of the task, the Congress most likely will not be able to enact tax reform legislation before this exemption expires at the end of this year. As evidenced by its inclusion in Treasury II, employer-provided group legal services has gained wide support. Therefore, I introduce this bill to ensure that those employees who benefit from these plans may continue to rely on them while the Congress considers broad-based reform.

Employer-provided group legal service plans serve a valuable social purpose by providing working people with access to service they might otherwise not be able to afford. The benefits provided vary by plan, but most are relatively simple and routine legal services: General legal advice, assistance with real estate matters, wills, family problems, consumer and debt problems, personal bankruptcies, and representation for misdemeanors and traffic matters. Employer provision through a prepaid plan can save employees lost time, expense, and uncertainty in seeking their own legal counsel, and provide them with information which may actually reduce the need for litigation later to settle disputes.

Mr. President, more than 13 million people: Employees, their spouses and dependents, are covered under group legal service plans according to the National Resources Center for Consumers of Legal Services. Yet, the revenue loss associated with this tax benefit remains relatively small, only $40 million in 1985 according to OMB estimates. This is largely because of the low cost and limited benefits associated with these plans.

In recognition of the growing number of people who have come to rely on this important employee benefit, I urge my colleagues to join me in supporting the tax exclusion for group legal services.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 120 of the Internal Revenue Code of 1954 (relating to exclusion for amounts received under qualified group legal services plans) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).●

By Mr. STEVENS (for himself, Mr. DENTON, Mr. DURENBERGER, Mr. LEAHY, Mr. MURKOWSKI, Mr. GARN, Mr. DOMENICI, Mr. BUMPERS, Mr. HEINZ, and Mr. BYRD):

S. 1654. A bill to amend title 18, United States Code, to provide for criminal forfeiture of proceeds derived from espionage activities and rewards for informants providing information leading to arrests in espionage cases; to the Committee on the Judiciary.

PENALTIES TO BE IMPOSED ON CONVICTED SPIES

● Mr. DURENBERGER. Mr. President, I am most pleased to cosponsor this bill, introduced by my good friend and colleague from Alaska, Senator STEVENS. You might call this bill the Take the Fun Out of Spying Act of 1985. Its intent is to make spying less likely to succeed and less profitable once a person is caught.

We are faced with a new breed of spies, ones who will sell their country down the river for money and kicks. They have no ideology, no beliefs, no goals beyond life in the fast lane. Where spying may once have been a crime of politics, now it attracts the same people as drug smuggling.

We need new approaches to the detection and apprehension of these new spies. The Senate Select Committee on Intelligence is currently reviewing the whole range of U.S. counterintelligence and security programs to see what improvements are needed in those areas. The Stilwell Commission in the Defense Department is doing the same thing for that part of the Government. And the Intelligence Committee is meeting with cooperation and encouragement from all the officials with whom we have consulted, from the NSC to the FBI, CIA, and the military services. I have high hopes that before this year is out, we will see real progress on several fronts.

The bill we are introducing today is part of that progress. The reward system that it sets up will encourage people to come forward to the authorities when a person with classified information starts offering it to our enemies. We have seen in recent espionage cases that it is often the friends and relatives of a spy who understand what really is happening when that person takes vacations in Eastern Europe or spends hours riding aimless-

ly around on back roads or brings stacks of papers home from work. Providing that information to the authorities can put some more spies behind bars, or help our counterintelligence units to frustrate those espionage activities.

Once a spy is caught and convicted, the rest of this bill will take away any pot of gold that a spy might think would still be at the end of the rainbow. All the proceeds and paraphernalia of spying will be the subject to forfeit. So will the proceeds of notoriety be forfeited under this bill. There will be no spies getting rich on magazine or television interviews, or movie contracts. Not that many do now, but we must make it clear to the foolish and desperate people who may see spying as a road to solvency or riches that this is really the road to nowhere. This bill will help send that message.

One important aspect of this bill to note is that it applies strictly to spies for foreign countries. This is not a "leak" statute; it is no threat to the civil liberties of whistle blowers. This bill is designed to apprehend and punish spies, the people to whom our country is of so little concern that they will sell defense secrets to the KGB, or the GRU, or the Polish intelligence service, or East Germany, or China. The bill is properly limited to the most important threat.

I look forward to passage of this bill as soon as possible. Senator LEAHY and I have both cosponsored this bill, as has our Intelligence Committee colleague Senator MURKOWSKI. My guess is that our committee as a whole would be happy to endorse this legislation, and I hope that the Judiciary Committee will find it similarly laudable.

We cannot undo overnight the changes of a generation that have eroded love of country and given too many Americans no higher ideal than "looking out for No. 1." But passage of legislation like this may at least make the point that, to paraphrase William Jennings Bryan, "thou shalt not crucify our country upon a cross of gold."●

Mr. BYRD. Mr. President, I am pleased to join with Senator STEVENS today in introducing legislation which would stiffen the penalties which may be imposed on convicted spies.

I have often said that there is no more heinous crime than that which is committed by individuals who would sell out and betray this country. Enactment of this legislation would create a further deterrent to such despicable activities.

Articles which have appeared in the press concerning the so-called Walker espionage case have alleged that the primary motivating factor in that case was pure and simple greed, a desire to make money from the sale of sensitive U.S. defense information. The bill which I am cosponsoring today would simply seek to attack that motive by requiring that convicted spies would have to forfeit anything of value that they receive as a result of their espionage activities. And if any potential spy believes he might also be able to profit even further from his activities by writing a book or selling a television story about what he has done, this legislation would deal with that kind of exploitation as well: The proceeds from the sale of such publication or broadcast rights may also have to be forfeited by the convicted spy.

Finally, this legislation would establish a reward fund to encourage people who know about espionage activities by others to bring that information to the attention of the proper authorities: The U.S. Government would be authorized to pay up to a half million dollars for information leading to the arrest and conviction of spies.

We simply cannot stand idly by and witness the slow hemorrhaging of our most vital national secrets to our adversaries. This bill would constitute a major step forward in our effort to stop these crimes.

I applaud the continuing interest of my colleague from Alaska [Mr. STEVENS] in this urgent national problem, and I urge the prompt processing and enactment of this legislation.

ADDITIONAL COSPONSORS

S. 653

At the request of Mr. ABDNOR, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 653, a bill to name the Federal Building located at 1200 Pennsylvania Avenue, NW., Washington, DC, as the "Ariel Rios Memorial Federal Building."

S. 670

At the request of Mr. PELL, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 670, a bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, and to give to employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 887

At the request of Mr. DOLE, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 887, a bill to amend the Internal Revenue Code of 1954 to extend the deduction for expenses incurred in connection with the elimination of architectural and transportation barriers for the handicapped and elderly.

S. 1084

At the request of Mr. GOLDWATER, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Montana [Mr. BAUCUS], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 1084, a bill to authorize appropriations of funds for activities of the Corporation for Public Broadcasting, and for other purposes.

S. 1223

At the request of Mr. ARMSTRONG, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Indiana [Mr. QUAYLE], the Senator from Tennessee [Mr. GORE], the Senator from Vermont [Mr. LEAHY] the Senator from Alaska [Mr. MURKOWSKI], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 1223, a bill to authorize the erection of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces of the United States who served in the Korean war.

S. 1305

At the request of Mr. TRIBLE, the name of the Senator from Oklahoma [Mr. BOREN], was added as a cosponsor of S. 1305, a bill to amend title 18, United States Code, to establish criminal penalties for the transmission by computer of obscene matter, or by computer or other means, of matter pertaining to the sexual exploitation of children, and for other purposes.

S. 1440

At the request of Mr. STEVENS, the name of the Senator from New Mexico [Mr. BINGAMAN], was added as a cosponsor of S. 1440, a bill to restrict smoking to designated areas in all U.S. Government buildings.

S. 1448

At the request of Mr. CHILES, the name of the Senator from California [Mr. CRANSTON] was added as cosponsor of S. 1448, a bill to authorize appropriations for construction of certain highways in accordance with title 23 of the United States Code, for highway safety and for other purposes.

S. 1537

At the request of Mr. NICKLES, the name of the Senator from Vermont [Mr. LEAHY] was added as cosponsor of S. 1537, a bill to amend title IV of the Higher Education Act of 1965 to provide standards for students for maintaining satisfactory progress as a condition for assistance under that title.

S. 1544

At the request of Mr. ROTH, the name of the Senator from Montana [Mr. BAUCUS] was added as cosponsor of S. 1544, a bill to extend the Trade Adjustment Assistance Program to place such program on a sound financial basis and to reform such program to emphasize the retraining of workers.

S. 1601

At the request of Mr. LEAHY, the name of the Senator from Vermont [Mr. STAFFORD] was added as a cosponsor of S. 1601, a bill entitled the "Rural Transportation Equity Act of 1985."

SENATE JOINT RESOLUTION 74

At the request of Mr. THURMOND, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of Senate Joint Resolution 74, a joint resolution to provide for the designation of the month of February 1986, as "National Black (Afro-American) History Month."

SENATE JOINT RESOLUTION 117

At the request of Mr. LEVIN, the names of the Senator from Connecticut [Mr. WEICKER], the Senator from Iowa [Mr. GRASSLEY], the Senator from Ohio [Mr. GLENN], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of Senate Joint Resolution 117, a joint resolution designating the week beginning September 22, 1985, as "National Adult Day Care Center Week."

SENATE JOINT RESOLUTION 139

At the request of Mr. HATCH, the names of the Senator from Tennessee [Mr. GORE], the Senator from Alabama [Mr. DENTON], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 139, a joint resolution to designate the week of December 1, 1985 through December 7, 1985, as "National Home Care Week."

SENATE JOINT RESOLUTION 149

At the request of Mr. DIXON, the names of the Senator from Ohio [Mr. GLENN], the Senator from Virginia [Mr. WARNER], the Senator from Florida [Mrs. HAWKINS], the Senator from New Jersey [Mr. BRADLEY], the Senator from Michigan [Mr. RIEGLE], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 149, a joint resolution to designate the week of September 15, 1985 through September 21, 1985, as "National Dental Hygiene Week."

SENATE JOINT RESOLUTION 152

At the request of Mr. DODD, the names of the Senator from Rhode Island [Mr. PELL] the Senator from Massachusetts [Mr. KENNEDY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Indiana [Mr. LUGAR], the Senator from Mississippi [Mr. COCHRAN], the Senator from Oklahoma [Mr. BOREN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Missouri [Mr. EAGLETON], the Senator from Texas [Mr. BENTSEN], the Senator from Mississippi [Mr. STENNIS], the Senator from Delaware [Mr. BIDEN], the Senator from Illinois [Mr. SIMON], the Senator from Maryland [Mr. SARBANES], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Louisiana [Mr. JOHNSTON], the Senator from New Mexico [Mr. DOMENICI], the Senator from Missouri [Mr. DANFORTH], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Texas [Mr. GRAMM], the Senator from Alaska [Mr. STEVENS], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of Senate Joint Resolution 152, a joint resolution to recognize both Peace Corps Volunteers and Peace Corps on the agency's 25th anniversary, 1985-86.

SENATE JOINT RESOLUTION 171

At the request of Mr. THURMOND, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of Senate Joint Resolution 171, a joint resolution proposing an amendment to the Constitution of the United States with respect to the length of the term of office of the President and Vice President and the number of terms a President may serve.

SENATE JOINT RESOLUTION 178

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to designate the week of April 13, 1986, through April 19, 1986, as "Hemochromatosis Awareness Week."

SENATE JOINT RESOLUTION 189

At the request of Mr. HATCH, the name of the Senator from Nebraska [Mr. EXON], the Senator from Alabama [Mr. DENTON], the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KERRY], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 189, a joint resolution designating the week beginning January 12, 1986 as "National Fetal Alcohol Syndrome Awareness Week."

SENATE JOINT RESOLUTION 194

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 194, a joint resolution to designate the week beginning October 1, 1985, as "National Buy American Week."

SENATE CONCURRENT RESOLUTION 51

At the request of Mr. DIXON, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Concurrent Resolution 51, a concurrent resolution to congratulate the Society of Real Estate Appraisers on the 50th anniversary of its founding.

AMENDMENT NO. 611

At the request of Mr. DIXON, his name was added as a cosponsor of amendment No. 611 proposed to S. 1200, a bill to amend the Immigration and Nationality Act to effectively control unauthorized immigration into the United States, and for other purposes.

AMENDMENT NO. 621

At the request of Mr. SIMON, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of amendment No. 621 proposed to S. 1200, a bill to amend the Immigration and Nationality Act to effectively control unauthorized immigration into the United States, and for other purposes.

AMENDMENT NO. 624

At the request of Mr. D'AMATO, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of amendment No. 624 proposed to S. 1200, a bill to amend the Immigration and Nationality Act to effectively control unauthorized immigration into the United States, and for other purposes.

SENATE CONCURRENT RESOLUTION 65—PROVIDING FOR EXPEDITED CONSIDERATION OF CERTAIN BILLS AND JOINT RESOLUTIONS SUBMITTED BY THE PRESIDENT

Mr. QUAYLE submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 65

Resolved by the Senate (the House of Representatives concurring), That (a) if the President, at the time the President approves any appropriations bill, transmits to both Houses of the Congress, one or more special messages in accordance with subsection (b) proposing to rescind all or part of any item of appropriation provided in the appropriation bill, such special messages shall be considered in accordance with the provisions of this resolution.

(b)(1) Each special message transmitted under subsection (a) shall specify, with respect to each item of appropriation (or part thereof) proposed by the message to be rescinded, the matters referred to in paragraphs (1) through (5) of section 1012(a) of the Impoundment Control Act of 1974 (2 U.S.C. 683(a)).

(2) Each special message transmitted under subsection (a) shall be accompanied by a draft bill or joint resolution that would, if enacted, rescind each item of appropriation (or part thereof) proposed by the message to be rescinded.

(c)(1)(A) On the day on which a special message proposing to rescind an item of appropriation is transmitted to the House of Representatives and the Senate under subsection (a), the draft bill or joint resolution accompanying such special message shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by the Members of the House designated by the majority leader and the minority leader of the House, and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by the Members of the Senate designated by the majority leader and the minority leader of the Senate. If either House is not in session on the day on which a special message is transmitted, the draft bill or joint resolution shall be introduced in that House, as

provided in the preceding sentence, on the first day thereafter on which such House is in session.

(B) A bill or joint resolution introduced in the House of Representatives or the Senate pursuant to subparagraph (A) shall be referred on the date of introduction to the Committee on Appropriations of such House. The committee shall report the bill or joint resolution without substantive revision (and with or without recommendation) not later than 5 calendar days of continuous session of the Congress after the date on which the bill or joint resolution is introduced. A committee failing to report a bill or joint resolution within the 5-day period referred to in the preceding sentence shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.

(C) A vote on final passage of a bill or joint resolution introduced in a House of the Congress pursuant to subparagraph (A) shall be taken on or before the close of the 10th calendar day of continuous session of the Congress after the date of the introduction of the bill or joint resolution in such House. If the bill or joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the bill or joint resolution to be engrossed, certified, and transmitted to the other House of the Congress on the same calendar day on which the bill or joint resolution is agreed to by such House.

(2) If prior to the passage by one House of a bill or joint resolution introduced in that House under this section, that House receives a bill or joint resolution containing the same provisions from the other House pursuant to subparagraph (C) of paragraph (1), then—

(A) the procedure in the House receiving the bill or joint resolution with respect to the bill or joint resolution introduced in that House shall be the same as if the bill or joint resolution had not been received from the other House; but

(B) the vote on final passage shall be on the bill or joint resolution of the other House.

(3)(A) A motion in the House of Representatives to proceed to the consideration of a bill or joint resolution under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on a bill or joint resolution under this section shall be limited to not more than 4 hours, which shall be divided equally between those favoring and those opposing the bill or joint resolution. A motion to postpone, made in the House of Representatives with respect to the consideration of a bill or joint resolution under this section, and a motion to proceed to the consideration of other business, shall not be in order. A motion further to limit debate shall not be debatable. It shall not be in order to move to table or to recommit a bill or joint resolution under this section or to move to reconsider the vote by which the bill or joint resolution is agreed to or disagreed to.

(C) All appeals from the decision of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill or joint resolution under this section shall be decided without debate.

(D) Except to the extent specifically provided in the preceding provisions of this paragraph, consideration of a bill or joint resolution under this section shall be governed by the Rules of the House of Representatives applicable to other bills and joint resolutions in similar circumstances.

(4)(A) a motion in the Senate to proceed to the consideration of a bill or joint resolution under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a bill or joint resolution under this section, and all debatable motions and appeals in connection therewith, shall be limited to not more than 4 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a bill or joint resolution under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or joint resolution, expect that in the event the manager of the bill or joint resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill or joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a bill or joint resolution under this section is not debatable. A motion to table or to recommit a bill or joint resolution under this section is not in order.

(d) No amendment to a bill or joint resolution considered under this section shall be in order in either the House of Representatives or the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(e) For purposes of this section—

(1) "item of appropriation" means any numerically expressed amount of budget authority set forth in an appropriation bill;

(2) "appropriation bill" means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations;

(3) "appropriation Act" means any appropriation bill that has been approved by the President and become law;

(4) "budget authority" has the meaning given to such term in section 3(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(2)); and

(5) continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 5-day and 10-day periods referred to in subsection (c) of this section. If a special message is transmitted under this section during any Congress and the last session of the Congress adjourns sine die before the expiration of 10 calendar days of continuous session (or a special message is transmitted after the last session of the Congress adjourns sine die), the message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the 5-day and 10-day periods referred to in subsection (c) of this section shall commence on the day after such first day.

(f) The provisions of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

● Mr. QUAYLE. Mr. President, it would be easy but not productive to dwell at length on the fiscal crisis threatening our Nation, to expound further on the staggering deficits of the past or to emphasize once again that, even with the overoptimistic assumptions built into the last budget resolution, future deficits are even more frightening than those of the past. Those of us concerned with the prospect—or should I say the reality—of a $2 trillion national debt and worried about the not so distant future when it will be $3 trillion, must do more than curse the fates or command the tide to recede. We must not only vote for fiscally prudent options, whether on budget resolutions, appropriations, or entitlement bills, but we must also examine our congressional procedures to determine how we may counteract the drift toward extravagance that seems to afflict our processes.

I am today introducing, for appropriate referal, a concurrent resolution that, if adopted, could make a significant contribution toward congressional fiscal responsibility without encountering the difficult constitutional and passionate political objections that seem to surround line-item veto proposals. Let me make clear, however, that this proposal does not diminish my enthusiasm for Senator MATTINGLY's line-item veto proposal.

My proposal is a simple one. Using the rulemaking powers of each House, it guarantees an up-down vote on rescission bills submitted by the President under specified conditions. More specifically, my concurrent resolution provides that, if the President signs an appropriations bill containing one or more items of which he disapproves, he may send a special message to Congress proposing the rescission of all or any part of an item of appropriation

contained in that bill. A bill, or bills, implementing the President's message would be introduced in both Houses and referred to the Appropriations Committees. These committees would be limited to determining whether the President's message met the conditions for expedited consideration in the resolution and would then report the bill to the floor without amendment. The bill would be guaranteed consideration on the floor with no amendments in order. I invite my colleagues attention to the text of the concurrent resolution which deals with the many technical points required to carry out such a procedure.

Let me take a few minutes to explain why I think such a procedure is necessary as one important approach to dealing with our deficit problem. I want to emphasize immediately that I recognize that my proposal is no cure-all for our deficit problems, but it will have some restraining effect on the amounts we spend—and in our current situation of staggering deficits, we must utilize every available mechanism that will promote fiscal responsibility.

Historically, the pressures for spending came from the executive branch, and the legislature served as the mechanism for restraint. In those early days of our Republic, the legislature had the painful and difficult task of raising taxes in order to finance expenditures, and they did that with great reluctance. In fact, we know that our representative form of government is derived from the ability of Parliament to refuse to vote funds for the King's use unless he agreed to redress popular grievances.

But the growth of democracy has changed that old relationship between executive and legislature, and expenditure of money has become a popular function for the legislature—especially when unconstrained by the need to raise equivalent revenues. Nowdays, the pressure for restraint more often comes from the executive than the legislature so that over the last few decades we have been searching for ways to prune out the extravagances that seem to get included in the congressional appropriations process where the opportunities for what is euphemistically called logrolling frequently overwhelm the cries for economy.

President Nixon tried to prune the budget through an expansion of the impoundment process that was rejected by both the courts and the Congress. The Congress tried a different approach in title X of the Congressional Budget and Impoundment Control Act of 1974, through a system of deferrals and rescissions, but that system has not served the desired function. While that statute authorizes the President to submit rescission proposals, it does not ensure that such proposals receive congressional consideration—and in fact they do not. Though President Reagan submitted 242 rescission proposals as a part of his fiscal year 1986 budget, not one has had a record vote in the Senate. It is, of course, true that many rescission proposals are incorporated into regular or supplemental appropriations bills, but it remains a fact that such proposals have no guarantee of separate consideration by the House or the Senate as a body.

The special procedures of section 1017 of the Budget Act have not worked to bring rescissions to the floor for consideration and that weakness must be corrected. The purpose of my proposal is to ensure serious congressional reconsideration of those items of appropriations that the President considers excessive or unnecessary. We have all voted for appropriation bills without being committed to every item that is included. My proposal will require Congress to give careful consideration to those items in an appropriations bill of which the President disapprove. If the President believes that an appropriation is unnecessary or excessive, it does not seem unreasonable to require Senators and Congressmen to vote publicly on the need for that item.

It is my belief that this process will make it easier to eliminate unnecessary spending without making any change in our constitutional balance of powers. I invite all my colleagues, both supporters and opponents of the line-item veto, to support this concurrent resolution as one means of promoting fiscal responsibility.●

SENATE RESOLUTION 222—CALLING FOR A TRANSITION TO FULL DEMOCRACY IN THE GOVERNMENT OF CHILE

Mr. DODD submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 222

Whereas a military government headed by General Augusto Pinochet has ruled Chile since 1973, denying Chileans their civil liberties and outlawing or suspending all Chilean political parties;

Whereas violence has repeatedly broken out in Chile in protest of the military rule;

Whereas the Government of Chile has made no commitment for an early return to civilian rule, and Geneal Pinochet has relied in the past on the divisions within the anti-Government opposition to continue in power;

Whereas eleven political parties representing 80 percent of the electorate have recently reached an agreement which moderates their demands on the Pinochet government and provides for a return to civilian government;

Whereas the agreement, known as the National Accord for the Transition to Full Democracy, proposes the legalization of political parties, the return of exiles, the restoration of full civil liberties, and the holding of generl elections at a date to be negotiated; and

Whereas the Government of Chile has made no definitive response to the agreement: Now, therefore, be it

Resolved, That the Senate hereby expresses its support for the agreement reached by opposition political parties in Chile calling for a transition to full democracy and urges the Government of Chile to take steps to begin to carry out this transition.

● Mr. DODD. Mr. President, the bad new from Chile is that the Pinochet Government still holds sway and continues to rule with an iron hand. Indeed, just a few short days ago, September 11 to be exact, the people of that politically beleaguered land marked the 12th anniversary of the demise of the Allende government at the hands of their military leaders.

The good news from Chile is that its military rulers are now under increasing internal pressure to restore democratic procedures and respect for civil liberties. That pressure comes from across the political spectrum—left to right and right to left—and from the Catholic Church which has been instrumental in securing agreement among Chile's democratic opposition.

Mr. President, as a result of this effort, the Pinochet regime now confronts a unified democratic opposition, encompassing some 11 political parties and representing approximately 80 percent of the electorate. This is the significance of the recently announced national accord for the transition to full democracy. According to Lydia Chavez, the New York Times correspondent in Santiago, this is "* * * the first time such a broad spectrum of the opposition had agreed on the rules for a return to civilian government."

Some of the principal features of the national accord include a call for the creation of an electoral register, the legalization of political parties, the direct election of the President and the Congress; and for a mixed economy and respect for private property. Moreover, in a bow to the military, the accord "rules out collective trials for human rights abuses," but at the same time it demands the full restoration of civil rights and political freedoms.

Mr. President, because of the importance of this political development in Chile, I am introducing today a resolution which will put the Senate on record in support of the national accord and in urging the Pinochet government to implement it without further delay.

The democratic opposition in Chile has taken a major step forward in its efforts to return Chile to the democratic column. It needs and deserves our help and support. And I know from recent conversations with a variety of Chilean political spokesmen that a resolution along the lines which

I am introducing today will be both beneficial and constructive.

I hope my colleagues will give this resolution the urgent consideration it deserves.●

AMENDMENTS SUBMITTED

SUPERFUND IMPROVEMENT LEGISLATION

DECONCINI AMENDMENT NO. 627

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to the bill (S. 51) to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes; as follows:

On pages 88-89, strike out section 124 of the bill. On page 118, following the line 8, insert the following:

CONTRACTOR LIABILITY AND INDEMNIFICATION

SEC. . Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new section:

"CONTRACTOR LIABILITY AND INDEMNIFICATION

"SEC. 119. (a) Notwithstanding the provisions of section 114 of this title, no response action contractor shall be liable under this title or under any other Federal or State law or under common law to any person for injuries, costs, damages, expenses, or other liability (including but not limited to claims for indemnification or contribution and claims by third parties for death, personal injury, illness, loss of or damage to property, or economic loss) which result from any release or threatened release of a hazardous substance or pollutant or contaminant from a facility.

"(b) The exemption from liability provided under subsection (a) of this section shall not apply where—

"(1) a release or threatened release was caused by conduct of the response action contractor which was negligent or reckless or constituted intentional misconduct; or

"(2) the response action contractor is also a person against whom an action could be brought under section 106 with respect to any release or a person who would be liable under section 107(a) with respect to any release or threatened release.

"(c)(1) The Administrator may agree to hold harmless and indemnify any response action contractor meeting the requirements of this subsection against any liability (including the expenses of litigation or settlement) arising out of the contractor's performance in carrying out a response action under this title, but only to the extent that—

"(A) the contractor has made reasonable efforts to obtain liability insurance coverage;

"(B) any liability arising out of the contractor's performance exceeds the available insurance coverage; and

"(C) such liability was not caused by conduct of the contractor which was grossly negligent or reckless or constituted intentional misconduct.

"(2) The provisions of this subsection shall apply only with respect to a response action carried out under a written contract or agreement with—

"(A) the Administrator;

"(B) another Federal agency; or

"(C) a State or political subdivision which has entered into a contract or cooperative agreement in accordance with section 104(d)(1) of this title.

"(3) The provisions of this subsection shall not be subject to sections 1301 or 1341 of title 31 or section 11 of title 41 of the United States Code.

"(d) Nothing in this section shall affect the liability under this title or under any other Federal or State law of any person other than a response action contractor.

"(e)(1) A person is a 'response action contractor' under this section if such person is carrying out any response action under this title (including any evaluation, planning, design, engineering, construction, equipment, or ancillary services in connection with such response action) with respect to any release or threatened release of a hazardous substance or pollutant or contaminant from a facility, under a written contract or agreement with—

"(A) the Administrator;

"(B) another Federal agency;

"(C) a State or political subdivision which has entered into a contract or cooperative agreement in accordance with section 104(d)(1) of this title; or

"(D) any person against whom an action could be brought under section 106 with respect to such release, or any person who would be liable under section 107(a) with respect to such release or threatened release.

"(2) For purposes of this section, the term 'response action contractor' includes any person retained or hired by a response action contractor to provide any services relating to a response action.".

IMMIGRATION CONTROL ACT

LEVIN (AND OTHERS) AMENDMENT NO. 628

Mr. LEVIN (for himself, Mr. DECONCINI, Mr. BENTSEN, Mr. BINGAMAN, and Mr. HATFIELD) proposed an amendment to the bill (S. 1200) to amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes; as follows:

On page 93, between lines 7 and 8, insert the following:

(k)(1) The Congress finds that because equities exist in a certain group of persons who, while at present in the United States illegally, arrived prior to January 1, 1980, this Act provides the prospect for legalization for such group of persons who meet the eligibility requirements of this Act.

(2) It is not the purpose of this Act to deny employment or to otherwise prevent such group of persons from qualifying for legalization.

(3) Notwithstanding any other provision of law, the Attorney General shall prescribe regulations to permit any person who would be eligible for legalization under section 202 to remain in the United States and to engage in employment until the end of the application period described in subsection (a)(1).

WILSON (AND OTHERS) AMENDMENT NO. 629

Mr. WILSON (for himself, Mr. DURENBERGER, Mr. MOYNIHAN, and Mr. CRANSTON) proposed an amendment to the bill S. 1200, supra; as follows:

On page 93, line 12, strike out "$600,000,000 for each of three" and insert in lieu thereof "$300,000,000 for each of the first two".

On page 93, line 14, before the period insert a comma and the following: "and $600,000,000 for each of the next four fiscal years".

On page 95, line 9, strike out "$600,000,000 for each of the three fiscal years" and insert in lieu thereof "$300,000,000 for each of the first two fiscal years and $600,000,000 for each of the next four fiscal years".

Beginning on page 96, line 5, strike out "Any" and all that follows through "made." on line 8 and insert in lieu thereof the following: "Any amount paid to a State for any of the following fiscal years and remaining unobligated at the end of such year shall remain available to such State for the purposes for which it was made, as follows: Amounts appropriated for the first, second, third, fourth, and fifth fiscal years, as described in subsection (a), shall remain available for the next five, four, three, two, and one fiscal years thereafter, respectively.".

Beginning on page 94 with line 13, strike out all through line 7 on page 95 and insert in lieu thereof the following:

(2)(A) The amount of the allotment to a State under this section for a fiscal year shall bear the same proportion to the total allotments to States under this section for such fiscal year as the number of eligible legalized aliens (as defined in subsection (i)(3)) in such State that are applying for public programs of assistance (for which such aliens were not disqualified under section 202(h) at the time of such assistance) bears to the total number of such aliens that are applying for such assistance in all States.

SUPERFUND IMPROVEMENT ACT

STAFFORD (AND BENTSEN) AMENDMENT NO. 630

Mr. STAFFORD (for himself and Mr. BENTSEN) proposed an amendment to the bill S. 51, supra; as follows:

On page 59, lines 19 and 20, strike out the phrase, "a facility" and insert in lieu thereof "residential buildings or business or community structures".

On page 116, lines 23 and 24, strike the phrase, "or disposal" each time it appears, and on line 24, strike "or" before "(B)".

On page 109, following line 14, insert the following new section 135 and renumber the following sections accordingly:

"NOTICE OF CERLCA ACTIONS

"SEC. . Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(i) NOTICE OF ACTIONS.—Whenever any action is brought under this Act in a court of the United States by a plaintiff other than the United States, the plaintiff shall provide a copy of the complaint to the At-

torney General of the United States and to the Administrator.".

On page 71, after line 8, insert the following:

"(5) No person required to provide information or documents under this Act may claim that the information is entitled to protection under this section unless such claimant shows that:

"(A) the claimant has not disclosed the information to any other person, other than to an employee of the claimant or a person who is bound by a confidentiality agreement or to a person to whom the data has been supplied on a confidential basis in compliance with this Act, and the claimant has taken reasonable measures to protect the confidentiality of such information and intends to continue to take such measures;

"(B) the information could not reasonably be discovered by anyone other than such persons in the absence of disclosure; and

"(C) knowledge of such information gives the claimant an opportunity to obtain a significant advantage over competitors who do not know such information and disclosure of the information is likely to cause substantial harm to the claimant's competitive position.

"(6) The following information with respect to any hazardous substance as defined in section 101(14) shall not be entitled to protection under this section:

"(A) The chemical name, CAS number, trade name, and common name of the hazardous substances;

"(B) The physical properties of the substance, including its boiling point, melting point, flash point, specific gravity, vapor density, solubility in water, and vapor pressure at 20 degrees celsius;

"(C) The hazards to health and the environment posed by the substance, including physical hazards (such as explosion) and potential acute and chronic health hazards;

"(D) The potential routes of human exposure to the substance at the facility, establishment, place, or property being investigated, entered, or inspected under this subsection.

"(E) The location of disposal of any waste stream;

"(F) The identity and quantity of any waste stream;

"(G) Any monitoring data or analysis of monitoring data pertaining to disposal activities;

"(H) Any hydrogeologic or geologic data; and

"(I) Any groundwater monitoring data.".

On page 118, following line 19, insert the following new section:

PROCUREMENT PROCEDURES

SEC. . Title 1 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new section at the end thereof:

"PROCUREMENT PROCEDURES

"SEC. . Notwithstanding any other provision of law, any executive agency may use competitive procedures or procedures other than competitive procedures to procure the services of experts for use in preparing or prosecuting a civil or criminal action under this Act, whether or not the expert is expected to testify at trial. The executive agency need not provide any written justification for the use of procedures other than competitive procedures when procuring such expert services under this Act and need not furnish for publication in the Commerce Business Daily or otherwise any notice of solicitation or synopsis with respect to such procurement.".

On page 94, strike lines 14-25, and on page 95, strike lines 1-15, and substitute the following:

"(c) In any case where a person liable under section 107 is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code, or where with reasonable diligence jurisdiction in the Federal Courts cannot be obtained over a person liable under section 107 likely to be solvent at the time of judgment, any claim authorized by section 107 or 111 may be asserted directly against the guarantor providing evidence of financial responsibility for that person. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the person liable under section 107 if any action had been brought against such person by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by such person.

"(d) The total liability under this Act of any guarantor shall be limited to the aggregate amount of the monetary limits of the policy of insurance, guarantee, surety bond, letter of credit, or similar instrument provided by the guarantor to the person liable under section 107: *Provided*, That nothing in the subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to the person liable under section 107 including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim: Provided further, That nothing in this subsection shall be construed, interpreted or applied to diminish the liability of any person under section 107 or 111 of the Act or other applicable law.".

On page 161, after line 14, insert the following new section:

"HAZARDOUS MATERIALS TRANSPORTATION

"SEC. . (a) Section 306(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking 'within ninety days after the date of enactment of this Act' in the first sentence and inserting in lieu thereof 'by June 1, 1986,'; and by inserting the words 'and regulate' before the words 'as a hazardous material'.

"(b) Section 306(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting the words 'and regulation' after 'prior to the effective date of the listing'.".

On page 71, line 8, after the first period insert the following: "Notwithstanding any other provision of law, all requirements of the Atomic Energy Act and all executive orders concerning the handling of restricted data and national security information, including 'need to know' requirements, shall be applicable any grant of access to properly classified information under any provision of this Act, including section 103.".

KASTEN AMENDMENT NO. 631

Mr. STAFFORD (for Mr. KASTEN) proposed an amendment to the bill S. 51, supra; as follows:

On page 47, after line 19, insert the following new section and renumber succeeding sections accordingly:

"DEDICATED DEFENSE PRODUCTION

"SEC. . Section 101(20) of the Comprehensive, Environmental, Response, Compensation, and Liability Act of 1980 is amended by adding the following subparagraph:

"( ) in the case of a facility containing any hazardous substance resulting from manufacturing operations dedicated to the production of munitions or ordnance parts for the Department of Defense (or any subdivision thereof) using equipment owned by such Department or subdivision, the term "owner or operator" shall include the United States Government;".

STAFFORD (AND BENTSEN) AMENDMENT NO. 632

Mr. STAFFORD (for himself and Mr. BENTSEN) proposed and amendment to the bill S. 51, supra; as follows:

STATE AND LOCAL GOVERNMENT LIABILITY

S. 51 is amended by—

(1) On page 88, line 14, inserting after "release" the following: "or threatened release"; and

(2) On page 88, line 7 inserting "(a)" immediately before "Section";

(3) On page 87, line 21, inserting the following:

"(b) Section 101(20) is amended by inserting immediately before the semicolon at the end of clause (A) the following: 'nor does such term include a unit of state or local government which acquired ownership or control involuntarily through bankruptcy, foreclosure, tax deliquency, abandonment, or similar means of alienation;'.".

"(c) Section 101(20) is further amended by deleting clause (iii) and substituting the following: '(iii) in the case of any facility, title or control of which was conveyed due to abandonment, bankruptcy, foreclosure, tax delinquency of similar means to a unit of state or local government, any person who owned, operated or otherwise controlled activities at such facility immediately beforehand.'."

STAFFORD (AND BENTSEN) AMENDMENT NO. 633

Mr. STAFFORD (for himself and Mr. BENTSEN) proposed an amendment to the bill S. 51, supra; as follows:

POLLUTION LIABILITY INSURANCE

Add the following at the end thereof:

"TITLE III

"AMENDMENTS RELATED TO THE INSURANCE OF POLLUTION LIABILITY

"SEC. 301. The Comprehensive Environmental Compensation and Liability Act of 1980 is amended by adding the following at the end thereof:

'TITLE IV—POLLUTION INSURANCE

'SECTION 401. This Title may be cited as the "Pollution Liability Insurance and Risk Retention Act".

DEFINITIONS

'SEC. 402. (a) As used in this Title—

'(1) "insurance" means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under applicable State or Federal law;

'(2) "pollution liability" means liability for injuries arising from the release of hazardous substances, pollutants or contaminants;

'(3) "risk retention group" means any corporation or other limited liability association taxable as a corporation, or as an insur-

ance company, formed under the laws of any state

'(A) whose primary activity consists of assuming and spreading all, or any portion, of the pollution liability or of its group members;

'(B) which is organized for the primary purpose of conducting the activity described under subparagraph (A);

'(C) which is chartered or licensed as an insurance company and authorized to engage in the business of insurance under the laws of any State; and

'(D) which does not exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such a person.

'(4) "purchasing group" means any group of persons which has as one of its purposes the purchase of pollution liability insurance on a group basis; and

'(5) "State" means any State of the United States or the District of Columbia.

'(b) Nothing in this Title shall be construed to affect either the tort law or the law governing the interpretation of insurance contracts of any State, and the definitions of pollution liability and pollution liability insurance under any State law shall not be applied for the purposes of this Act, including recognition or qualification of risk retention groups or purchasing groups.

'SEC. 403. (a) Except as provided in this section, a risk retention group is exempt from any State law, rule, regulation, or order to the extent that such law, rule, regulation, or order would—

'(1) make unlawful, or regulate, directly or indirectly, the operation of a risk retention group except that the jurisdiction in which it is chartered may regulate the formation and operation of such a group and any State may require such a group to—

'(A) comply with the unfair claim settlement practices law of the State;

'(B) pay, on a nondiscriminatory basis, applicable premium and other taxes which are levied on admitted insurers and surplus line insurers, brokers, or policyholders under the laws of the State;

'(C) participate, on a nondiscrimatory basis, in any mechanism established or authorized under the law of the State for the equitable apportionment among insurers of pollution liability insurance losses and expenses incurred on policies written through such mechanism;

'(D) submit to the appropriate authority reports and other information required of licensed insurers under the laws of a State relating solely to pollution liability insurance losses and expenses;

'(E) register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process, and, upon request, furnish such commissioner a copy of any financial report submitted by the risk retention group to the commissioner of the chartering or licensing jurisdiction;

'(F) submit to an examination by the State insurance commissioner in any State in which the group is doing business to determine the group's financial condition, if—

'(i) the commissioner has reason to believe the risk retention group is in a financially impaired condition; and

'(ii) the commissioner of the jurisdiction in which the group is chartered has not begun or has refused to initiate an examination of the group; and

'(G) comply with a lawful order issued in a delinquency proceeding commenced by the State insurance commissioner if the commissioner of the jurisdiction in which the group is chartered has failed to initiate such a proceeding after notice of a finding of financial impairment under subparagraph (F) of this paragraph;

'(2) require or permit a risk retention group to participate in any insurance insolvency guaranty association to which an insurer licensed in the State is required to belong;

'(3) require any insurance policy issued to a risk retention group or any member of the group to be countersigned by an insurance agent or broker residing in that State; or

'(4) otherwise discriminate against a risk retention group or any of its members, except that nothing in this section shall be construed to affect the applicability of State laws generally applicable to persons or corporations.

'(c) The exemptions specified in subsection (a) apply to—

'(1) pollution liability insurance coverage provided by a risk retention group for—

'(A) such group; or

'(B) any person who is a member of such group;

'(2) the sale of pollution liability insurance coverage for a risk retention group; and

'(3) the provision of insurance related services or management services for a risk retention group or any member of such a group.

'(d) A State may require that a person acting, or offering to act, as an agent or broker for a risk retention group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

PURCHASING GROUPS

'SEC. 404. (a) Except as provided in this section, a purchasing group is exempt from any State law, rule, regulation, or order to the extent that such law, rule, regulation, or order would—

'(1) prohibit the establishment of a purchasing group;

'(2) make it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its member, advantages, based on their loss and expense experience, not afforded to other persons with respect to rates, policy forms, coverages, or other matters;

'(3) prohibit a purchasing group or its members from purchasing insurance on the group basis described in paragraph (2) of this subsection;

'(4) prohibit a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time;

'(5) require that a purchasing group must have a minimum number of members, common ownership or affiliation, or a certain legal form;

'(6) require that a certain percentage of a purchasing group must obtain insurance on a group basis;

'(7) require that any insurance policy issued to a purchasing group or any members of the group be countersigned by an insurance agent or broker residing in that State; or

'(8) otherwise discriminate against a purchasing group or any of its members.

'(b) The exemptions specified in subsection (a) apply to—

'(1) pollution liability insurance, and comprehensive general liability insurance which includes this coverage, provided to—

'(A) a purchasing group; or

'(B) any person who is a member of a purchasing group; and

'(2) the sale of—

'(A) pollution liability insurance, and comprehensive general liability coverage;

'(B) insurance related services; or

'(C) management services;

to a purchasing group or member of the group.

'(c) A State may require that a person acting, or offering to act, as an agent or broker for a purchasing group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

'APPLICABILITY OF SECURITIES LAWS

'SEC. 405. (a) The ownership interests of members in a risk retention group shall be—

'(1) considered to be exempted securities for purposes of section 5 of the Securities Act of 1933 and for purposes of section 12 of the Securities Exchange Act of 1934; and

'(2) considered to be securities for purposes of the provisions of section 17 of the Securities Act of 1933 and the provisions of section 10 of the Securities Exchange Act of 1934.

'(b) A risk retention group shall not be considered to be an investment company for purposes of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

'(c) The ownership interests of members in a risk retention group shall not be considered securities for purposes of any State blue sky law.'."

BRADLEY (AND LAUTENBERG) AMENDMENT NO. 634

Mr. BRADLEY (for himself and Mr. LAUTENBERG) proposed an amendment to the bill S. 51, supra; as follows:

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

TITLE III—LEAD FREE DRINKING WATER

SHORT TITLE

"SEC. 301. This title may be cited as the "Lead Free Drinking Water Act".

SAFE DRINKING WATER ACT AMENDMENTS

"SEC. 302. (a) IN GENERAL.—Part B of title XIV of the Public Health Service Act is amended by adding at the end thereof the following new section:

"PROHIBITION ON USE OF LEAD PIPES, SOLDER, AND FLUX

"SEC. 1417. (a) IN GENERAL.—

"(1) PROHIBITION.—Any pipe, solder, or flux, which is used after date of Enactment of the SDWA of 1985, in the installation or repair of—

"(A) any public water system, or

"(B) any plumbing in a residential or nonresidential facility providing water for human consumption which is connected to a public water system.

must be lead free (as defined in subsection (d)). This paragraph shall not apply to leaded joints necessary for the repair of cast iron pipes.

"(2) PUBLIC NOTICE OF ADVERSE EFFECTS.—Each community public water system shall provide notice, developed in consultation with the Administrator, to all users of the system with repect to—

"(A) the adverse health effects of exposure to lead, including a description of those populations which may be particularly sensitive to such exposure; and

"(B) any means reasonably available to such users for mitigating lead exposure from drinking water, taking into consideration the need to conserve water.

"(b) STATE ENFORCEMENT.—

"(1) ENFORCEMENT OF PROHIBITION.—The requirements of subsection (a)(1) shall apply to all States effective 24 months after the date of the enactment of this section. States shall enforce such requirements through State or local plumbing codes, or such other means of enforcement as the State may determine to be appropriate.

"(2) ENFORCEMENT OF PUBLIC NOTICE REQUIREMENTS.—The requirements of subsection (a)(2) shall apply to all States effective 24 months after the date of the enactment of this section.

"(c) PENALTIES.—If the Administrator determines that a State is not enforcing the requirements of subsection (a) as required pursuant to subsection (b), the Administrator may commence a civil action under section 1414(b).

"(d) DEFINITION OF LEAD FREE.—For purposes of this section, 'lead free' means solders and flux containing not more than 0.2 percent lead, and pipes and pipe fittings containing not more than 6.0 percent lead.".

"(b) CIVIL ACTION.—Section 1414(b) of the Public Health Service Act is amended—

(1) in the matter preceding paragraph (1), by inserting ", or with section 1417," after "or 1416"; and

(2) in paragraph (1), by inserting ", or under section 1417" after "subsection (a)".

"(c) NOTIFICATION TO STATES.—The Administrator of the Environmental Protection Agency shall notify all States with respect to the requirements of section 1417 of the Public Health Service Act within 90 days after the date of the enactment of this Act.

BAN ON LEAD WATER PIPES, SOLDER, AND FLUX IN VA AND HUD INSURED OR ASSISTED PROPERTY

SEC. 303. (a) PROHIBITION.—(1) The Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs may not insure or guarantee a mortgage or furnish assistance with respect to newly constructed residential property which contains a potable water system unless such system uses only lead free pipe, solder, and flux.

(2) For purposes of paragraph (1), "lead free" means solders and flux containing not more than 0.2 percent lead, and pipes and pipe fittings containing not more than 6.0 percent lead.

"(b) EFFECTIVE DATE.—Subsection (a) shall become effective 24 months after the date of the enactment of this Act.

LEAD SOLDER AS A HAZARDOUS SUBSTANCE

SEC. 304. (a) IN GENERAL.—Section 2(f)(1) of the Federal Hazardous Substances Act is amended by adding at the end thereof the following:

(E) Any solder which has a lead content in excess of 0.2 percent.".

"(b) LABELING.—Section 4 of the Federal Hazardous Substances Act is amended by adding at the end thereof the following:

"(k) The introduction or delivery for introduction into interstate commerce of any lead solder which has a lead content in excess of 0.2 percent which does not prominently display a warning label stating the lead content of the solder and warning that the use of such solder in the making of joints or fittings in any private or public potable water supply system is prohibited.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 24 months after the date of the enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, September 17, in executive session to mark up legislation to reduce the deficit for fiscal years 1986, 1987, 1988, and House Joint Resolution 372, to increase the statutory limit on the public debt; as well as other pending legislation and to consider and act on pending nominations.

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

COMMITTEE ON ARMED SERVICES

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Committee on Armed Services and the Defense Committee of the Bundestag of the Federal Republic of Germany be authorized to meet in executive session during the session of the Senate on Tuesday, September 17, to hold a meeting to discuss security issues of mutual concern.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during this session of the Senate on Tuesday, September 17, between the hours of 11 a.m. and 12 p.m., to mark up S. 616, the farm bill.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, September 17, to hold an oversight hearing on the moratoria on OCS leasing in Federal waters adjacent to the coastline of the State of California.

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

SUBCOMMITTEE ON SECURITIES

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, September 17, to hold a hearing on S. 727, a bill to clarify the application of the Public Utility Holding Company Act of 1935 to encourage cogeneration activities by gas utility holding company systems.

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

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts, and Humanities, of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, September 17, 1985, in order to conduct a hearing on the reauthorization of the Higher Education Act of 1985.

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

ADDITIONAL STATEMENTS

THE KIDNAPING OF INES GUADALUPE DUARTE DURAN

● Mr. DODD. Mr. President, I want to take this opportunity to express my profound personal dismay over the brutal and senseless kidnaping of Ines Guadalupe Duarte Duran, eldest daughter of President Duarte of El Salvador. At the same time, I want to commend my colleagues in both the House and Senate for the prompt passage of resolutions condemning this criminal act and offering the full support of the United States in helping to secure Mrs. Duarte Duran's safe return.

These expressions of deep congressional concern are very real. Just as real is the sense of relief in learning that the President's daughter is still alive and that she has spoken to her father.

Mr. President, the kidnaping of Mrs. Duarte Duran, which resulted in the loss of two innocent lives, serves as yet another tragic testimony to the fact that, despite President Duarte's efforts to bring peace and democracy to this nation, it is violence and terrorism which still govern in El Salvador. And if we have learned anything from the recent history of El Salvador, it is that all factions, whether they be of the left or of the right, consistently demonstrate a propensity to employ violence as a preferred method of imposing their will upon others. The result is a continuous pattern of terrorism from which no one is spared.

Mr. President, I recently telephoned President Duarte to convey my deepest concerns for the safety of his daughter. He knows my prayers are with him and his family.●

CITIZENSHIP DAY, CONSTITUTION WEEK, AND INTERNATIONAL DAY OF PEACE

● Mr. D'AMATO. Mr. President, I rise today in honor of three separate, yet intertwined, days, September 17, 1985, marks Citizenship Day, the beginning

of Constitution Week, and the International Day of Peace. These events occur simultaneously because each one supports the other—without the order imposed by the Constitution, citizenship would become worthless. Without the support of a citizenry, the Constitution would never reach out beyond its own philosophical boundaries into the realm of practical application. Without the hope of peace in our world, we have nothing to offer our citizens or their children.

On September 27, 1787, 39 delegates to the Constitutional Convention signed the Constitution. Now, 198 years later, we celebrate a strong Federal system and a healthy system of checks and balances that protect the rights of the States of our citizens. This makes it very appropriate that we should also celebrate Citizenship Day at the same time. When so many in this world are denied such basic freedoms as individual expression, self-determination, and freedom to practice their own religion, we should be proud to stop and reflect upon our fortunes as citizens of this great Nation, and we should salute the great framework that so forcefully protects those rights we cherish so much.

However, it would prove most detrimental if we stopped there and presumed that we were an isolated island. This day, the third Tuesday of September as declared by the U.N. General Assembly, also serves as International Day of Peace. At this time, we are reminded that though we endjoy many privileges—we still have a long way to go toward establishing tranquility worldwide.

Days like this are meant to heighten our awareness of our rights and the integrity of our Federal Government's respect for those rights.●

WHISTLEBLOWERS

● Mr. SIMON. Mr. President, the American Legion magazine had an editorial on whistleblowers that makes a great deal of sense.

I believe we have to encourage those who are Federal employees who see abuses to stand up instead of discouraging them, as we now do.

I have been impressed time and again with Ernest Fitzgerald and the good work he is doing, but I am concerned that there are so few Ernest Fitzgeralds that come forward.

As I am inserting into the RECORD the American Legion editorial, let me note at the same time that that magazine is much improved over when I first started receiving it many years ago.

I ask that the editorial be printed in the CONGRESSIONAL RECORD.

The editorial follows:

FEAR OF REPRISAL

Despite the federal government's system of protection for "whistleblowers" against fraud and waste over the past two and a half years, there's been no rush to report the abuses.

The latest investigation by the U.S. Merit Systems Protection Board discovered that only 25 percent of the government workers who claimed knowledge of illegal or wasteful action even bothered to report the incident. The two major reasons for such apathy were the belief that nothing corrective would happen anyway, and that the loyal employees calling the foul balls would experience reprisal rather than reward.

Of those federal employees who had the courage to blow the whistle in 1983, the study noted, 23 percent said they were victims of reprisal or threats of reprisal. The study concluded that federal laws are not enough to encourage "whistleblowing," and urged federal agencies to develop their own programs to halt waste and fraud, while finding ways to protect the finger-pointers.●

SQUIRE BROEL HONORED FOR COMMUNITY SERVICE

● Mr. ABDNOR. Mr. President, this weekend one of my constituents, Squire Broel of Sturgis, will be honored for 50 years of service as a fireman in South Dakota.

Squire started his fire-fighting career at the precocious age of 17, in his hometown of Lesterville, a small community in the southeastern part of our State. Apparently thinking that the town's volunteer fire crew was a bit too slow in getting to a fire, Squire and a teenage friend joined in to help push the fire wagon. In fact, they pushed with so much vigor that, when one of the older volunteers slipped and fell, they pushed the wagon right over him. Fortunately, the man wasn't hurt, and the fire was put out. And Squire's enthusiasm was noted and rewarded, with an invitation to join as a full-fledged member of the volunteer crew.

Fifty years later and he's still going strong, with the same spirit and enthusiasm he showed on that day in Lesterville.

In the interim, Squire married Evelyn Hladky—the 50th anniversary of that event will be coming up in just 5 years—and had three children: Larry, married and with two children of his own in Walla Walla, WA; Caroyln, who lives with her husband, Tom McDonald, and two children in Rapid City; and Jean, who lives with her husband, Al Lehn, and their daughter here in the Washington area.

He also moved from Lesterville to Sturgis, at the other end of South Dakota, where the Broels have lived since 1951.

But one thing never changed. Squire has been a firefighter, and one of the best, for all these 50 years. In 1978 he retired after 27 years of service with the Fort Meade Veterans Administration hospital fire department, the last 17 of those years as fire chief. And he remains a volunteer fireman with the Sturgis department, as he has been since moving there.

Squire's service to his community and State have been noted on many past occasions. In 1964, he was named Federal Civil Servant of the year, and in 1967 he was selected as "Boss of the Year" in Sturgis. The Keep South Dakota Green Association picked him as Fireman of the Year in 1977.

But I suspect that Squire feels the same way I do about one thing—there is no honor as great as being respected and loved by the people of your own community. That respect and love is being shown this weekend in the town of Sturgis where Squire is getting some much-deserved recognition.

My congratulations to Squire and to Evelyn, for 50 years of a job well done.●

DOCTOR BEHIND THE MICROPHONE

● Mr. SIMON. Mr. President, much of the news from the Middle East is not good, but a story by Thomas L. Friedman in the New York Times on September 1, tells about Mrs. Ilana Basri who has a radio program that reaches into the Arab world that builds bridges between the Arab-Israeli community.

I thought it was a moving, heartwarming story.

We need more examples like this in both the Arab and Israeli communities.

I urge my colleagues to read it, if they have not and ask that the article be printed in the RECORD.

The article follows:

[From the New York Times, Sept. 1, 1985]

ISRAELI MEDICAL ADVISER IS RADIO ENVOY TO ARABS

(By Thomas L. Friedman)

JERUSALEM, Aug. 31—Ilana Basri is not a household name in Israel. In fact, few Israelis have heard of her.

But Mrs. Basri, 54 years old, has become one of the most widely listened-to-Israeli voices in the Arab world today. She probably gets more mail from places like Saudi Arabia and Syria than anyone in Israel.

Since 1971 Mrs. Basri has had a program on the Israeli radio's Arabic service called "Doctor Behind the Microphone," and it has become a vehicle for Arab-Israeli cooperation.

Twice a week Mrs. Basri, an Iraqi Jew who came to Israel in 1950, interviews Jewish and Arab doctors in Israel about the latest advances in treatments and Medical technology in Israeli hospitals. After the Interviews, Mrs. Basri invites her listeners throughout the Arab world to write to her—at a special post office box in Geneva or by any other route—with their medical problems.

300 LETTERS A MONTH

Each month 300 letters from Arab listeners find their way to Mrs. Basri's office. She translates them into Hebrew and refers them to specialists at Hadassah Hospital in Jerusalem or other Israeli medical centers.

The specialists answer the medical queries with whatever limited advice is possible, which Mrs. Basri translates into Arabic and

broadcasts on her 30-minute program, or they ask the listener to send more medical records from a local doctor in order to better diagnose the problem. Those who send their records, and are determined by a Israeli specialist to be treatable, are invited by Mrs. Basri on the air to come to Israel, at their own expense.

Mrs. Basri personally arranges all visas through the Interior Ministry and accompanies everyone who comes to the hospital. Every year dozens of Arabs, including Kuwaitis, Qataris, Saudi Arabians, Libyans and Syrians, are quietly getting treatment in Israeli hospitals as a result of her program.

"Diseases don't know any boundaries," Mrs. Basri said, "and I don't feel that treatments should either."

PRAISE FROM DOCTORS

Her efforts have won praise from Israeli doctors. "She is doing a remarkable job in improving relations between us and the Arabs," said Dr. Yaacov Shanon of Bikur Holim Hospital in Jerusalem, who has treated scores of Arab patients referred by Mrs. Basri.

"There is a new generation of very good young doctors in the Arab world, but not everyone has access to them," he added. "The cases that are coming to us are usually the most difficult ones from both a diagnostic and a therapeutic point of view."

Because of the problems involved for a Kuwaiti or a Syrian in traveling to Israel—a country with which their Governments are technically at war and to which a visit would be punishable by a long prison term—Mrs. Basri is discreet in her responses. Most listeners do not sign their letter to her by name but use their initials or a code name related to their illness.

On the air, Mrs. Basri may reply: "To the bird without wings in Kuwait, the doctor says he thinks he can treat you here. Please send me your passport details." Or: "To A. B. in Saudi Arabia, your visa has been approved by the Interior Ministry. you can pick it up at the Allenby Bridge on the Jordan River between Aug. 15 and Sept. 1. The visa is good for one month. Call me on arrival in Jerusalem, and I will take you to the doctor."

SOME PROMINENT LISTENERS

With its 1.2-million-watt transmitter, one of the most powerful in the Middle East, Israel's Arabic service reaches listeners from Morocco to Iraq. It is an open secret that it is tuned in at coffeehouses and in taxis in every Arab capital, and Presidents Hafez al-Assad of Syria and Amin Gemayel of Lebanon are known to be regular listeners.

Edmond Sehayek, the director of the Arabic service, said his station received mail from across the Arab world, including frequent love letters to female newscasters. A Libyan military attaché even telephoned recently from a European embassy to complain about a commentary on the Libyan leader, Col. Muammar el-Qaddafi.

"More than half the mail, though, is for Ilana," Mr. Sehayak said. "Besides our main feature-newsreel, hers is our most popular show."

Every morning Mrs. Basri opens envelopes sent through Geneva or some other European capital or delivered by Arabs who have crossed the bridge from Jordan to the West Bank. There is no mail service between Israel and any Arab country except Egypt.

The letters are often desperate tales of disease, most of them eye, skin and fertility problems. Many writers send electrocardiograms, blood test results, dental charts and X-rays.

"I have medical records from hospitals all over the Arab world," said Mrs. Basri, displaying a sample from Mubaraak al-Kabeer Hospital in Kuwait.

A typical letter this week came from a 48-year-old Syrain woman. The letter, mailed in London, begins: "Dear Doctor Behind the Microphone: Salaam, and good health to you. I am paralyzed in my legs. I have been getting physical therapy, but I still have very bad pains. I heard you speaking about achievements in rehabilitation in Israel, and I want to know if I can be treated in your hospital. Please bring my letter to a doctor in Israel. I am ready to come."

SEEKING VISAS IN EUROPE

Each year, according to Foreign Ministry sources, hundreds of Arabs go to Israeli embassies in Europe and ask for visas to fly to Israel for treatment.

On the wall next to her desk Mrs. Basri has a picture of a Syrain girl and her father in Tel Hashomer Hospital in Tel Aviv. The man went to an Israeli embassy in Europe, got a visa and flew to Tel Aviv with his aling daughter. Then he called Mrs. Basri.

"He told me his daughter was suffering from pains in the belly and high fever and he could not get any doctor to get it to go away," Mrs. Basri said. "I told him, 'Stay at the hotel. I will come and pick you up.' In the meantime I called Professor Mordechai Prass, a specialist in internal medicine at Tel Hashomer. He treated her for familial Mediterranean fever. She stayed in the hospital for two weeks and came out fine. Before they left, they insisted that a photographer come and take this picture with the doctor."

The letters go on and on. A woman from Kuwait wants to consult a fertility expert about having a test-tube baby. A Saudi man says he heard Mrs. Basri's program in a taxi from Saudi Arabia to Jordan and wondered it she could do something for his eye problems.

Mrs. Basri got the idea for the program 14 years ago while lying in a heart-care unit in an Israeli hospital and noticing how much of the medical equipment was marked "Made in Israel." At the time she was a secretary at the Arabic service. She eventually convinced officials of the potential for such a program, and the files in her office bulging with handwritten Arabic letters are testimony to her intuition.

"But even I," Mrs. Basri said, "never thought the program would end up being such a live bridge that Arabs would use to cross into Israel."

HISTORY CORRUPTED: THE MYTH OF SMOOT-HAWLEY

● Mr. HEINZ. Mr. President, it gravely concerns me that every time someone in the administration or the Congress gives a speech about a more aggressive trade policy or the need to confront our trade partners with their subsidies, barriers to imports and other unfair practices, others, in the Congress immediately react with speeches on the return of the Smoot-Hawley Tariff Act of 1930, and the dark days of blatant protectionism and depression.

Take, for example, a statement by the Senator from Rhode Island [Mr. CHAFEE] which appeared in the RECORD on June 17. Senator CHAFEE first asserts that an overvalued dollar is primarily responsible for the current trade deficits. Second, he expresses his concern that Congress might enact legislation, like Smoot-Hawley, in order to alleviate our trade problems. Third, he adds that this would have a devastating effect on the U.S. economy, because Smoot-Hawley had a devastating effect on the economy in the 1930's. In fact, Senator CHAFEE goes so far as to state that "the Smoot-Hawley Tariff Act * * *, without question, led to the Great Depression."

Mr. President, despite my admiration for the Senator from Rhode Island, I find myself unable to agree with him on this issue. First, while Senator CHAFEE is correct in citing the excessive value of the dollar as the main contributing factor to our trade deficit, he fails to mention that underlying the dollar's strength and high interest rates is an enormous budget deficit. Nor does he mention the way market access barriers affect U.S. exports abroad.

This question aside, it seems that for many of us that Smoot-Hawley has become a code word for protectionism and, in turn, a code word for the depression. Yet when one recalls that Smoot-Hawley was not enacted until more than 8 months after the October 1929 economic collapse, it is hard to conceive how it could have "led to the Great Depression." Indeed, for those of us who sometimes wonder about the ability of Congress to make any changes in our economy, the changes supposedly wrought by this single bill in 1930 appear fantastic.

Historians and economists, who usually view these things objectively, realize that the truth is a good deal more complicated, that the causes of the depression were far deeper, and that the link between high tariffs and economic disaster is much more tenuous than the article Senator CHAFEE placed in the RECORD implies. A 1983 study by Donald Bedell publicly explodes the myth of Smoot-Hawley through an economic analysis of the actual tariff increases in the act and their effects in the early years of the depression. The study points out that the increases in question affected only $231 million worth of products in the second half of 1930, significantly less than 1 percent of world trade; that in 1930-32 duty-free imports into the United States fell at almost the same percentage rate as dutiable imports; and that a 13.5-percent drop in GNP in 1930 can hardly be blamed on a single piece of legislation that was not even enacted until midyear.

This, of course, is not to suggest that high tariffs are good or that Smoot-Hawley was a wise piece of legislation. It was not. It made a bad situation worse. But it was also clearly not re-

sponsible for all the ills of the 1930's that are habitually blamed on it by those who fancy themselves defenders of free trade. Mr. President, I have placed this study in the RECORD previously. Indeed, the Senator from South Carolina [Mr. HOLLINGS] cited it in his recent appearance before the Finance Committee on textile legislation. However, the continuing appearance of these articles erroneously blaming Smoot-Hawley for everything bad that has happened since 1930 dictates bringing it to Senators' attention once again. Sort of a refresher course, if you will. Hopefully, this study will help us to clean up the rhetoric so often associated with Smoot-Hawley and provide for a more sophisticated and accurate view of economic history.

Mr. President, I ask that the study, by Don Bedell of Bedell Associates, be printed in the RECORD.

The study follows:

TARIFFS MISCAST AS VILLAIN IN BEARING BLAME FOR GREAT DEPRESSION—SMOOT/HAWLEY EXONERATED

(By Donald W. Bedell)

SMOOT/HAWLEY, DEPRESSION AND WORLD REVOLUTION

It has recently become fashionable for media reporters, editorial writers here and abroad, economists, Members of Congress, members of foreign governments, UN organizations and a wide variety of scholars to express the conviction that the United States, by the single act of causing the Tariff Act of 1930 to become law (Public Law 361 of the 71st Congress) plunged the world into an eonomic depression, may well have prolonged it, led to Hitler and World War II.

Smoot/Hawley lifted import tariffs into the U.S. for a cross section of products beginning mid-year 1930, or more than 8 months following the 1929 financial collapse. Many observers are tempted simply to repeat "free trade" economic doctrine by claiming that this relatively insignificant statute contained an inherent trigger mechanism which upset a neatly functioning world trading system based squarely on the theory of comparative economics, and which propelled the world into a cataclysm of unmeasurable proportions.

We believe that sound policy development in international trade must be based solidly on facts as opposed to suspicions, political or national bias, or "off-the-cuff" impressions 50 to 60 years later of how certain events may have occurred.

When pertinent economic, statistical and trade data are carefully examined will they show, on the basis of preponderance of fact, that passsage of the Act did in fact trigger or prolong the Great Depression of the Thirties, that it had nothing to do with the Great Depression, or that it represented a minor response of a desperate nation to a giant world-wide economic collapse already underway?

It should be recalled that by the time Smoot/Hawley was passed 6 months had elapsed of 1930 and 8 months had gone by since the economic collapse in October, 1929. Manufacturing plants were already absorbing losses, agriculture surpluses began to accumulate, the spectre of homes being foreclosed appeared, and unemployment showed ominous signs of a precipitous rise.

The country was stunned, as was the rest of the world. All nations sought very elusive solutions. Even by 1932, and the Roosevelt election, improvisation and experiment described government response and the technique of the New Deal, in the words of Arthur Schlesinger, Jr. in a New York Times article on April 10, 1983. President Roosevelt himself is quoted in the article as saying in the 1932 campaign, "It is common sense to take a method and try it. If it fails, admit it frankly and try another. But above all, try something."

The facts are that, rightly or wrongly, there were no major Roosevelt Administration initiatives regarding foreign trade until well into his Administration; thus clearly suggesting that initiatives in that sector were not thought to be any more important than the Hoover Administration thought them. However, when all the numbers are examined we believe neither President Hoover nor President Roosevelt can be faulted for placing international trade's role in world economy near the end of a long list of sectors of the economy that had caused chaos and suffering and therefore needed major corrective legislation.

How important was international trade to the U.S.? How important was U.S. trade to its partners in the Twenties and Thirties?

In 1919, 66 percent of U.S. imports were duty free, or $2.9 Billion of a total of $4.3 Billion. Exports amounted to $5.2 Billion in that year making a total trade number of $9.6 Billion or about 14 percent of the world's total. See Chart I below.

CHART I.—U.S. GROSS NATIONAL PRODUCT, 1929–33

[Dollar amounts in billions]

	1929	1930	1931	1932	1933
GNP	$103.4	$89.5	$76.3	$56.8	$55.4
U.S. international trade	$9.6	$6.8	$4.5	$2.9	$3.2
U.S. international trade percent of GNP	9.3	7.6	5.9	5.1	[1] 5.6

[1] Series U., Department of Commerce of the United States, Bureau of Economic Analysis.

Using the numbers in that same Chart I it can be seen that U.S. imports amounted to $4.3 Billion or just slightly above 12 percent of total world trade. When account is taken of the fact that only 33 percent, or $1.5 Billion, of U.S. imports was in the Dutiable category, the entire impact of Smoot/Hawley has to be focused on the $1.5 Billion number which is barely 1.5 percent of U.S. GNP and 4 percent of world imports.

What was the impact? In dollars Dutiable imports fell by $462 Million, or from $1.5 Billion to $1.0 Billion, during 1930. It's difficult to determine how much of that small number occurred in the second half of 1930 but the probability is that it was less than 50 percent. In any case, the total impact of Smoot/Hawley in 1930 was limited to a "damage" number of $231 Million; spread over several hundred products and several hundred countries!

A further analysis of imports into the U.S. discloses that all European countries accounted for 30 percent or $1.3 Billion in 1929 divided as follows: U.K. at $330 Million or 7½ percent, France at $171 Million or 3.9 percent, Germany at $255 Million or 5.9 percent, and some 15 other nations accounting for $578 Million or 13.1 percent for an average of 1 percent.

These numbers suggest that U.S. imports were spread broadly over a great array of products and countries, so that any tariff action would by definition have only a quite modest impact in any given year or could be projected to have any important cumulative effect.

This same phenomenon is apparent for Asian countries which accounted for 29 percent of U.S. imports divided as follows: China at 3.8 percent, Japan at $432 Million and 9.8 percent, and with some 20 other countries sharing in 15 percent or less than 1 percent on average.

Australia's share was 1.3 percent and all African countries sold 2.5 percent of U.S. imports.

Western Hemisphere countries provided some 37 percent of U.S. imports with Canada at 11.4 percent, Cuba at 4.7 percent, Mexico at 2.7 percent, Brazil at 4.7 percent and all others accounting for 13.3 percent or about 1 percent each.

The conclusion appears inescapable on the basis of these numbers; a potential adverse impact of $231 Million spread over the great array of imported products which were Dutiable in 1929 could not realistically have had any measurable impact on America's trading partners.

Meanwhile, the Gross National Product (GNP) in the United States had dropped an unprecedented 13.5 percent in 1930 alone, from $103.4 Billion in 1929 to $89 Billion by the end of 1930. It is unrealistic to expect that a shift in U.S. international imports of just 0.2 percent of U.S. GNP in 1930 for example ($231 Million on $14.4 Billion) could be viewed as establishing a "precedent" for America's trading partners to follow, or represented a "model" to follow.

Even more to the point an impact of just 0.2 percent could not reasonably be expected to have any measurable effect on the economic health of America's trading partners.

Note should be taken of the claim by those who repeat the Smoot/Hawley "villain" theory that it set off a "chain" reaction around the world. While there is some evidence that certain of America's trading partners retaliated against the U.S. there can be no reliance placed on the assertion that those same trading partners retaliated against each other by way of showing anger and frustration with the U.S. Self-interest alone would dictate otherwise, common sense would intercede on the side of avoidance of "shooting oneself in the foot," and the facts disclose that world trade declined by 18 percent by the end of 1930 while U.S. trade declined by some 10 percent more or 28 percent. U.S. foreign trade continued to decline by 10 percent more through 1931, or 53 percent versus 43 percent for world-wide trade, but U.S. share of world trade declined by only 18 percent from 14 percent to 11.3 percent by the end of 1931.

Reference was made earlier to the Duty Free category of U.S. imports. What is especially significant about those import numbers is the fact that they dropped in dollars by an almost identical percentage as did Dutiable goods through 1931 and beyond: Duty Free imports declined by 29 percent in 1930 versus 27 percent for Dutiable goods, and by the end of 1931 the numbers were 52 percent versus 51 percent respectively.

The only rational explanation for this phenomenon is that Americans were buying less and prices were falling. No basis exists for any claim that Smoot/Hawley had a distinctively devastating effect on imports beyond and separate from the economic impact of the economic collapse in 1929.

Based on the numbers examined so far, Smoot/Hawley is clearly a mis-cast villain. Further, the numbers suggest the clear possibility that when compared to the enormity

of the developing international economic crisis Smoot/Hawley had only a minimal impact and and international trade was a victim of the Great Depression.

This possibility will become clear when the course of the Gross National Product (GNP) during 1929-1933 is examined and when price behaviour world-wide is reviewed, and when particular Tariff Schedules of Manufacturers outline in the legislation are analyzed.

Before getting to that point another curious aspect of the "villian" theory is worthy of note. Without careful recollection it is tempting to view a period of our history some 50-60 years ago in terms of our present world. Such a superficial view not only makes no contribution to constructive policy-making. It overlooks several vital considerations which characterized the Twenties and Thirties:

1. The international trading system of the Twenties bears no relation to the interdependent world of the Eighties commercially, industrially and financially in size or complexity.

2. No effective international organization existed, similar to the General Agreement for Tariffs and Trade (GATT) for example for resolution of disputes. There were no trade "leaders" among the world's nations in part because most mercantile nations felt more comfortable without dispute settlement bodies.

3. Except for a few critical products foreign trade was not generally viewed in the "economy-critical" context as currently in the U.S. As indicated earlier neither President Hoover nor President Roosevelt viewed foreign trade as crucial to the economy in general or recovery in particular.

4. U.S. foreign trade was relatively an amorphous phenomenon quite unlike the highly structured system of the Eighties; characterized largely then by "caveat emptor" and a broadly laissez-faire philosophy generally unacceptable presently.

These characteristics, together with the fact that 66 percent of U.S. imports were Duty Free in 1929 and beyond, placed overall international trade for Americans in the Twenties and Thirties on a very low level of priority especially against the backdrop of world-wide depression. Americans in the Twenties and Thirties could no more visualize the world of the Eighties than we in the Eighties can legitimately hold them responsible for failure by viewing their world in other than the most pragmatic and realistic way given those circumstances.

For those Americans then, and for us now, the numbers remain the same. On the basis of sheer order of magnitude of the numbers illustrated so far, the "villian" theory often attributed to Smoot/Hawley is an incorrect reading of history and a mis-understanding of the basic and incontrovertible law of cause and effect.

It should also now be recalled that, despite heroic efforts by U.S. policy-makers its GNP continued to slump year-by-year and reached a total of just $55.4 billion in 1933 for a total decline from 1929 levels of 46 percent. The financial collapse of October, 1929 had indeed left its mark.

By 1933 the 1929 collapse had prompted formation in the U.S. of the Reconstruction Finance Corporation, Federal Home Loan Bank Board, brought in a Democrat President with a program to take control of banking, provide credit to property owners and corporations in financial difficulties, relief to farmers, regulation a stimulation of business, new labor laws and social security legislation.[1]

So concerned were American citizens about domestic economic affairs, including the Roosevelt Administration and the Congress, that scant attention was paid to the solitary figure of Secretary of State Cordell Hull. He, alone among the Cabinet, was conviced that international tade had material relevance to lifting the country back from depression. His efforts to liberalize trade in general and to find markets abroad for U.S. products in particular from among representatives of economically stricken Europe, Asia and Latin America were abruptly ended by the President and the 1933 London Economic Conference collapsed without result.

The Secretary did manage to make modest contributions to eventual trade recovery through the Most Favored Nation (MFN) concept. But it would be left for the United States at the end of World War II to undertake an economic and political role of leadership in the world; a role which in the Twenties and Thirties Americans in and out of government felt no need to assume, and did not assume. Evidence that conditions in the trade world would have been better, or even different, had the U.S. attempted some leadership role can not responsibly be assembled. Changing the course of past history has always been less fruitful than applying perceptively history's lessons.

The most frequently used members thrown out about Smoot/Hawley's impact by those who believe in the "villain" theory are those which clearly establish that U.S. dollar decline in foreign trade plummeted by 66 percent by the end of 1933 from 1929 levels, $9.6 billion to $3.2 billion annually.

Much is made of the co-incidence that world-wide trade also sank about 66 percent for the period. Chart II summarizes the numbers.

CHART II.—UNITED STATES AND WORLD TRADE, 1929-33

[In billions of U.S. dollars]

	1929	1930	1931	1932	1933
United States:					
Exports	5.2	3.8	2.4	1.6	1.7
Imports	4.4	3.0	2.1	1.3	1.5
Worldwide:					
Exports	33.0	26.5	18.9	12.9	11.7
Imports	35.6	29.1	20.8	14.0	[1] 12.5

[1] Series U. Department of Commerce of the United States, League of Nations, and International Monetary Fund.

The inference is that since Smoot/Hawley was the first "protectionist" legislation of the Twenties, and the end of 1933 saw an equal drop in trade that Smoot/Hawley must have caused it. Even the data already presented suggest the relative irrelevance of the tariff-raising Act on a strictly trade numbers basis. When we examine the role of a world-wide price decline in the trade figures for almost every product made or commodity grown the "villain" Smoot/Hawley's impact will not be measurable.

It may be relevant to note here that the world's trading "system" paid as little attention to America's revival of foreign trade beginning in 1934 as it did to American trade policy in the early Thirties. From 1934 through 1939 U.S. foreign trade rose in dollars by 80% compared to world-wide growth of 15%. Imports grew by 68% and exports climbed by a stunning 93%. U.S. GNP by 1939 had developed to $91 Billion, to within 88% of its 1929 level.

Perhaps this suggests that America's trading partners were more vulnerable to an economic collapse and thus much less resilient than was the U.S. In any case the international trade decline beginning as a result of the 1929 economic collapse, and the subsequent return by the U.S. beginning in 1934 appear clearly to have been wholly unrelated to Smoot/Hawley.

As we begin to analyze certain specific Schedules appearing in the Tariff Act of 1930 it should be noted that sharp erosion of prices world-wide caused dollar volumes in trade statistics to drop rather more than unit volume thus emphasizing the decline value. In addition, it must be remembered that as the Great Depression wore on, people simply bought less of everything increasing further price pressure downward. All this wholly apart from Smoot/Hawley.

When considering specific Schedules, No. 5 which includes Sugar, Molasses, and Manufactures of, maple sugar cane, sirups, adonite, dulcite, galactose, inulin, lactose and sugar candy. Between 1929 and 1933 import volume into the U.S. declined by about 40% in dollars. In price on a world basis producers suffered a stunning 60% drop. Volume of sugar imports declined by only 42% into the U.S. in tons. All these changes lend no credibility to the "villain" theory unless one assumes, erroneously, that the world price of sugar was so delicately balanced that a 28% drop in sugar imports by tons into the U.S. in 1930 destroyed the price structure and that the decline was caused by tariffs and not at least shared by decreased purchases by consumers in the U.S. and around the world.

Schedule 4 describes Wood and Manufactures of, timber hewn, maple, brier root, cedar from Spain, wood veneer, hubs for wheels, casks, boxes, reed and rattan, toothpicks, porch furniture, blinds and clothespins among a great variety of product categories. Dollar imports into the U.S. slipped by 52% from 1929 to 1933. By applying our own GNP as a reasonable index of prices both at home and overseas, unit volume decreased only 6% since GNP had dropped by 46% in 1933. The world-wide price decline did not help profitability of wood product makers, but to tie that modest decline in volume to a law affecting only 6½% of U.S. imports in 1929 puts great stress on credibility, in terms of harm done to any one country or group of countries.

Schedule 9, Cotton Manufactures, a decline of 54% in dollars is registered for the period, against a drop of 46% in price as reflected in the GNP number. On the assumption that U.S. GNP constituted a rough comparison to world prices, and the fact that U.S. imports of these products was infinitesimal. Smoot/Hawley was irrelevant. Further, the price of raw cotton in the world plunged 50% from 1929 to 1933. U.S. growers had to suffer the consequences of that low price but the price itself was set by world market prices, and was totally unaffected by any tariff action by the U.S.

Schedule 12 deals with Silk Manufactures, a category which decreased by some 60% in dollars. While the decrease amounted to 14% more than the GNP drop, volume of product remained nearly the same during the period. Assigning responsibility to Smoot/Hawley for this very large decrease in price beginning in 1930 stretches credibility beyond the breaking point.

Several additional examples of price behaviour are relevant.

[1] Beard, Charles and Mary, New Basic History of the United States.

One is Schedule 2 products which include brick and tile. Another is Schedule 3 iron and steel products. One outstanding casualty of the financial collapse in October, 1929 was the Gross Private Investment number. From $16.2 Billion annually in 1929 by 1933 it has fallen by 91% to just $1.4 Billion. No tariff policy, in all candor, could have so devastated an industry as did the economic collapse of 1929. For all intents and purposes construction came to a halt and markets for glass, brick and steel products with it.

Another example of price degradation world-wide completely unrelated to tariff policy is Petroleum products. By 1933 these products had decreased in world price by 82% but Smott/Hawley had no Petroleum Schedule. The world market place set the price.

Another example of price erosion in world market is contained in the history of exported cotton goods from the United States. Between 1929 and 1933 the volume of exported goods actually increased by 13.5% while the dollar value dropped 48%. This result was wholly unrelated to the tariff policy of any country.

While these examples do not include all Schedules of Smoot/Hawley they clearly suggest that overwhelming economic and financial forces were at work affecting supply and demand and hence on prices of all products and commodities and that these forces simply obscured and measurable impact the Tariff Act of 1930 might possibly have had under conditions of several years earlier.

To assert otherwise puts on those proponents of the Smoot/Hawley "villian" theory a formidable challenge to explain the following questions:

1. What was the nature of the "trigger" mechanism in the Act that set off the alleged domino phenomenon in 1930 that began or prolonged the Great Depression when implementation of the Act did not begin until mid-year?

2. In what ways was the size and nature of U.S. foreign trade in 1929 so significant and critical to the world economy's health that a less than 4% swing in U.S. imports could be termed a crushing and devastating blow?

3. On the basis of what economic theory can the Act be said to have caused a GNP drop of an astounding drop of 13.5% in 1930 when the Act was only passed in mid-1930? Did the entire decline take place in the second half of 1930? Did world-wide trade begin its decline of some $13 Billion only in the second half of 1930?

4. Does the fact that duty free imports into the U.S. dropped in 1930 and 1931 and in 1932 at the same percentage rate as dutiable imports support the view that Smoot/Hawley was the cause of the decline in U.S. imports?

5. Is the fact that world-wide trade declined less rapidly than did U.S. foreign trade prove the assertion that American trading partners retaliated against each other as well as against the U.S. because and subsequently held the U.S. accountable for starting an international trade war?

6. Was the international trading system of the Twenties so delicately balanced that a single hastily drawn tariff increase bill affecting just $231 Million of dutiable products in the second half of 1930 began a chain reaction that scuttled the entire system? Percentage-wise $231 Million is but 0.65% of all of 1929 world-wide trade and just half that of world-wide imports:

The preponderance of history and facts of economic life in the international area make an affirmative response by the "villain" proponents an intolerable burden.

It must be said that the U.S. does offer a tempting target for Americans who incessantly cry "mea culpa" over all the world's problems, and for many among our trading partners to explain their problems in terms of perceived American inability to solve those problems.

In the world of the Eighties U.S. has indeed very serious and perhaps grave responsibility to assume leadership in international trade and finance, and in politics as well.

On the record, the United States has met that challenge beginning shortly after World War II.

The U.S. role in structuring the United Nations, the General Agreement on Tariffs and Trade (GATT), the International Monetary Fund, the Bretton Woods and Dumbarton Oaks Conferences on monetary policy, the World Bank and various Regional Development Banks, for example, is a record unparalleled in the history of mankind.

But in the Twenties and Thirties there was no acknowledged leader in international affairs. On the contrary, evidence abounds that most nations preferred the centuries-old patterns of international trade which emphasized pure competition free from interference by any effective international supervisory body such as GATT.

Even in the Eighties examples abound of trading nations succumbing to nationalistic tendencies and ignoring signed trade agreements. Yet the United States continues as the bulwark in trade liberalization proposals within the GATT. It does so not because it could not defend itself against any kind of retaliation in a worst case scenario but because no other nation is strong enough to support them successfully without the United States.

The basic rules of GATT are primarily for all those countries who can't protect themselves in the world of the Eighties and beyond without rule of conduct and discipline.

The attempt to assign responsibility to the U.S. in the Thirties for passing the Smoot/Hawley tariff act and thus set off a chain reaction of international depression and war is, on the basis of a preponderance of fact, a serious mis-reading of history, a repeal of the basic concept of cause and effect and a disregard for the principle of proportion of numbers.

It may constitute a fascinating theory for political mischief-making but it is a cruel hoax on all those responsible for developing new and imaginative measures designed to liberalize international trade.

Such constructive development and growth is severely impeded by perpetuating what is no more than a symbolic economic myth.

Nothing is less worthwhile than attempting to re-write history, not learning from it. Nothing is more worthwhile than making careful and perceptive and objective analysis in the hope that it may lead to an improved and liberalized international trading system.●

CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATION ACT

● Mr. CHAFEE. Mr. President, I am pleased to join with Senator GOLDWATER as a cosponsor of S. 1084, legislation authorizing funding for the Corporation for Public Broadcasting.

The Corporation for Public Broadcasting provides funds for production and programming to America's public radio and television stations. These independent, noncommercial broadcasting stations provide educational and cultural enrichment for a growing audience. Nearly 100 million people use public television every week. This legislation ensures that public television continues the development and production of such outstanding programs as "Sesame Street," "Nova," "Macneil/Lehrer Newshour," the "American Playhouse Series," and "Congress: We the People."

Public television plays an important role in the education of our children. Children's programs account for 60 percent of all programming. Children in 32 million households view public television on a regular basis. Public television also plays a valuable role in classroom instruction, supplementing formal study in reading, math, and science for 10 million students each week. In addition, public television provides worthwhile programming dealing with teenage alcohol and drug abuse.

Federal support accounts for less than 18 percent of the total annual funding for public broadcasting. Through the advance authorization process, public broadcasting stations are able to conduct planning and develop programming in a stable environment. Funds for the Corporation for Public Broadcasting are currently authorized through fiscal year 1986 at $130 million. S. 1084 authorizes appropriations of $200 million in 1987, $214 million in 1988, $228 million in 1989, and $244 million in 1990. Over the 4-year period, this level of funding is $43 million less the President's budget proposal. In addition, S. 1084 authorizes funding for the Public Telecommunications Facilities Program [PTFP] at $24 million for each of the fiscal years 1986 through 1988.

This legislation will help to assure the availability of quality educational and cultural television programming in our Nation. I hope my colleagues will join in supporting its passage.●

NATIONAL CHILD CARE WEEK

● Mr. D'AMATO. Mr. President, I wish to call attention to the fact that this is National Child Care Week. There are no resources in this world that are more precious than our children. The future of our Nation rests in the hopes and dreams of our young people, and we must take major steps to ensure that these dreams reach fruition. In order to achieve this goal, I would like to focus on two aspects—the physical care of our children in

child care centers and the safety of our children.

Why? It is estimated that as many as 3 million children a year are either physically, emotionally, or sexually abused. Additionally, 1.8 million children are reported missing each year and 150,000 may never return home—never. Among teenagers, 5,000 American youths can be expected to take their lives this year and almost 2 million will make the attempt. Thousands of children come home every day from school to lock themselves in an empty house and await the return of their parent or parents who have to work to make ends meet.

When I take a look at these statistics, I am dumfounded. We have wiped out polio, controlled whooping cough, made leaps and bounds in the early detection and prevention of birth defects, and yet we have virtually ignored the safety of our children.

Child abuse crosses social, economic, racial, cultural, and occupational boundaries. As many as 80 percent of abused children may in turn abuse their children. The nightmare is self-perpetuating. Studies have linked child abuse to juvenile delinquency and adult criminal behavior. This link is costly as well as tragic. The average cost to retain a juvenile delinquent in a public detention facility averages $16,500 per year, and $14,000 for an adult in a State penal facility. Studies have tied over half of the cases of teenage prostitution to family sexual abuse and subsequent running away.

Once these children run away, things do not get better. Furthermore, many of these children are not actual runaways—they are snatched off of playgrounds, backyards, and neighborhood streets. Sometimes they are taken by absolute strangers; sometimes they are taken by a parent. Figures are hard to come by, but it is believed that each year as many as 20,000 to 50,000 are taken by a divorced or separated parent, 20,000 to 50,000 are believed to be taken by complete strangers. About 5,000 are later found murdered and sexually abused.

It is astounding that we have allowed hundreds of thousands of children to slip through society's fingers to abuse and neglect, or even worse. To help combat this national epidemic, I have introduced the National Child Protection Act, S. 142. This legislation would establish child care center guidelines and a national information center on child abusers, so they cannot move from State to State to continue preying on the innocent and helpless. Also, I cosponsored the Missing Children's Act to facilitate FBI assistance in pursuing missing children, and I supported the Child Pornography Act of 1984 to strike back at those depraved individuals who defile our children.

As we pass tougher laws, we must also bring about better and more available child care supervision. Since the percentage of women in the work force has grown from 24 percent in 1970 to 44 percent in 1984, the number of children with working mothers has soared into the millions. However, the availability of affordable child care has not increased as rapidly. Only 400 employers nationwide provide onsite child care, which is one of the most productive and cost-effective means to bring about lower turnover rates, reduce absenteeism, and improve morale. Dr. Deanne Tate of the University of Texas esimates that for every $1 invested in onsite child care the employer reaps a $3 to $6 profit. That is why I introduced S. 1125, the Onsite Day Care Privatization Act. My bill is designed to use tax credits to induce businesses to establish onsite child care facilities to help working mothers and their children. It is my hope that this would allow more women to work and at the same time know that their children are safe and nearby.

Realizing that this may not provide immediate results for all those who are in need of such services, I also introduced S. 756, legislation to increase the dependent care tax credit. This bill increases the maximum credit from 30 to 40 percent for those making $10,000 or less in annual adjusted gross income—those least able to afford child care.

All of these efforts are designed to upgrade the care we provide our children. When one considers the numbers involved here it becomes heartbreaking. When one child is molested, one child beaten, one child placed on the street for prostitution, if one child commits suicide from the abuse he or she could no longer stand, then we have failed as responsible adults and have dashed the hopes and joys of our future generation.

We must never forget that the innocence of a child is one of the world's few, true miracles, and we must not let it be defiled no matter what the cost.●

TRIBUTE TO TED WEBB

● Mr. SYMMS. Mr. President, every once in a while a person comes along whose tenacious desire to succeed in the face of real competition inspires us all. I would like to bring such a person to the attention of my colleagues.

Ted Webb of Marsing, ID is a small, hometown druggist who runs the classic small town drugstore. Sixteen miles away is a large mall with two drugstore competitors. Ted is in a very competitive business, but he succeeds because he gives first-class service: the kind that tells the customers that they come first. Ted has learned the secret to a successful business.

More amazing is the fact that Ted is rearing 13 children. As a widower with seven children he married his present wife with six children of her own. Last year Ted and his wife had seven children in college. They had to succeed in their business. In addition, Ted serves on the local school board and the housing committee as well as on the board of directors of the community health clinic.

I salute Ted Webb as a great American and as a person that I am proud to recommend to my colleagues in this body.

I submit for the RECORD an article from Idaho Business Review relating to Ted Webb.

The article follows:

SMALL TOWN DRUGGIST FOLLOWS TRADITION

(By Patricia R. McCoy)

MARSING.—City dwellers with a doctor's prescription to be filled must usually head for one of the major chain stores, but Marsing still has a traditional, privately-owned drugstore.

Ted Webb has operated that drugstore since December, 1966.

"About half my sales are from prescriptions, and the rest from the cosmetics, gifts, jewelry, toys, candy, greeting cards, magazines and other items I stock," the pharmacist said.

"We're on the main highway to California, which brings a lot of people through this area," he said. "That really helps business.

"Marsing has a large migrant population, which keeps my monthly business pretty even during the year," he said. "Most merchants do most of their business in the winter, but not me."

Operating a small town business requires community involvement, Webb said. He is on the Marsing School Board and the housing committee, and serves on the board of directors of the community health clinic. In addition, he's rearing 13 children.

"My first wife died several years ago, and I remarried," he said. "I had seven children, and my present wife had six. Between the two of us, we had seven children in college last year. That really kept our noses to the grindstone."

Marsing is only 16 miles from Karcher Mall, where there are two drugstores.

"This is a very competitive business, and 16 miles isn't far," he said. "Even so, a lot of Marsing residents find me more convenient. I serve a lot of people from Jordan Valley, Ore., and those enrolled in the Marsing Job Corps program."

A druggist in a small town such as Marsing knows almost everyone in town, said Webb. He places a lot of importance on personal friendships and customer services.

"I do a lot of after-hours and Sunday prescription work," he said. "I carry accounts for good customers.

"I've never let anyone without medication they really need," said Webb. "I've gotten a lot of bad debts that way. If I were just in this for the money, I could do a lot, but I have to live with myself, too, so I've done things to help people."

Webb is the son of longtime Melba pharmacist Ed Webb, who used to substitute for his son after retirement and before his death last year. The son counts close to 51

years in the business for himself, including his childhood.

"Pharmacists didn't use to discuss prescriptions with patients, but today we're a primary source of information," he said. "Some years ago I called a doctor to ask if he was aware that a certain patient was allergic to penicillin when the patient was given a prescription based on that drug. I got a scolding for asking questions, but the man could have died if I hadn't.

"Today we're expected to be able to warn patients about possible side effects, including those that come from taking the medication with other drugs they may be on, and tell them how to take the medication," Webb said. "A pharmacist may be more aware than the doctor is of what other drugs the patient is taking, since there may be more than one physician treating that person but we fill all the prescriptions.

"We have reference books to look all this information up in, and the State of Idaho requires 15 hours of continuing education each year," he said. "You also have to read a lot of journals to keep up with it all."

He notes that he sells more vitamins and health foods than in past years.

"I'm also having constant visits from salesmen trying to interest me in a computerized prescription-dispensing system," he said. "Bigger stores in the larger cities are using them, and we'll probably all have them in the future."

Webb keeps his store well-stocked with common drugs, and has a computerized telephone link with his Boise supplier. He can order in more unusual prescriptions with only a one day's delay.

"Perishable drugs are kept in a refrigerator," he said. "All drugs are dated. The drug companies will take expired medications back if they're returned within a certain time limit."

The building on Marsing's main street which Webb occupies has been a drug store since the late 1940s. Prior to that time, it was a variety store.

"There was a soda fountain here when I first took over, but I took that out," he said.●

BUD McCALL

● Mr. SYMMS. Mr. President, I wish to bring to the attention of my colleagues in the Senate a great American entrepreneur and friend from northern Idaho, Bud McCall. Bud mines garnets which he pulverizes into a very much sought after sand because of its hardness. The garnet sand is used in emery boards, sophisticated water filtration devices, and modern extra-high pressure sandblasting units used in cutting thick steel.

The amazing thing about Bud's operation is its success when conventional wisdom says that such enterprises should fail. But Bud hasn't heard the conventional wisdom and goes ahead with lots of hard work and good management. About 20 percent of his sales are to foreign countries. In 1984 he sold about 14,400 tons of garnet sand and the demand just keeps increasing.

Mr. President, I commend Bud McCall to you as an American who knows what makes the American dream come true and sets out with hard work to make it succeed. I ask that an article pertaining to Bud McCall's garnet sand business be printed in the RECORD.

The article follows:

GARNET SAND BUSINESS GLITTERS—DEMAND FOR PRODUCT GROWS

(By Bill London)

Bud McCall is in an enviable business position. He owns Emerald Creek Garnet Milling Co. of Fernwood, Idaho. His product, garnet sand, is increasingly in demand as more uses are found—in abrasives and filtration—for this pulverized gemstone rock. Most importantly, his mining and milling company is the only one of its kind in the Western U.S.

"We're at full capacity now," McCall said. "We're selling all we can make."

McCall began in the garnet business in 1971 when he bought the Emerald Creek Mine, four miles east of Fernwood in rural Benewah County Eight years later, he purchased the only other garnet mine in Idaho (just a few miles away) and consolidated both into one corporation.

The corporation (of which McCall owns 99 percent of the stock) operates four dredging operations and two mills. Only one of the dredge mines is working land owned by the family corporation. The others are on private land and in the National Forest, and so a royalty of about 10 percent of the value of the finished sand is paid to the landowners.

To remove the garnets from the creekbed locations, workers first strip the dirt and plants from the site. Using a huge bucket on a drag line, they dump everything above bedrock—the rocks, sand, dirt, and garnets—into a washer that separates the sand and small garnets from the larger garnets (half inch in diameter or more) and the rocks. The dirt is later replaced and the land replanted.

Garnets are beautiful clear purple gemstones, much heavier than the surrounding sand. Some of the garnets are Star Garnets, valuable crystals often mounted in rings and found in only two locations worldwide: India and North Idaho. The star effect is the result of light being reflected from minute imperfections in the stone. When held to sunlight, polished Star Garnets reveal four, or rarely, six-pointed stars shining inside.

The largest raw garnets, mixed with rock and dirt, are hauled to two nearby sites where rockhounds, for a small daily fee, can search them out. The larger garnets are the most easily cut and polished, and so are in demand for jewelry-making.

The small garnets, mixed in the creekbed sand, are hauled to the company's jig plant, where the two are separated by weight. The raw small garnets are then trucked to one of the company's two milling plants. There the raw purple stones are crushed to various uniform sizes, then bagged and shipped worldwide.

McCall reported that about 20 percent of their sales are to foreign countries. In 1984, they sold 14,400 tons of garnet sand, with an average price of $40 per ton. The demand for garnet sand has been rising steadily since the first Idaho mine opened in the 1940s, McCall said, "but the demand has really grown in the last ten years."

"They keep thinking of new uses for it," continued McCall, a 49-year-old Benewah County native. The traditional use for garnet sand, mounting on sandpaper and emery boards, has remained. But now the heavy sand is added to sophisticated water filtration devices and sandblasters, including the modern extra-high pressure units that can cut thick steel with water and garnet sand.

McCall works alongside his employees driving trucks and repairing the heavy machinery. His 35 employees are granted lots of independence to oversee their own work, and that has resulted in high worker morale, he reported.

"I put a lot of faith in these employees," McCall said. "I don't fight with the people who work here." He must be doing something right, since the worker turnover rate (less than one person per year resigns) is impressively low.

For the future, McCall is content to keep mining garnets. "We'll keep going as long as we can," he said. "I think there's enough garnet here for a generation or two."●

PIPE AND TUBE IMPORTS

● Mr. BENTSEN. Mr. President, I would like to bring to the attention of my colleagues an international trade matter of great concern to me.

As we are all aware, our trade deficit reached $123 billion last year and is estimated to exceed that figure this year. The deficit represents a hemorrhage of our national wealth, an erosion of our manufacturing base, and a gradual decline in our standard of living. Along with 11 of my colleagues, I have introduced legislation designed to prevent foreign countries from running trade surpluses with our country and to gradually bring our trade account back into balance.

Although new legislation will help close the trade deficit, it is also crucial that the Government continue to make every effort to maintain and improve the effectiveness of existing trade laws, agreements, and programs. An important example is the U.S./EC pipe and tube arrangement.

Mr. President, the original U.S./EC pipe and tube arrangement was concluded in October 1982. It was designed to prevent the importation of unfairly traded pipes and tubes from the EC by establishing import levels for those products. But it proved to be unforceable by our country. As a result, with my former colleague, Senator Tower, I proposed legislation specifically granting the necessary enforcement authority to the Government. That legislation was enacted as part of last year's trade bill.

In December of last year this law was used to prevent EC violations of the arrangement, first, through a temporary embargo of steel pipes and tubes from the European Community, and then, early this year, through negotiation of a new pipe and tube arrangement incorporating strict enforcement capability. However, our negotiators agreed to higher import levels in the new arrangement than under the 1982 arrangement.

The new pipe and tube arrangement is scheduled to expire at the end of 1986. It is expected that negotiations to extend it will begin late this year in

conjunction with the renegotiation of the carbon steel arrangement with the EC, which expires at the end of this year.

In these renegotiations, Mr. President, the EC probably will seek to renegotiate specific terms of the pipe and tube arrangement. I am concerned that our negotiators may agree to new terms that will further undermine the arrangement. In my opinion, we should avoid further weakening of the arrangement in order to prevent unfair and serious damage to our pipe and tube industry.

In fact, it appears that the Government is continuing to have difficulty maintaining the effectiveness of the pipe and tube arrangement. The Commerce Department's recent decision to grant a "short-supply exception" to the arrangement is one example. Another is the Department's decision in January of this year to release embargoed pipe and tube products outside the limits of the new arrangement. In view of these developments, I am concerned about the strategy the Government is following to prevent unfair trade practices from injuring the domestic pipe and tube industry.

It is of the utmost importance that the United States ensure that the pipe and tube arrangement remains effective. I urge the Commerce Department and our Special Trade Representative, Ambassador Yeutter, to hold the line on the terms of the arrangement and to seek its extension at the same time as the carbon steel arrangement is extended.

Mr. President, I shall be watching the progress of these talks, and I urge my colleagues to join me in expressing concern to the administration with regard to this matter.●

LET THEM GO TO SOUTH AFRICA

● Mr. METZENBAUM. Mr. President, in its edition of September 17, 1985, the Washington Post published an excellent article entitled "South Africa: The Reality of Its Law." The author of that article, Judge Nathaniel R. Jones of the U.S. Court of Appeals for the Sixth Circuit, is an old and valued friend of mine who recently visited South Africa under the auspices of the Lawyers' Committee for Civil Rights Under Law.

Judge Jones, a distinguished American jurist, was clearly shocked by what he found in that tragic country. "The picture I saw," he wrote, "is a disgrace to a civilized society. I am amazed that it has taken the United States and the other civilized nations wedded to the rule of law this long to call South Africa to account."

What did Judge Jones witness?

"I talked to clergymen who were taken from their homes in the middle of the night by authorities, jailed and beaten. While in jail, they were forced to review their recent sermons and to explain why they conducted funeral services for various persons in the townships. At the end of their detention, they were warned by police to make no further references to President Botha or the Nelson Mandela."

And that's not all—far from it.

"Mothers," Judge Jones wrote, "related the events surrounding the detention of their sons and husbands, whose whereabouts they still don't know. Homes were broken into and searched by police, occupants terrified and brutalized in the process of being detained."

Mr. President, we have spent many hours on this floor debating in great detail the strategic, economic, and political issues with regard to South Africa. But to understand the reality of what it is to live as a black South African, it is necessary to understand what Judge Jones is telling us. "What must be understood," he pointed out, "is that the system of apartheid is more than a word. It is a cruel system of life enforced by whips, police dogs, guns, detentions, arson, torture, disappearances, and death. It is a system of life that distorts human nature, as did American slavery. To those who quarrel with this conclusion, I say, let them go to South Africa."

Mr. President, I commend the article by Judge Jones to the attention of my colleagues and ask that it be printed in its entirety in the RECORD.

The article follows:

[From the Washington Post, Sept. 17, 1985]

SOUTH AFRICA: THE REALITY OF ITS LAW

It has become a ritual for some persons to preface their views on apartheid by noting an abhorrence of it. They then proceed to argue for measures that will ensure its continuation. That scenario rang in my ears during the eight days I recently spent in South Africa as a legal observer for the Lawyers' Committee for Civil Rights Under Law at proceedings held in connection with the treason trial of 16 members of the United Democratic Front.

As I thought about those disclaimers I also recalled President John F. Kennedy's famous Berlin Wall exhortation: "Let them come to Berlin." To those who view apartheid as merely a word, I kept thinking, "Let them come to South Africa."

I saw the apartheid laws applied in the raw, as well as the effects of their long-term enforcement. It is more than a word. The picture I saw is a disgrace to a civilized society. I am amazed that it has taken the United States and other "civilized" nations wedded to the rule of law this long to call South Africa to account.

Included among the network of apartheid laws are the Population Influx Act and the Internal Security Act of 1982. The latter sanctions official conduct which deeply offends the American notion of fairness and due process by controlling movement by blacks, and it prohibits freedom of association and speech.

Under our Constitution the majority may rule, but the rights of minorities are protected. It is under the power the minority arrogates unto itself in South Africa that blacks are detained, tortured, banned and convicted in the courts for acts that our Constitution and Bill of Rights clearly protect. In the enforcement of the Internal Security Act, 16 officials of the United Democratic Front, a nonracial political umbrella organization, have been indicted for treason and terrorism. The indictment, consisting of 600 pages, accuses the defendants, of among other things:

Attending the Albert Luthuli Memorial Service, where Nelson Mandela was praised as being "the new symbol of hope for a better South Africa" and a prqyer was offered in which Mandela, Luthuli and others were referred to as "our heroes."

Attending various meetings where songs and slogans were sung and uttered, pamphlets distributed which are characterized as "revolutionary," "inflammatory" and "bellicose."

Issuing publications and pamphlets that are critical of the government and call for an end to apartheid.

Engaging in other forms of conduct that "embarrassed" the state.

Allowing themselves to be "used" knowingly or unknowingly, by organizations that have been outlawed.

For these actions the defendants are on trial for treason and terrorism, which could result in long terms or death.

The United Democratic Front publicly opposed a new constitution for a government that had no black participation and gave blacks no power or rights to participate. This opposition by the UDF was straightforward and open. But it brought that organization into conflict with the Internal Security Law enacted by a parliament in which the black majority population had no voice, and which was enforced by a government wedded to the notion of minority white domination.

The indictment has been attacked by the defendants' brilliant legal team. A highly regarded jurist, President Judge John Milne of the Supreme court of the Province of Natal, is presiding over this case. What must be borne in mind are the limited options available to a judge in the South African system. The contrast with the American system of justice is most striking. No judicial review of legislative enactments as unconstitutional. Parliament is supreme. No matter how unwise or offensive judges may find the laws to be, they are powerless to strike them down. Thus, they operate in a virtual straitjacket.

In the treason cases, the options open to Milne are to declare that the indictment is too vague, that the defendants have been impermissibly joined in the single conspiracy count or that the various counts of the indictment lack sufficient particulars to put the defendants on notice as to the charges against which they must defend. The judge can order the indictment dismissed or amended, and has since my visit issued his ruling; on balance it upholds the claims of the defendants. But none of his options has anything to do with the policy of the law or the merits of the charges.

Considering all of this, one is forced to again look at the laws enacted by parliament and their enforcement. The arbitrariness inherent in the laws becomes all the more offensive. For example, Section 28 of the Internal Security Act permits preventive detention if it is suspected that a person is likely to endanger "the maintenance of law and order." Section 29 authorizes detention for interrogation for unlimited periods of time.

I talked to clergymen who were taken from their homes in the middle of the night by authorities, jailed and beaten. While in jail they were forced to review their recent sermons and to explain why they conducted funeral services for various persons in the townships. At the end of their detention they were warned by police to make no further references to President Botha or to Nelson Mandela. Mothers related the events surrounding the detention of their sons and husbands, whose whereabouts they still do not know. Homes were broken into, searched by police, occupants terrified and brutalized in the process of being detained.

I was one of a five-person party arrested by the South African police and charged with violating the Emergency Order by visiting a black township in Fort Beaufort. The brandishing of weapons by a dozen or more riot police was menacing enough, but clearly the most distressing event was the search the police conducted of the automobile in which we were traveling. They carefully examined the luggage and briefcases of my South African hosts for outlawed documents and literature. Had they possessed any, my friends would have faced serious charges and long prison terms.

The march is on in those townships for uprooting of the network of repressive apartheid laws and the installation of procedures that will build a legal framework more in keeping with norms of due process and equality.

Those in this country who, for "practical" reasons, argue against application of external pressures against South Africa need to consider the reality of apartheid. There is more involved than jobs and something much more fundamental than the economic security of a relative handful of blacks. What must be understood is that the system of apartheid is more than a word. It is a cruel system of life enforced by whips, police dogs, guns, detentions, arson, torture, disappearances and death. It is a system of life that distorts human nature, as did American slavery. To those who quarrel with this conclusion, I say, let them go to South Africa.●

NOTING H.L. MENCKEN WRITING AWARD TO MR. TIM GIAGO

● Mr. ABDNOR. Mr. President. I am proud to bring to the attention of my colleagues the very special honor which has been bestowed upon Mr. Tim Giago, publisher of the Lakota Times, by the H.L. Mencken Foundation. Tim publishes the largest weekly Indian Newspaper in the Nation and since its inception has dedicated his energies to the betterment of native Americans. He was also one of the founding forces of the Native American Press Association and has won numerous awards from the National Press Association and the South Dakota Press Association.

Tomorrow, Mr. Giago will be presented the H.L. Mencken Writing Award for 1985 in special ceremonies at the National Press Club. In announcing the award the foundation stated that: "His columns demonstrate compelling emotion and compassion. The writer conveys some of the pain and unfairness that Indians on reservations live with, without being oversentimental."

As a member of the Oglala Sioux Tribe, Tim has always exhibited the courage of his forebearers in addressing in his direct way the trials and tribulations of native Americans in South Dakota and our Nation. We in South Dakota are proud of our native son and the important role that he plays in South Dakota and our Nation. I know that he would like to share this important moment with his dedicated wife and partner, Doris. I would like to extend my warmest congratulations to both Tim and Doris for the magnificent job that they do in bringing to the forefront the views and concerns of native Americans. There could be no worthier a recipient of the H.L. Mencken Award than Mr. Tim Giago and I am pleased that he has been accorded this honor.●

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL 10 A.M.

Mr. STAFFORD. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 10 a.m., Wednesday, September 18, 1985.

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

RECOGNITION OF CERTAIN SENATORS

Mr. STAFFORD. Mr. President, I ask unanimous consent that, following the recognition of the two leaders under the standing order, there be special orders in favor of the following Senators for not to exceed 15 minutes each: Senator SPECTER and Senator PROXMIRE.

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

ROUTINE MORNING BUSINESS

Mr. STAFFORD. Mr. President, I ask unanimous consent that, following the special orders just identified, there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m. with statements therein limited to 5 minutes each.

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

PROGRAM

Mr. STAFFORD. Following routine morning business, the Senate will resume consideration of S. 1200, the immigration bill.

Following the final disposition of S. 1200, the Senate will resume consideration of S. 51, the Superfund bill. Votes may be expected during the day's session.

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

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. STAFFORD. Mr. President, I move, in accordance with the order previously entered, that the Senate now stand in recess until Wednesday, September 18, 1985, at 10 a.m.

The motion was agreed to; and the Senate, at 7:49 p.m., recessed until Wednesday, September 18, 1985, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 17, 1985:

DEPARTMENT OF DEFENSE

The following-named persons to be members of the Board of Regents of the Uniformed Services University of the Health Sciences for terms expiring June 20, 1991:

Carol Johnson Johns, of Maryland, vice Lauro F. Cavazos, term expired.

Mario Efrain Ramirez, of Texas, vice William R. Roy, term expired.

DEPARTMENT OF COMMERCE

Paul Freedenberg, of Maryland, to be an Assistant Secretary of Commerce, vice Lawrence J. Brady, resigned.

DEPARTMENT OF LABOR

Roger Dale Semerad, of Maryland, to be an Assistant Secretary of Labor, vice Frank C. Casillas, resigned.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Hazel M. Richardson, of California, to be a member of the National Advisory Council on Women's Educational Programs for a term expiring May 8, 1988, vice Eleanor Thomas Elliott, term expired.

AFRICAN DEVELOPMENT FOUNDATION

Mark L. Edelman, an Assistant Administrator of the Agency for International Development, to be a member of the Board of Directors of the African Development Foundation for a term expiring September 22, 1991, reappointment.

COMMUNICATIONS SATELLITE CORPORATION

Neal B. Freeman, of Virginia, to be a member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1988, reappointment.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Jeffrey I. Zuckerman, of Maryland, to be general counsel of the Equal Employment Opportunity Commission for a term of 4 years, vice David L. Slate, resigned.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Ford Barney Ford, of Virginia, to be a member of the Federal Mine Safety and Health Review Commission for a term of 6 years expiring August 30, 1990, vice Frank F. Jestrab, term expired.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Barbara J. H. Taylor, of Maryland, to be a member of the National Commission on Libraries and Information Science for a term expiring July 19, 1990, vice Gordon M. Ambach, term expired.

NATIONAL CREDIT UNION ADMINISTRATION

Roger William Jepsen, of Iowa, to be a member of the National Credit Union Ad-

ministration Board for the remainder of the term expiring August 2, 1987, vice Edgar F. Callahan, resigned.

NATIONAL LABOR RELATIONS BOARD

James M. Stephens, of Virginia, to be a member of the National Labor Relations Board for the term of 5 years expiring August 27, 1990, vice Robert P. Hunter, term expired.

NATIONAL SCIENCE FOUNDATION

William J. Merrell, Jr., of Texas, to be an assistant director of the National Science Foundation, vice Floyd James Rutherford.

SECURITIES AND EXCHANGE COMMISSION

Joseph A. Grundfest, of the District of Columbia, to be a member of the Securities and Exchange Commission for the term expiring June 5, 1990, vice Charles L. Marinaccio, term expired.

UNITED NATIONS

The following-named persons to be representatives and alternate representatives of the United States of America to the 40th Session of the General Assembly of the United Nations:

Representatives:

Vernon A. Walters, of Florida.

Herbert Stuart, Okun, of the District of Columbia.

Daniel A. Mica, U.S. representative from the State of Florida.

Gerald B. H. Solomon, U.S. representative from the State of New York.

John Davis Lodge, of Connecticut.

Alternate representatives:

Patricia Mary Byrne, of Ohio.

Hugh Montgomery, of Virginia.

Joseph Verner Reed, of New York.

Robinson Risner, of Texas.

IN THE ARMY

The following-named officer for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3366:

ARMY PROMOTION LIST

To be lieutenant colonel

Reade, William F., [redacted]

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3370:

ARMY PROMOTION LIST

To be colonel

Ackerman, Kenneth, G., [redacted]
Adams, Gary L., [redacted]
Adams, Henry W., [redacted]
Adkison, Donald L., [redacted]
Agee, Damon W., [redacted]
Agrafiotis, Chrys C., [redacted]
Ahola, Leo A., [redacted]
Alewel, Roger L., [redacted]
Alford, Paul D., [redacted]
Allen, Gordon K., [redacted]
Allen, Gregory S., [redacted]
Allen, Herbert R., [redacted]
Alton, Jack E., [redacted]
Alvarez, Abraham P., [redacted]
Ambrose, William P., [redacted]
Amendolare, Joseph, [redacted]
Amoroso, Francis J., [redacted]
Anaya, Gabriel, [redacted]
Andersen, Karl K., [redacted]
Andersen, Robert D., [redacted]
Anderson, Grieg L., [redacted]
Anderson, Harold J., [redacted]
Anderson, Richard K., [redacted]
Andrew, Michael A., [redacted]
Andryczyk, Roman W., [redacted]
Appleby, John, [redacted]
Applegate, William, [redacted]
Argo, Ulon C., [redacted]
Arico, Eugene F., [redacted]
Armer, Walter D., [redacted]
Armistead, Bobby H., [redacted]
Armstrong, Arthur R., [redacted]
Armstrong, Jack R., [redacted]
Armstrong, Robert C., [redacted]
Arnett, Jack D., [redacted]
Arnold, Jonathan A., [redacted]
Artman, Robert H., [redacted]
Asay, Wayne W., [redacted]
Atkins, Summer W., [redacted]
Aubrey, John E., [redacted]
Bacon, Roger A., [redacted]
Balden, Hugh G., [redacted]
Bailey, Robert T., [redacted]
Baird, Carl D., [redacted]
Baker, Darrel P., [redacted]
Baker, Milton L., [redacted]
Banks, Randolph C., [redacted]
Barker, Larry C., [redacted]
Barlow, Gregory P., [redacted]
Barnett, William O., [redacted]
Barnhart, David S., [redacted]
Bartlett, General T., [redacted]
Barton, Kenneth P., [redacted]
Batchelor, Thomas J., [redacted]
Bauerle, James L., [redacted]
Beane, Melton E., [redacted]
Beauchamp, Gordon L., [redacted]
Becker, John B., [redacted]
Becker, Philip M., [redacted]
Beckham, Clarence L., [redacted]
Beckman, William P., [redacted]
Beedle, Donald R., [redacted]
Begick, Paul, Jr., [redacted]
Belcher, Charles R., [redacted]
Belveal, Charles E., [redacted]
Bennett, Robert W., [redacted]
Benson, James W., [redacted]
Beretta, Ronald J., [redacted]
Berger, Baruch M., [redacted]
Berner, Robert A., [redacted]
Best, Paul R., [redacted]
Bester, Douglas B., [redacted]
Bicanovsky, John E., [redacted]
Bielot, Richard J., [redacted]
Biles, Derwood C., [redacted]
Bingham, Bruce B., [redacted]
Blair, Jimmy S., [redacted]
Blanchette, Joel G., [redacted]
Blaney, James G., [redacted]
Blankenship, Robert, [redacted]
Blocklinger, Hans F., [redacted]
Bobek, Stanley E., [redacted]
Bodine, Thomas B., [redacted]
Boitel, Earl C., [redacted]
Boleware, Garland W., [redacted]
Bonanno, Frank C., [redacted]
Bonar, James S., [redacted]
Bonner, Joseph C., [redacted]
Boone, Daniel R., [redacted]
Boozer, Ted L., [redacted]
Borcher, Dale H., [redacted]
Borden, Charles A., [redacted]
Bosch, Hans A., [redacted]
Bourassa, Jerry D., [redacted]
Bowen, Crayton M., [redacted]
Boyd, Lonnie G., [redacted]
Boyle, John F., [redacted]
Bradley, David K., [redacted]
Bradley, Paul R., [redacted]
Bradshaw, Philip L., [redacted]
Brancazio, John A., [redacted]
Brandt, Robert J., [redacted]
Brantley, Shelby K., [redacted]
Broadway, Buddy S., [redacted]
Brock, Robert F., [redacted]
Browder, James G., [redacted]
Brown, Elbert L., Jr., [redacted]
Brown, Gerald V., [redacted]
Brown, James M., [redacted]
Brown, James O., [redacted]
Brown, Joel A., [redacted]
Brown, John R., [redacted]
Brown, Maynard, Jr., [redacted]
Brown, Willard G., [redacted]
Bruh, Brian M., [redacted]
Bryan, Alan J., [redacted]
Buch, Floyd H., [redacted]
Buchanan, Gale A., [redacted]
Buckman, Donald K., [redacted]
Bultman, Roger C., [redacted]
Bunker, Edward A., Jr., [redacted]
Bunn, Gary L., [redacted]
Burch, Earl B., Jr., [redacted]
Burdo, Anthony J., [redacted]
Burgess, Howard J., [redacted]
Burgoyne, C., [redacted]
Burner, Melvin T., [redacted]
Burnette, George W., [redacted]
Burnhope, Kenneth D., [redacted]
Burnstein, Clifford, [redacted]
Burr, Ronald P., [redacted]
Butler, Leroy N., [redacted]
Byrd, Floyd E., [redacted]
Byrd, William L., [redacted]
Byrne, Michael E., [redacted]
Bystrowski, Stanley, [redacted]
Cahill, Bernard J., [redacted]
Calagaz, Frank J., Jr., [redacted]
Calhoun, Clarence A., [redacted]
Call, Sidney B., [redacted]
Calt, Eugene F., [redacted]
Camacho, Salvador, [redacted]
Campbell, Dean J., [redacted]
Campbell, Donald F., [redacted]
Cantrell, Clifford, [redacted]
Capps, Richard G., [redacted]
Caputo, Brian R., [redacted]
Carlyle, Robert L., [redacted]
Carter, Billie C., [redacted]
Carter, Donald R., [redacted]
Carter, Merrill R., [redacted]
Carter, Raymond J., [redacted]
Carter, Richard O., [redacted]
Casellasjovet, Rafa, [redacted]
Cates, Johnny E., [redacted]
Caton, Douglas E., [redacted]
Caughman, James K., [redacted]
Caulkins, Lawrence, [redacted]
Chain, Bela J., Jr., [redacted]
Chase, Neil W., [redacted]
Chavanne, John E., [redacted]
Cheeves, Charles L., [redacted]
Chin, James R., [redacted]
Chiodini, Louis J., [redacted]
Chitwood, Michael R., [redacted]
Christy, Donald E., [redacted]
Chun, Howard H., [redacted]
Claggett, Michael B., [redacted]
Clary, John F., [redacted]
Clegg, Peter W., [redacted]
Clements, William J., [redacted]
Clifton, Charles E., [redacted]
Clifton, Claude E., [redacted]
Cochrane, Stephen T., [redacted]
Colonosorio, Pedro, [redacted]
Combest, Ronald R., [redacted]
Combs, Paul H., [redacted]
Conlon, Joseph F., [redacted]
Contos, Spiro J., [redacted]
Cooper, Carl B., [redacted]
Cooper, Donald A., [redacted]
Cordero, Miguel A., [redacted]
Couture, Roland W., [redacted]
Covino, Robert P., [redacted]
Cox, Thomas F., [redacted]
Coyne, Henry F., [redacted]
Cross, Charles H., [redacted]
Cross, Ronald W., [redacted]
Crutcher, Donald R., [redacted]
Cunningham, John D., [redacted]
Curell, John D., [redacted]
Curry, Truman A., [redacted]
Cuschieri, Joseph M., [redacted]
Daddona, Richard A., [redacted]
Darbyshire, David W., [redacted]

Dattilo, Anthony D., [redacted]
Daugherty, Kenneth, [redacted]
Davis, Alec C., [redacted]
Davis, Homer E., [redacted]
Davis, Jack L., [redacted]
Davis, John C., [redacted]
Davis, John E., [redacted]
Dean, William J., [redacted]
Decker, Dale H., [redacted]
Defrieze, Harold R., [redacted]
Degroat, Arthur B., [redacted]
Deleissegues, R., [redacted]
Delong, Alvin R., [redacted]
Demarco, Richard M., [redacted]
Denbraven, Donald, [redacted]
Derdeyn, Conrad J., [redacted]
Dixon, Albert D., [redacted]
Dixon, James H., [redacted]
Dodge, Ira D., III, [redacted]
Dolan, Robert, [redacted]
Donald, Carroll D., [redacted]
Douglas, John W., [redacted]
Drew, Garland A., [redacted]
Drolla, John C.D., [redacted]
Duffie, John B., [redacted]
Dupre, Charles C., [redacted]
Durst, Wesley N., [redacted]
Eagerton, John D., Jr., [redacted]
Eagon, Herbert B., Jr., [redacted]
Eckstrom, Ivan P., [redacted]
Ecuyer, Richard J., [redacted]
Edgar, Walter B., [redacted]
Eidson, David E., [redacted]
Eisenman, Theodore, [redacted]
Ellis, Howard W., [redacted]
Elmore, James L., [redacted]
Encarnacao, John B., [redacted]
Ence, Randy J., [redacted]
Engstrand, Raymond, [redacted]
Epperson, Thomas J., [redacted]
Eskijian, Gregory, [redacted]
Etheredge, Roy F., [redacted]
Fagone, Joseph S., [redacted]
Faircloth, Joseph S., [redacted]
Fanelli, Nicholas A., [redacted]
Farmer, Arthur J., [redacted]
Faust, Ramon B., [redacted]
Ferris, James J., [redacted]
Fidurski, Richard S., [redacted]
Filek, Robert L., [redacted]
Finlayson, John D., [redacted]
Fioretti, Ray E., [redacted]
Fisher, Harold G., [redacted]
Fisher, Ronald R., [redacted]
Fleenor, Paul M., [redacted]
Flint, Fred R., [redacted]
Flores, Manuel R., [redacted]
Fox, Neal D., [redacted]
Francis, William G., [redacted]
Franke, George E., [redacted]
Franke, Loren W., [redacted]
Fraser, Howard D., [redacted]
Fray, William C., [redacted]
Frederick, Carrol J., [redacted]
Fredrick, Kent L., [redacted]
Frost, John W., [redacted]
Furman, Leroy F., [redacted]
Gaeta, Joseph J., [redacted]
Gallitis, Vilnis, [redacted]
Galanti, Philip J., [redacted]
Gallego, Gilbert A., [redacted]
Garrett, William A., [redacted]
Gault, Billy F., [redacted]
Gay, Robert W., [redacted]
George, Chalmer D., [redacted]
Gerhardt, Edward H., [redacted]
Gershner, Leon, [redacted]
Gerstenberg, Richard, [redacted]
Ghiglio, David J., [redacted]
Ghormley, James C., [redacted]
Gibbs, Jay N., [redacted]
Gilbertz, Thomas E., [redacted]
Glick, Barry H., [redacted]
Gomez, Stephen A., [redacted]
Gonzales, Reynaldo, [redacted]
Gonzalez, Manuel, [redacted]
Goodrich, Roger L., [redacted]
Goodsell, Robert L., [redacted]
Goodwin, Ray C., [redacted]
Gormley, William, [redacted]
Graton, Austin S., [redacted]
Greenspan, Jack M., [redacted]
Greger, Gerald J., [redacted]
Gresko, Charles N., [redacted]
Griffis, Louis R., [redacted]
Gunn, David W., [redacted]
Gwin, Charles T., [redacted]
Gwynne, Harry S., [redacted]
Habersberger, Albert, [redacted]
Haddox, Hayes P., [redacted]
Hall, Gaines B., [redacted]
Hamilton, William G., [redacted]
Hannula, Rodney R., [redacted]
Hanson, David L., [redacted]
Haralson, John W., [redacted]
Harkins, John F., [redacted]
Harrington, James C., [redacted]
Hart, Bennett R., [redacted]
Hartman, William G., [redacted]
Hathaway, Benjamin, [redacted]
Hawbaker, Stuart D., [redacted]
Hawkins, Lawrence W., [redacted]
Hayes, Don L., [redacted]
Hayuk, Hlib S., [redacted]
Hess, Harlan L., [redacted]
Hill, James N., [redacted]
Himmel, Roger A., [redacted]
Hindman, Robert F., [redacted]
Hindman, William J., [redacted]
Hiner, Leroy H., [redacted]
Hirabayashi, Yoshito, [redacted]
Holen, Harold R., [redacted]
Hollabaugh, James T., [redacted]
Holmes, James W., [redacted]
Holt, Kenneth A., [redacted]
Holt, Ronald W., [redacted]
Honeycutt, Ronald G., [redacted]
Hoppes, Ronald A., [redacted]
Horton, Willard C., Jr., [redacted]
Houston, Charles D., [redacted]
Hovda, Clayton A., [redacted]
Howard, Thomas E., [redacted]
Hudson, Horace E., [redacted]
Hunsaker, Orvil G., [redacted]
Huntley, Guy S., [redacted]
Hurley, James M., [redacted]
Hymovitz, Allen, [redacted]
Ibanez, Armando R., [redacted]
Isham, Virgil B., [redacted]
Jackson, Gary W., [redacted]
Jackson, John, [redacted]
Jacobs, Wesley V., [redacted]
James, Hal D., [redacted]
Janco, Peter R., [redacted]
Jenkins, John A., [redacted]
Jennette, David L., [redacted]
Jester, Billy F., [redacted]
Jewett, Harlan E., [redacted]
Johnson, Conrad A., [redacted]
Johnson, Paul H., [redacted]
Johnson, Peter L., [redacted]
Jones, Alan D., [redacted]
Jones, Sonny D., [redacted]
Jones, Willie F., [redacted]
Kaplan, Lawrence, [redacted]
Kawashige, Chester, [redacted]
Keathley, James O., [redacted]
Keenan, Thomas, M., [redacted]
Kelsey, Darrel A., [redacted]
Kephart, Robert L., [redacted]
Kessler, James, S., [redacted]
Kieffer, Allen J., [redacted]
Kiger, Louis, S., [redacted]
Kilpatrick, Robert, [redacted]
Kindley, Douglas G., [redacted]
Kinslow, George A, [redacted]
Kirk, Charles R., [redacted]
Kline, Ronald A., [redacted]
Knudsen, George K., [redacted]
Kondi, Albert J., [redacted]
Kough, Harold R., [redacted]
Krach, Donald F., [redacted]
Kramer, Charles J., [redacted]
Krug, Karl W., [redacted]
Labollita, Francis, [redacted]
Lally, John E., Jr., [redacted]
Lamb, Norman A., [redacted]
Lancaster, John D., [redacted]
Landadio, Dennis M., [redacted]
Langston, Donald R., [redacted]
Laprise, William A., [redacted]
Laurino, Thomas P., [redacted]
Layton, Donald, [redacted]
Lesesne, Joab M., Jr., [redacted]
Lindsay, Roscoe, Jr., [redacted]
Link, Gerald F., [redacted]
Lipscomb, Dolores, [redacted]
Loesch, James A., [redacted]
Long, James H., [redacted]
Loudenslager, George, [redacted]
Loughnane, William, [redacted]
Lunde, Raymond H., [redacted]
Maccaroni, Warren I., [redacted]
MacDonald, James B., [redacted]
Macey, William D., [redacted]
MacVay, James W., [redacted]
Madewell, Richard J., [redacted]
Madison, Earl A., [redacted]
Magdalena, Charles, [redacted]
Majors, Wayne C., [redacted]
Mangone, Albert A., [redacted]
Mangraviti, James, [redacted]
Manning, Warren A., [redacted]
Marino, Wayne A., [redacted]
Martin, James A., [redacted]
Martin, Paul D., [redacted]
Mauras, Ramon, [redacted]
Mayhue, Don W., [redacted]
McBride, Charles L., [redacted]
McClearn, John D., [redacted]
McClure, Samuel T., [redacted]
McCullough, James E., [redacted]
McDonald, Terrance, [redacted]
McDougal, James M., [redacted]
McGee, Harold B., [redacted]
McGilbra, Allen F., [redacted]
McKenney, John B., [redacted]
McKenzie, Fred L., [redacted]
McLain, James P., [redacted]
McLaurin, Hugh M., [redacted]
McLoughlin, Charles, [redacted]
McPherron, Larry L., [redacted]
Meadows, Glenn C., [redacted]
MeHarry, George L., [redacted]
Mele, John G., [redacted]
Melillo, Gennerino, [redacted]
Merlino, John J., [redacted]
Metcalf, Richard W., [redacted]
Meyer, Frederick A., [redacted]
Miller, Albert K., [redacted]
Miller, Allyn L., [redacted]
Miller, Gerald H., [redacted]
Mohar, David A., [redacted]
Moore, Philip K., [redacted]
Morgan, Audy C., [redacted]
Morris, Edward D., [redacted]
Morris, Richard F., [redacted]
Morrison, Edgar B., [redacted]
Mouchka, Donald R., [redacted]
Mueller, Jerold E., [redacted]
Murphree, Carl E., Jr., [redacted]
Murphy, Larry M., [redacted]
Murphy, Newell R., [redacted]
Murphy, William E., [redacted]
Murray, Marion L., [redacted]
Naylor, Gerald G., [redacted]
Neal, John N., [redacted]
Nielsen, Chris, Jr., [redacted]
Niethammer, Gary R., [redacted]
Norwood, George L., [redacted]
Ocasiobelen, Felix, [redacted]
O'Connor, Brian J., [redacted]

Ogg, Don M., [redacted]
Oji, Jess H., [redacted]
Oleary, Joseph P., [redacted]
Olives, Leonard R., [redacted]
Olsen, Donovan L., [redacted]
Oneil, Daniel J., [redacted]
Pasholk, Ronald W., [redacted]
Paul, Larry F., [redacted]
Perry, John S., [redacted]
Petter, Philip A., [redacted]
Pieretti, Hector G., [redacted]
Pilcher, David H., [redacted]
Pizzolatto, John R., [redacted]
Politte, James P., [redacted]
Pouliot, Joseph N., [redacted]
Powell, Edward R., [redacted]
Powers, Patrick A., [redacted]
Predmore, Leland C., [redacted]
Preston, James M., II, [redacted]
Prisk, Gary R., [redacted]
Quinones, Justo M., [redacted]
Quinton, Newell E., [redacted]
Quirk, Thomas J., [redacted]
Rader, Loren C., [redacted]
Ramey, John B., [redacted]
Ray, Harley W., [redacted]
Reed, Hubert, [redacted]
Regrut, Andrew J., [redacted]
Rehard, Dale F., [redacted]
Reynolds, Robert A., [redacted]
Rice, David K., [redacted]
Rice, Robert F., [redacted]
Rich, Wendell A., [redacted]
Robertson, Michael, [redacted]
Robertson, Paul W., [redacted]
Robinson, David L., [redacted]
Rodgers, Charles A., [redacted]
Ross, Omar G., [redacted]
Rude, Carl E., Jr., [redacted]
Rusch, Richard M., [redacted]
Ryan, Glenn F., [redacted]
Ryan, Michael W., [redacted]
Saiki, Gilbert T., [redacted]
Sanders, Louis F., [redacted]
Sandlin, Thomas E., [redacted]
Sassaman, John C., [redacted]
Saunders, Robert C., [redacted]
Savage, Walter W., [redacted]
Schaub, Cornelius C., [redacted]
Schlotter, Leo, [redacted]
Schulte, Robert E., [redacted]
Schwer, Frederick O., [redacted]
Seksinsky, James P., [redacted]
Shaw, William L., [redacted]
Shearin, James M., Jr., [redacted]
Shields, Paul R., [redacted]
Shiles, Richard L., [redacted]
Siegel, Jay H., [redacted]
Sievers, Donald R., [redacted]
Simmons, James E., [redacted]
Simmons, Jerry D., [redacted]
Smart, Clayton R., [redacted]
Smith, Carey J., [redacted]
Smith, Chester W., [redacted]
Smith, Kenneth R., [redacted]
Smith, Orville M., [redacted]
Snyder, George C., [redacted]
Spears, Stanhope S., [redacted]
Stahl, Vincent E., [redacted]
Standifer, Ray W., Jr., [redacted]
Stapleton, Tobias T., [redacted]
Stark, James M., Jr., [redacted]
Starr, James R., [redacted]
Stiglets, Jimmy W., [redacted]
Stone, Gary R., [redacted]
Styles, Charles F., [redacted]
Suedekum, Clarence, [redacted]
Sullivan, James J., [redacted]
Surgent, Joseph R., [redacted]
Swan, Jack R., [redacted]
Swing, John B., [redacted]
Tatum, Earl R., [redacted]
Tegtmeier, Carl J., [redacted]
Tellier, Gary J., [redacted]
Terragna, Onofrio P., [redacted]
Theobald, Joseph L., [redacted]
Thomas, James E., [redacted]
Thompson, Hoyt E., [redacted]
Thompson, Ray L., [redacted]
Thurbee, Lee A., [redacted]
Tincher, Ronald D., [redacted]
True, Frederick H., [redacted]
Turnage, Albert J., [redacted]
Tyler, Terry J., [redacted]
Tyson, Clelland A., [redacted]
Vanderlinden, Leon, [redacted]
Vansickle, James A., [redacted]
Waldner, Donald J., [redacted]
Wangenstein, Edward, [redacted]
Wanosky, Charles N., [redacted]
Ward, Don C., [redacted]
Ward, John R., [redacted]
Wardell, Herbert O., [redacted]
Warner, Clarence E., [redacted]
Warren, John R., [redacted]
Welmaker, Jerry G., [redacted]
West, Alan C., [redacted]
Wetterstroem, Robert, [redacted]
Wharton, Loren L., [redacted]
Wheeler, Peter E., [redacted]
Whilden, Kenneth W., [redacted]
Whitworth, Robert D., [redacted]
Wilkins, Daniel B., [redacted]
Willey, Keith E., [redacted]
Williams, James R., [redacted]
Wilmer, David L., [redacted]
Wilson, Chappell R., [redacted]
Wilson, William C., [redacted]
Woods, Ronald L., [redacted]
Woodson, Ronald P., [redacted]
Wright, Allen D., [redacted]
Wright, Thomas E., [redacted]
Wynne, Marion K., [redacted]
Zylstra, Ronald L., [redacted]

CHAPLAIN

To be colonel

Barber, Charles D., [redacted]
Carlson, Bryn A., [redacted]
Covington, Charles, [redacted]
Farrow, Donald M., [redacted]
Finney, Hershel M., [redacted]
Georges, Nikos, [redacted]
Hawley, Wendell C., [redacted]
Herrlinger, John H., [redacted]
Hull, Gilbert W., [redacted]
Lair, Robert E., Jr., [redacted]
McHugh, Donald, [redacted]
Miller, Ronald D., [redacted]
Reichard, Richard D., [redacted]
Vaughn, Douglas E., [redacted]
Watson, William B., [redacted]
Yates, James L., [redacted]

WITHDRAWAL

Executive nomination withdrawn from the Senate by the President September 17, 1985:

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Peter Douglas Keisler, of Connecticut, to be a member of the National Advisory Council on Women's Educational Programs for a term expiring May 8, 1987, vice Maria Pornaby Shuhi, term expired, to which position he was appointed during the last recess of the Senate, which was sent to the Senate on January 3, 1985.

EXTENSIONS OF REMARKS

OPPOSITION TO JOB CREATION: A CONSERVATIVE IDEOLOGY

HON. SANDER M. LEVIN
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. LEVIN of Michigan. Mr. Speaker, for the past 6 months I have had the privilege of chairing the House Democratic Caucus Task Force on Job Training. This task force was constituted to take a hard look at the need for job training and retraining across America, how we are currently meeting that need, and what changes must be made to face the economic challenges of the future. As part of this effort, we have held a series of meetings with recognized experts in the employment field. Today, I would like to share with my colleagues some particularly pointed remarks made by Dr. Sar Levitan to our task force this past June. Dr. Levitan is the founder and director of the Center for Social Policy Studies at the George Washington University. At this time I would ask for unanimous consent to insert Dr. Levitan's remarks into the RECORD:

OPPOSITION TO JOB CREATION: A CONSERVATIVE IDEOLOGY

(By Dr. Sar A. Levitan)

An underlying vision of the American welfare system as it evolved over the past half century is an abiding belief that the nation is not condemned to passive acceptance of inequality of opportunity, forced idleness, and poverty. The designers of the welfare system have assumed that our future is not predetermined, but can be molded by our energies, resources, and faith in the American future.

In contrast, applied to job creation and economic opportunity, the conservative ideological vision of the welfare system can be reduced to three simple propositions:

1. The poor and the unemployed are not trying hard enough;

2. Help to the unemployed and the poor encourages indolence, and is therefore an obstacle to self-sufficiency; and

3. Given poverty and unemployment is the fault of individuals, federal intervention is counterproductive. Society would presumably gain a great deal more by allowing the haves to keep most of their income and wealth because they would, of course, invest in productive enterprises rather than spending their resources boosting the consumption of the indolent. The added investment will create more jobs, and as we all know, rising tides lift all ships (or is it yachts?). Anyway, poverty and unemployment are inevitable and there isn't much that we can do for the poor.

THE POOR ARE NOT TRYING

At the heart of the conservative opposition to federal job creation initiatives lies the suspicion that the poor and unemployed are morally different from the rest of Americans—that they do not share the values and aspirations of working Americans, that they do not respond to the incentives and opportunities of the market in the same way as the more prosperous. Although a very old idea, the association of poverty and unemployment with deviance seems to acquire new life with every generation.

Conservatives seldom question whether deviant lifestyles are of the poor's own choosing or simply reflect the harsh realities of deprivation. They are content to believe that the poor are unmotivated and unwilling to work unless coerced to do so. It follows, therefore, that even an affluent and compassionate society should limit assistance only to the truly needy poor, those who cannot work and support themselves. The rest can fend for themselves because according to the Reagan-Murray vision of the world, there are plenty of jobs available for anyone seeking work.

The most vivid examples of the conservatives' refusal to acknowledge labor market realities can be found in President Reagan's faith in job availability amidst postwar record unemployment. During the worst recession since the Great Depression, he clung to the theme that opportunities for work abound:

Pick up the Sunday paper and look at the number of help wanted ads. Here are employers begging for employees, taking ads out for them at a time of the highest unemployment that we've known since the war. (Ronald Reagan, December 18, 1982)

In the great metropolitan centers . . . you count as many as 65 pages of help wanted ads. . . . These newspapers ads convinced us that there are jobs waiting and people not trained for those jobs. (Ronald Reagan, October 4, 1982)

The administration's only concession to widespread joblessness lay in the acknowledgment that workers with a record of sustained unemployment may lack the skills to obtain available jobs.

Charles Murray, whose views have received widespread acclaim in conservative circles, seems to hold similar views. According to Murray, in the good old days before society developed programs to aid the unemployed and the poor, any physically able person could find a job to support himself and his family. George Gilder, whose star has recently been overshadowed by Charles Murray, carried this belief in the availability of jobs even further. Following an old economic theorem that supply creates its own demand, Gilder contended that individuals can "create their own jobs" because "the supplies of work and human capital can engender their own demand."

During the past 15 years our economy has generated an unprecedented number of jobs, but not enough for all those who seek work. The pious declarations of the 1946 Employment Act and the 1978 Full Employment and Balanced Growth Act notwithstanding, public policy has not been directed toward providing jobs for all. On the contrary, during the past two decades a number of factors have contributed to creeping unemployment. The unemployment rate during each of the succeeding peaks of the business cycle has registered a higher unemployment rate than the preceding peak. The rate of unemployment declined to 3.4 percent in the late 1960s, rose by about a percentage point during the peak of recovery from the 1974-75 recession, and now, 30 months into the recovery from the 1981-82 recession, unemployment still hovers between 7 and 7½ percent.

In May 1985, the Bureau of Labor Statistics reported that 8.4 million persons, accounting for 7.3 percent of the labor force, were seeking but could not find jobs. In addition, 5.9 million persons sought full-time work but had to settle for half-rations because there was not any full-time work available. There were some 2 million more people in this category in May 1985 than there were 31 months after the recovery started in 1975. Similarly, the 1.1 million discouraged workers exceeded the comparable number in 1977 by about 300,000. All this tells us a story of loose labor markets where millions of people cannot find full-time work. Clearly unemployment is not due to the failure of the idle to seek work, as President Reagan asserts, but because jobs are not available for all those who desire work.

In mid-1983 when more than 10 million Americans were actively looking for work, President Reagan focused on the Horatio Alger dream of unlimited opportunities for self-advancement rather than on the problems of those who were seeking work. One could hardly disagree with President Reagan's hope that "this remains a country where someone could always get rich."

Dreams are fine, but we should not lose sight of reality. Regrettably, opportunities to get rich are limited only to the very few. On the other hand, there are millions of people who labor, some full-time year-round and still remain poor. In 1983, the latest year for which such data are available, more than 9 million Americans were in the labor force, including 2 million who worked full-time year-round remained poor. The image of the lazy and unmotivated choosing poverty in order to avoid work is irrelevant to this large body of improverished Americans, whose devotion to the work ethic is tested to a far greater degree than that of more affluent workers.

The persistence of secondary labor markets, barriers to entry in selected occupations, and discriminatroy employment practices all limit opportunities for advancement and self-sufficiency through work. Current labor market conditions strongly support the hypothesis that the labor market is segmented, offering relatively high wages, good working conditions, job security, and chances for advancement to the majority of American workers while providing the rest with low pay, poor working conditions, unstable jobs, and few promotion opportunities. Because workers in secondary markets are often forced to accept intermittent employment their incomes tend to fall short of their fulltime earnings capacity and thus below the poverty line. Moreover, since the working poor frequently hold unskilled jobs, they are unlikely to upgrade their skills in their current jobs that would assist them in

the transition from secondary to primary labor markets. The existence of primary and secondary markets side by side leaves unskilled workers trapped in dead-end jobs in which their motivation and effort have no appreciable impact on future advancement or capacity for self-support.

Patterns of labor market segmentation are strengthened and influenced by racial discrimination and barriers to occupational entry that hinder the advancement of disadvantaged minorities. Some progress has been made as direct result of federal mandates and interventions, towards reducing the prevalence of discriminatory employment practices. Nonetheless with rising levels of educational attainment and aggregate unemployment, the use of credentials or licensing requirements as barriers to entry into the primary labor market probably has increased in recent years. Both factors continue to frustrate the efforts of the disadvantaged to pull themselves out of poverty.

Perhaps the most frequently cited example of how government limits opportunity and creates poverty and idleness is that favorite conservative whipping boy, the minimum wage. Critics of federal minimum wage legislation contend that recent increases have priced many low-skilled workers, particularly minority and teenage jobseekers, out of the labor market. Whereas the federal minimum wage remains too low to lift many employed persons out of poverty even when full-time work is available, its opponents believe that a sizable number of the unemployed in poor households would gain access to earned income in the absence of a statutory minimum wage.

Attempts to measure accurately the relationship between a statutory wage floor and aggregate employment levels have been inconclusive and often contradictory. The implications of lowering or eliminating the minimum wage are particularly difficult to assess because this wage protection has become inextricably intertwined with the nation's social welfar system. While continuing to fulfill its original function of preventing rampant wage exploitation, the minimum wage also remains the most direct and comprehensive policy tool to improve the lot of the working poor. An excessively narrow focus on the probable elimination of some jobs obscures these broader benefits of a federal minimum wage.

Few jobs in the secondary labor market, where most low-wage workers are concentrated, are stable enough to ensure full-time, full-year employment. For these workers the federal minimum wage remains the last line of defense before slipping into abject poverty. Elimination of the wage floor, favored by many conservatives, would undoubtedly save a few jobs, but at the expense of swelling the ranks of the impoverished. Required to pay a minimum wage, some employers may be encouraged to invest more in the training of their workers, thus raising productivity and enhancing the employability and self-sufficiency of these workers.

For prospective workers, the federal minimum wage provides an incentive to rely on earnings rather than on welfare. Torn between the known benefits of dependency and the risks of an unstable job market, these workers are more likely to choose the latter if the monetary reward is sufficiently high. Lowering it to an ineffective level—since January 1981 the real minimum wage, adjusted for inflation has declined by 2.3 percent—could have reduced work incentive and made welfare the more attractive alternative. A society that places a high value on the work ethic should also be willing to pay a price for inducing the poor to work.

The potential benefits of the current administration's proposals to lower the minimum wage to increase job prospects among unemployed youth are similarly limited. In loose labor markets such action may have the effect of displacing older workers to fill newly created jobs. Attempts to combat youth unemployment by lowering the minimum wage provides a mixed blessing for the poor; any advantages for the young may be gained at the expense of their elders.

HELPING THE POOR AND THE UNEMPLOYED ENCOURAGES INDOLENCE

Having made the claim that the poor suffer deprivation by choice, or at least by virtue of their own inadequacies, opponents of government assistance in aid for the poor and the unemployed also develop what they view as a logical corollary—federal efforts to help the poor are counterproductive. The result is: we cannot assist the poor and the unemployed even if they need our aid, because federal interventions inevitably constitute a hinderance instead of a help.

According to President Reagan, welfare is one of our major problems because it destroys "self-reliance, dignity and self-respect . . . the very substance of moral fibre." The alternative has been term "earned dignity" or "dignity of achievement"—the dignity that is obtained when one achieves "that modest well-being presumed within the grasp of honest effort" and that is meaningful only if accompanied by censure of failure and "a strong sense of the shameful."

Charles Murray makes this a point a central theme of his Losing Ground. He tells the story of Harold and Phyllis (who may replace Romeo and Juliet in conservative literature). Both are unskilled and deficiently educate. In the good old days, if Phyllis made a "mistake" and became pregnant, Harold would marry her, take a menial and low-paying job, and presumably, the couple woud live happily ever after. His assumption is that jobs were available and that all able-bodied persons could find work. As long as the choice for able-bodied persons was between work and starvation, presumably they all worked. the social fabric began to unravel when the welfare system moved beyond aiding the truly needy to providing assistance to the working poor. This view encourages indolence and condemns the welfare system to failure.

HELPING THE POOR AND THE UNEMPLOYED IS COUNTERPRODUCTIVE

Convinced that the poor and unemployed are responsible for their situation and that government aid exacerbates their plight, true believers in laissez faire arrive at the inevitable conclusion that poverty is an unavoidable natural state of affairs, accepting the notion that some individuals must fail even in the most affluent society. The penalties of failure cannot be softened, they contend, because government intervention to alter market outcomes would diminish the rewards for achievement and undermine the motivation and moral character of those it sought to help.

Implicit in this view is the belief that government programs have merely displaced prior private efforts and that the withdrawal of federal aid would result in no net loss, and possibly a net gain, of resources available to combat the nation's social problems.

The conservative thesis of private initiative and charitable giving appears more clearly at odds with the record. Prior to government intervention, private voluntary activities managed to provide only the most modest relief and assistance to portions of the poor population. These efforts were the least effective in areas with high concentrations of low-income households and seldom moved beyond the provision of minimal temporary aid to improve the poor's prospects for self-support. The inadequacy of private help, if not its complete breakdown, generated the need for government intervention under the New Deal. As government responded to unmet basic needs, there is no convincing evidence that charitable contributions suffered a corresponding decline.

The 1983 Economic Report of the President, prepared while joblessness reached its postwar peak, reflects the strength of the philosophical bias against federal programs to expand employment and broaden economic opportunity. Although it voiced support for training to assist the structurally unemployed, the report implicitly rejected the job creation proposals of "well-meaning" members of Congress with the statement that "only a balanced and lasting recovery can achieve a substantial reduction in unemployment." (Ronald Reagan, September 9, 1982)

Throughout his political career President Reagan has opposed federal job creation programs, arguing that they generate unproductive work and weaken the national economy. With a litany of references to "make-work jobs" and "quick fix" responses to recession, his administration has portrayed public employment initiatives as dismal failures that led to long-term economic decline. Even when the unemployment rate reached double-digit figures in September 1982, the president offered the following assessment of jobs programs:

Actually, what we're talking about is building a solid base for the economy as the method of providing the jobs the unemployed need, and providing them on a more or less permanent basis instead of just a quick flurry that does no real good but leaves us closer to the brink of disaster than we were before.

The presumption that the poor shirk work responsibilities is most explicit in workfare initiatives that require welfare recipients to work off the support they receive. Workfare programs could be both successful and beneficial if they offered the dignity or the experience of constructive employment to the AFDC population which realistically may be capable of self-support. Given careful screening, pre-employment counseling and sufficient incentives, welfare recipients could go far toward developing positive work habits and escape poverty. The provision of meaningful jobs at their existing wage scale could induce welfare recipients to voluntarily opt for workfare, eliminating some of the more distasteful associations of the programs with punishment for perceived moral deviance.

The existing welfare system gives partial recognition to the interrelationships between work and welfare, helping many Americans and allowing some flexibility for movement in and out of the labor market. Yet sharp restrictions on aid to the working poor, exacerbated by the Omnibus Budget Reconciliation Act of 1981, still confine some recipients to dependency and threaten to create a permanent underclass. A public policy that expects low-income Americans to make rational calculations regarding the costs and rewards of work as compared to welfare must ensure that work is more re-

munerative than welfare. Past federal approaches to combat poverty have fallen far short of this fundamental goal.

To minimize conflicts between work and welfare, federal programs in aid of the poor must recognize the limitations of private labor markets in offering employment opportunities that permit the unemployed and the working poor to escape poverty. The world of opportunity, upward mobility, and adequate wages envisioned by conservatives does not exist for large segments of the low-income population.

A LESSON WE SHOULD HAVE LEARNED

One of the clearest lessons arising out of America's experience with the welfare system is that poverty cannot be eliminated solely through a reliance upon income transfers. Income maintenance certainly is an essential component of any comprehensive antipoverty effort, but a strategy relying upon transfers alone can neither enhance self-sufficiency nor avoid conflicts in labor markets.

In a society in which the wages of millions of workers are too low to lift them out of poverty, the provision of adequate cash assistance to the nonworking poor, if unaccompanied by incentives to supplement assistance with earnings, inevitably raises serious questions of equity and generates strong political opposition among taxpayers. In addition, income transfers large enough to lift low-income households above the poverty threshold, if not tied to work effort, would trigger large drops in labor force participation or force massive public expenditures to the nonpoor in order to preserve acceptable work incentives. Political and economic realities have contributed to the demise of successive guaranteed income schemes during the past two decades and demonstrate the need for federal strategies that assist both the working and dependent poor.

While the rhetoric of the Great Society and subsequent initiatives have often placed heavy emphasis on the expansion of economic opportunity for the less fortunate, this promise has never been fulfilled through a sustained and adequate commitment of societal resources. Many of the dilemmas posed by the welfare system—perverse incentives discouraging work by welfare recipients, neglect of the needs of the working poor, high youth and minority unemployment, and burgeoning costs of universal entitlements—arise from an inadequate emphasis on the extension of employment opportunities. Beyond fundamental guarantees of equal access and civil rights, the welfare system's attempts to broaden opportunity have relied upon relatively small and often sporadic investments in job training, public employment, compensatory education, and meaningful work incentives. These initiatives, despite yielding promising results, have fallen far short of their necessary role as equal partners with income maintenance in advancing the goals of the welfare system. To help the millions of the unskilled and deficiently educated, it is necessary to recognize that work and welfare go together as an appropriate public policy.

The difficulties associated with the expansion of economic opportunity through the welfare system are substantial, ranging from the technical and economic to the cultural and political. Certainly the heavy reliance upon transfer programs in recent years reflects the fact that assurances of income security tend to be less threatening to established interests and therefore easier to adopt than broader efforts to open avenues to self-support and economic advancement. Yet if the nation is to avoid the debilitating effects of its emphasis on income maintenance, there is no alternative to reviving the promise of opportunity and the creation of jobs. When the nation discards today's prevailing negativism it should turn to this urgent task of broadening access to opportunities for work and self-advancement for all Americans.

THE TRADE CRISIS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. SEIBERLING. Mr. Speaker, the huge trade deficits which have accumulated under the Reagan administration have become a "front burner" issue on both sides of the aisle in the Congress. Even the Reagan administration, which has long turned a deaf ear to calls for constructive action on the trade crisis, is at last readying a trade package for consideration.

The President and the Congress have available to them a wide range of responses to the trade crisis. Clearly, there are strong pressures for enactment of "protectionist" legislation. Under limited circumstances, temporary quotas or tariffs may be a useful short-term solution to import competition for specific industries. It would be catastrophic if our key industries, such as auto, steel, rubber, textiles, electronics, footwear, and so on, were to collapse because of the flood of imports. Congress cannot sit idly by and let this happen. Limited import restrictions can and have bought time to enable domestic industries to retool to maximize production efficiency and quality to enable them to compete on an equal footing with their foreign counterparts.

But broad-brush legislation designed essentially to punish foreign countries for their trade practices in general, rather than dealing with specific industries and specific trade problems, seems to me to run a substantial risk of being counterproductive. At a minimum, enactment of such legislation could well provoke sharply retaliatory responses from the affected countries, prompting them to shut their doors even tighter to American exports. That would be in nobody's best interests.

It's evident that the key contributor to the trade problem we face is the adverse impact of the imbalance between the dollar and foreign currencies. Our strong dollar acts as an export "tax" on American products shipped overseas, making them less competitive in foreign markets. And the strong dollar acts as an import "subsidy" for underpriced foreign products, giving them a strong price advantage in American markets.

Since the strong dollar is being fueled by our huge Federal deficits, our first course of action must be to reduce the deficit. That is going to take fair and balanced action to stem the hemorrhage of Federal revenue which began with the ill-planned 1981 Reagan "supplyside" tax fiasco. It is also going to take further reductions in Federal spending, and we are going to have to begin with the out-of-control Reagan defense budgets.

Next, we need to promote efforts to find jobs for, and retrain workers who have lost their jobs because of import competition. The administration's position in this respect has been one of callous indifference, seeking large cuts in the Job Training Partnership Act, and the termination of the Trade Adjustment Assistance Program, both of which provide assistance to dislocated workers. We have simply got to recognize that our workers are a resource of enormous value and potential, but that the job of retraining and relocating dislocated workers cannot be left solely to the private sector, as the Reagan administration apparently wants to do. The House Democratic caucus task force on employment and training, on which I serve, is in the process of putting together a comprehensive recommendation for employment and training programs, and I hope the Congress will translate those recommendations into legislation.

Unfortunately, the Reagan deficits have left the Congress severely limited in its ability to fund new programs to deal with the dislocations caused by the trade crisis. In an August 22, 1985, column in the Arkon Beacon Journal, David Broder notes that many respected economists are increasingly concerned that the economy is beginning to stagnate. As Border points out, the "standard Keynesian prescription for dealing with a recession is to cut taxes and/or increase Government spending and thereby stimulate demand, in hopes of bringing the economy out of its nose dive." But the huge deficits which have occurred as a result of 5 years of Reaganomics have left the Government with no room to apply such remedies.

At a July meeting of Senator GARY HART'S Center for a New Democracy, discussions centered on alternatives to such traditional Federal pump priming, with the consensus being that, absent governmental flexibility to deal with a recession, the Government should encourage increased flexibility in the labor market.

One solution, advocated by Pat Choate of TRW, is to upgrade the existing U.S. Employment Service in order to better match dislocated workers with existing jobs. Choate noted that the matching system "is barely functioning. Only 7 percent of job-seekers receive counseling, only 2 percent receive training and less than 25 percent are eventually placed in jobs." Choate also argued for better retraining programs, including tax stimuli for employer retraining and job creation.

According to the Broder article, another solution, advocated by Prof. Martin Weitzman of MIT, is "shifting the basic compensation system so that less of a worker's income comes as wages and more as profit-sharing. That way, he said, fewer people would be laid off in the next recession and more firms would survive."

I agree with Professor Weitzman's assessment. In fact, I have reintroduced legis-

lation to encourage the implementation of just such a gain sharing system. Under my bill, the Productivity Improvement Act of 1985 (H.R. 1183), employers would be offered a tax credit of up to 10 percent of the bonus wage in the first year of operation. The advantages of such a system are clear. Employees would be encouraged to maximize their productivity on the assembly line, since the bonus would reflect such productivity growth. Over the past decade, American productivity has grown only 23 percent, while Japanese productivity has grown over 100 percent. By giving workers a vested interest in productivity growth, American manufacturers can close the gap.

Such a bonus wage can also promote job security. In times of economic decline, manufacturers would have an opportunity to reduce the bonus wage—without cutting the base pay itself—and keep workers on line, instead of laying them off to maintain profits. The resulting job security cannot help but to produce greater employee loyalty and a vast improvement in employer-employee relations.

An article in the August Dun's Business Month provides further substantiation of the potential benefits of this kind of bonus wage system. Although acknowledging resistance to these plans, many companies have found them extremely useful. A GAO study of some 1,000 companies with compensation tied in part to productivity growth, found a 30-percent savings in labor cost; 81 percent of the respondents reported improved labor-management relations, nearly 50 percent had fewer grievances, and nearly 40 percent reported lower absenteeism and turnover.

Mr. Speaker, the breath and depth of our trade imbalance demands action from the Congress. We cannot ignore the problem, but we should not, in our haste to alleviate it, take action which we will come to regret. We should vigorously explore constructive ways of retraining and relocating dislocated workers. We should improve the services offered by our employment service. And we should be willing to offer incentives to improve productivity in the workforce and improve labor-management relations.

The full text of the David Broder and Dun's Business Month articles follow:

[From the Beacon Journal, Aug. 22, 1985]

DESIRABLE GOAL: MORE FLEXIBILITY FOR LABOR

WASHINGTON.—In 1981, the year the last recession began, the federal government had a deficit of $78 billion. Two years later, when that recession had run its course, the deficit had almost tripled to $207 billion.

This year, according to the latest Congressional Budget Office estimate, the deficit will be $210 billion. If another recession hits and the pattern of the past holds, one can imagine annual deficits ballooning by the end of the Reagan administration to the staggering level of more than one-third of a trillion dollars a year.

That nightmare possibility has entered the discussion in Washington because of the recent spate of nervous economic indicators.

On successive days last week, you could read that business sales dropped, inventories rose, factor output and capacity utilization stagnated and home construction slumped. While few economists were predicting a recession, the head of Chase Econometrics said, "There is no reason to expect a major improvement."

Rudolph Penner, the head of CBO, said, "The economic outlook remains very uncertain," and he warned that with deficits in this time of general "prosperity" running at more than $200 billion a year, they "don't allow any margin for safety if the economy performs worse than expected."

All this makes it pertinent to ask just what this country would do if the economy staggers into another slump under the burden of the incredible debt accumulated during the Reagan years.

The standard Keynesian prescription for dealing with a recession is to cut taxes and/or increase government spending and thereby stimulate demand, in hopes of bringing the economy out of its nose dive. That is what Reagan did in 1982 and eventually it worked—but at terrible cost to the budget.

At a session last month of his personal think tank, the Center for a New Democracy, Sen. Gary Hart, D-Colo., assembled a group of people to see if they had any ideas other than traditional "pump-priming" remedies. When I read the transcript of that session, I realized that there are other options. But all of them would require more courage and imagination than either Congress or this administration has shown.

The main point that emerged was that—lacking flexibility to apply traditionally fiscal stimulus—the government should try to promote increased flexibility in the labor market.

That point was stressed by economic consultant and author Pat Choate of TRW, economics writer Robert Kuttner and Professor Martin Weitzman of the Massachusetts Institute of Technology. It was that point to which Hart, eyeing a second bid for the presidency in 1988, seemed most responsive.

How do you get more flexibility in the job market?

Choate offered several practical answers. Improving the existing U.S. employment service is one way to get a better match of people and jobs. Today, he said, "that system is barely functional. Only 7 percent of job-seekers receive counseling, only 2 percent receive training and less than 25 percent are eventually placed in jobs."

The problem, he said, is miserliness. "For example, fewer than half of all, states have computerized offices. The Department of Labor still exchanges information about job vacancies between states by mailing it to Albany, N.Y., where it's sorted by hand and then mailed out again to the individual states."

Choate estimated the cost of computerizing the system—as presidents as far back as Richard Nixon have talked of doing—at $60 million. The time to make that investment is now, not after the next recession has begun.

Both Choate and Kuttner argued persuasively that, whether there is a recession or not, retraining of today's workers for tomorrow's jobs has to be given higher priority. One way to do it is to shift some unemployment compensation funds into training programs and even subsidized re-employment. Another is to change the tax law so that employers get the same write-offs for improving their employees' skills as they do for modernizing their plant and equipment.

Weitzman offered a more far-out notion: shifting the basic compensation system so that less of a worker's income comes as wages and more as profit-sharing. That way, he said, fewer people would be laid off in the next recession and more firms would survive.

Hart provided a public service by launching the discussion on steps now that would ease the pain of the next recession. But it will take more than discussion. We better recognize that the familiar medicine of counter-cyclical deficit spending has been squandered by the foolish fiscal policies of the past five years. If we don't find new medicine, we may not recover next time.

[From Business Month, August 1985]

SPREADING THE BONUS BUCKS

(By Daniel Forbes)

A change is occurring in the compensation of hourly employees. Bonuses—once reserved for top executives, salesman and occasionally for middle managers—are now for everyone.

With a few exceptions, such as Chrysler's award of $500 to all employees in celebration of its record 1984 sales, companies are paying bonuses to workers in lieu of raises or as their share of productivity improvements. Gain-sharing bonuses have been around for decades, but new industries such as airlines and banks have started using them. "The next horizon for gain sharing is formerly regulated companies such as utilities," says James Lagges of consultants A. T. Kearney, Inc., and "beyond that come large financial service organizations—anything with a lot of paper pushing."

Bonuses in the form of lump sum payments (LSPs) instead of permanent raises are a product of the worst recession in postwar history and soaring unemployment. Don Hirsch, vice president of corporate labor relations for Kroger Food Stores maintains, "This is the time for management to strive to be competitive. We've got to make the most of it while the pendulum is swinging our way. Because it will swing back eventually."

And LSPs are a relatively painless way for companies to save money and for unions to save face. As Audrey Freedman, labor market specialist for The Conference Board points out, "The LSPs look like they are more than they are. They look good for both management and the union leadership—they are noticeable and you get a bigger bang for the buck."

Starting in October 1983, with a groundbreaking three-year agreement between Boeing Co. and the International Association of Machinists, a wide-ranging array of unions have agreed to LSPs. According to the Bureau of Labor Statistics, auto workers, paper workers, government employees, meatpackers and truckers are among the major unions that accepted LSPs with meager or no raises in the past eighteen months.

Often bonuses are in lieu of wage increases in the first year or more of a multiyear contract. General Electric recently settled with the UE and the IUE for LSPs of 3% in the first year of the contract and a 3% wage increase in the last two years.

McDonnell Douglas Corp., after a bitter seventeen-week strike, settled with the UAW for bonuses of 3% a year, period. Boeing gave LSPs of 3% a year and COLAs of 3% a year. Kroger agreed on LSPs with the United Food and Commercial Workers in various sites. One in rural Georgia—to cite the least generous—called for sums of as little as $1,000 spread over three years with wages remaining steady.

The primary savings for employers in LSPs come from eliminating the compounding of wage gains in the next year. Tom Baker, district president of the IAM unit that negotiates with Boeing, notes that an LSP would have to be 3% in the first year, 6% in the second and 9% in the third to match annual raises of 3%. The IAM calculates that one major aerospace company saved an average of $2,665 per employee a year by giving bonuses in the first two years and a raise in the third year instead of a raise each year. On top of that the next contract talks begin at an hourly wage base that does not include the bonus.

Another major savings is in overtime and fringe benefit costs, otherwise known as "flow-through" increases. With no raise in the base rate, overtime, vacation and holiday pay, military and jury duty and pension contributions are all proportionally less. Kroger's Hirsch reports that the supermarket chain's bonus bargain saved 15%-to-18% a year of the wage increase by eliminating flow-through increases. Similarly, economist John Zalusky of the AFL-CIO estimates that GM is saving 18%-to-20% a year on the wage increase with the LSPs instead of a dollar equivalent permanent wage increase. Kroger's Hirsch has bought concessions from unions on overtime, night premiums and holiday pay by using bonuses as a sweetener. In Columbus, Ohio, Kroger scaled back Sunday pay to time and a half from double time, got other contract concessions and no wage increases in exchange for bonuses of roughly $1,000 each in the first two years and under $500 in the third. "It speeds up the whole negotiating process," Kroger's Hirsch contends.

In many cases, union members find bonuses hard to resist. The LSP is a nice hunk of change that workers do not otherwise find easy to accumulate, with the flow-through losses paling in significance. As Alan Lee, director of collective bargaining for the UFWC says, "We didn't necessarily recommend ratification [of the Kroger contract], but it may be a case of the membership being short-sighted." Tom Baker, district president of the IAM unit that negotiates with Boeing, adds, "It's no coincidence that that $745 comes right before Christmas."

Baker also points out that at the time of the settlement, District 751 had 8,000 members on lay off, tahe State of Washington had the third highest unemployment in the nation, and the Seattle area the highest in the state. Boeing spokesman Jim Morrison says simply that, "With wage increases and uncapped COLAs over the prior 15 years, by 1983 a janitor was making $23,000 a year. We had to ask how long we could have these without pricing ourselves out of the market."

The UAW local at McDonnell Douglas's Long Beach, California plant accepted a bonus only as a last resort. The company had no new orders in early 1984, and the UAW membership had lost some $7,000-to-$10,000 in wages in the longest strike in aerospace history (the union struck primarily to avoid the bonus arrangement). When some 1,200 members returned to work under the threat of dismissal, says local president Bob Berghoff, "We had to go back, otherwise the company might have had so many people cross [the picket line], they could have voted the union out. But we'd do it again if we had to."

The unions obviously prefer wage hikes. Reggie Newell, an IAM economist says, "We oppose bonuses as a matter of principle, but we've had to accept them. The only alternative was to strike." In May, the Transport Workers Union membership narrowly rejected a tentative pact with American Airlines that offered an LSP of $750 in the first year, $1,000 in the second and $1,500 in the third in lieu of increases. As one member put it, "After taxes you don't get much, and once the bonuses end, you're still making the original wage."

A separate but related development is a renewed emphasis on gain sharing (GS) plans. Gain sharing is moving from manufacturing to such paper intensive environments as bank back offices and repetitive labor environments as hospital laboratories. Security Pacific Corp., Maryland National Bank and a major Canadian insurance company among others, have instituted GS for its word processors. And GS has spread from department to department at St. Lukes Hospital, Kansas City, Missouri, starting in the production-type departments and now encompassing top executives.

Typically, GS plans are based on improvements over historical productivity levels, with awards paid in cash to groups of employees according to a predetermined formula. Most plans cover either all employees or a large group to avoid the appearance of pitting employees against each other.

The most popular are: Improshare, invented by consultant Mitchell Fein, which measures output per man hour of labor; Scanlon plans that base bonuses on the ratio of payroll costs to sales; and Rucker plans, which are marketed by the Eddy-Rucker-Nickels Co., based on the ratio of payroll costs to sales, minus the cost of materials and supplies—a rough approximation of net operating income. Improshare's Fein reports that in its first year at a New Jersey hospital, a GS plan gained both the workers and the hospital $1.1 million each.

Whether or not GS improves productivity is debatable. A 1985 Conference Board survey of 1,000 large industrial firms found that of the roughly 25% of them that had GS programs in effect, no significant productivity gains were reported. But the author of the study, economist Audrey Freedman, thinks the result may be due to survey design. A General Accounting Office study of some 1,000 GS plans found that those in operation more than five years averaged almost 29% savings in work force cost and those with under five years averaged savings of 8.5%. The GAO also cites improved labor relations among 81% of respondents, 47% had fewer grievances and 36% had less absenteeism and turnover.

Obiviously, peer pressure to perform is one of the central tenets of GS programs. And while it is certainly a factor, says Improshare's Fein, "Peer pressure won't run the shop; it's exaggerated. You can't escape the unpleasant duties of management."

And GS plans are remarkably popular with employees. Firestone Tire & Rubber Co. proposed dropping its GS plan when workers at its Hamilton, Ontario plant received no GS bonuses for a considerable time due to a depressed tire market and a jumbled product line. But the rubber workers insisted on keeping it, citing improved morale and smoother labor relations.

Indeed, if the McDonnell Douglas Long Beach plant workers are any indication of future trends, GS plans may in the end supplant LSPs. After the bitter strike at the plant over LSPs in lieu of raises (where workers now clock out in different lines depending on whether they crossed picket lines or not and fist fights are not unknown), an investigation of gain sharing is on the agenda for the next round of talks, at the union's insistence. Says UAW local president Berghoff, "Any form of gain sharing would be better than the status quo. If the company is sincere, it will bring people together. We"ll make them rich if they treat us right!"

HILLSDALE HAY, INC.—A RESOURCEFUL MARKET FOR HAY

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. PURSELL. Mr. Speaker, recently, when I was home during the August recess, I met with some farmers in my district in order to better understand the issues facing them. I am pleased to return to Washington and relate to the Congress how one group in Michigan is trying to improve the farmers' economic situation. These men have formed the Hillsdale Hay, Inc. This organization will allow farmers to buy stock in the company which will hold weekly hay auctions beginning in November. I am submitting an article on this project printed in the Michigan Farmer and hope it will be an inspiration for other hay farmers in the Nation:

[From the Michigan Farmer, Aug. 17, 1985]

A NEW WAY TO MARKET HAY

(By Dick Lehnert)

What started as a project to provide more opportunity to farmers in Hillsdale County has blossomed into what might be a bonanza for all of Michigan.

It's a market. A market for hay.

The next two weeks may be critical ones. By Sept. 1, the organizers of Hillsdale Hay, Inc., need to know who wants to sell how much hay and when. They plan to hold weekly auctions, in Litchfield, during the strong part of hay sales season, mid-November to mid-March.

To participate in the hay sales, you must become a member of Hillsdale Hay, Inc., and that costs $100. It's a one-time investment in stock.

In addition, a sales commission of 10% will be charged, but that can be returned to members as dividends if the corporation does well. The board of directors met Aug. 1 and decided that all who sign up before Sept. 1 will pay a 9% sales commission instead of 10%.

If you want to be part of the action, you should contact Max Drake, 77 N. Broad St., Hillsdale, MI 49242. The office phone is (517) 437-3735.

Drake is Hillsdale Hay's "ag resource person." He's been involved in the project since its inception a year ago. He explained the project's history and his role in it.

Originally from Ohio, where he was manager of the Northern Ohio Breeders Association for 35 years, he retired and moved to Reading.

About a year ago, Hillsdale County's Industrial Development Commission, realizing that agriculture was the leading industry in the county, sought a federal grant to research ways to develop that industry more fully.

A committee was formed, chaired by County Extension Director Jim Pelham, to

take a hard look at agriculture. Members included Bob Sloane, Jonesville, owner of the Granery; Charles Zieler, Hillsdale poultryman; Jerry Raker, Litchfield vegetable and bedding plant grower; Keith Brown, Jonesville dairyman; Randall Wigen, Reading corn grower; Ron Newton from Reading elevator; and Rex Smith, a Waldron banker.

Their mission: "They were to look at the total agriculture of Hillsdale County and try to find opportunities for further development."

Drake was "recalled from retirement" to work half-time on the project.

Hay became a leading candidate early. "It had excellent potential as a cash crop," Drake said. "It does better than corn and soybeans now."

In addition, 50% of the farmers in the county are part-timers. This was seen as a plus for hay, since these may be candidates for a summer labor-intensive crop.

Then there was the nature of the county itself. Named Hillsdale for its hills and dales, the land is erodible when under a heavy row crop regimen.

"High corn and bean prices have led to the plowing of land that never should have been plowed," Drake said. "Some is losing 30 tons and more of soil a year. It's to steep even to no-till."

Not surprisingly, the county Soil Conservation Service, the Soil Conservation District, and the Agricultural Conservation and Stabilization Service are enthusiastic about the hay idea.

The project encountered some problems. A meeting held last November drew only 100 people, a disappointing turnout. Drake theorizes now that perhaps local farmers may be unequipped to handle hay, or that cash rents are still high enough to encourage them to rent out their ground instead of farming it themselves.

But there was one big plus. Those who attended the meeting came not just from Hillsdale County but from eight others.

Hillsdale is not the first county to target hay as a desirable crop. In the Thumb, hay would be a good addition to soil-damaging rotations heavy on sugar beets and navy beans. The Cooperative Extension Service and Soil Conservation Districts there have tried to encourage more alfalfa because of its benefits to the soil.

But usually the efforts fail. Not only does hay require its own complement of equipment, there is another big problem: How does one market this bulky stuff in a nonlivestock area?

What Hillsdale Hay is doing may be the answer. Drake expects this auction could draw hay from a wide area. "There is no good hay market in the tri-state area," he says. Still, a lot of hay moves through that area into forage-deficit dairy areas in the South and to horses in Kentucky.

Drake says farmers wanting to sell cash hay should think in those terms. With hay possibly in short supply in Michigan this year because of dry weather, a lot of hay may find a local market.

But hay-sellers should think in the long term as well. Drakes hopes they'll support this market now—when it needs support to get going—and that they'll plan on it when growing hay in future years.

Those looking to a Southern hay market should grow alfalfa with some timothy in it. That satisfies the horse market. They should bale in heavy bales—55 pounds and bigger—to make shipping easier.

It should be green in color and free from dust and mold.

Perhaps in the future, some enterprising person may choose to start a hay compacting business in association with the Litchfield auction.

Right now, one service will be offered that will allow those with top quality hay to prove it and get paid for it.

Hillsdale Hay, Inc., is working with Litchfield Analytical Services, a private laboratory that, for $10, provides near-infrared analysis (NIR). The service is fast, Drake said.

NIR tells what the feeding value of hay is—how much protein it has, how digestible it is, etc. In the future, Drake said, perhaps a scale will be used to label hay according to relative feeding value (RFV). "Good hay, tested is worth $10 to $20 a ton more," he says.

The board of directors of Hillsdale Hay is made up of the following people:

President Raymond Oates, Waldron, a hay grower and hay dealer; vice-president Joe Griner, Horton (Jackson County); Secretary-treasurer Paul Birdsall, Hillsdale, a school teacher who makes 300 acres of hay during the summer; and directors Rex Ryan, Hillsdale; Gary Miller, Eden Ohio; Don Hoopes, Quincy (Branch County); John Ellingson, Britton (Lenawee County): Bob Sloane, Jonesville; and Jim Emens, Waldron.

As the list of directors shows, this project is bigger than Hillsdale County.

From a purely local standpoint, Hillsdale promoters hope that Hillsdale County will be a big winner from this project. Hillsdale Hay's slogan is "Don't wash away; go to hay!"

For the first time this year, the county fair will have a hay judging. Exhibitors show a bale plus a wafer, and Litchfield Analytical Service tests samples free.

But right now, Drake is seeking support from wherever he can find it. The key is making the hay market work, getting enough tonnage consigned so 400 or 500 tons can be auctioned weekly. Minimum consignment is one ton.

Once established, the market may do something no other force has been able to do:

Get farmers, in Hillsdale County and elsewhere, to grow alfalfa on the land that should be protected from the debilitating effects of row crops. Clearly, the land needs it. Maybe the lack of price for corn, plus the benefit of a sales point for hay, will turn the picture.

A REPUBLICAN WAR ON POVERTY

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. GINGRICH. Mr. Speaker, a few weeks ago the Washington Post printed an editorial by Mr. Frank Gregorsky entitled "A Plan for a Republican War on Poverty." I urge my colleagues to review this article.

[From the Washington Post, Sept. 2, 1985]

A PLAN FOR A REPUBLICAN WAR ON POVERTY

(By Frank Gregorsky)

Item: On June 3, a study by the Children's Defense Fund sketched a crisis for black children. The CDF called for more jobs for teens, more subsidized housing, and more birth-control clinics. A CDF staffer priced the desired agenda at $14 billion.

Item: Last week the Commerce Department confirmed the sharpest one-year drop in poverty in 16 years. It was tied to last year's 6.8 percent surge in real GNP growth, which was induced by tax reduction rather than by make-work or social welfare programs.

Is the glass half empty or half full? Those taking the half-full view could cite additional indicators: infant mortality rates below their 1980 levels; stepped-up collections of child support from delinquent fathers; one of every five new jobs since 1982 going to a black person.

Then again, some of what the CDF said should shake us up: Only 67% of America's black children have an employed parent, compared to 86% of white children . . . In 1982, over 55% of all births to black women were out of wedlock . . . Among black women under age 20 the proportion was 86% . . . Eight out of every 10 white children live in two-parent families; only 4 out of 10 black children do . . . Black children are . . . four times as likely to be murdered . . ."

High GNP growth will not be enough. To judge from new data on the ineffectiveness of much welfare spending, neither will ambitious federal programs. What we will have is an irresistible force—economic growth—eventually meeting an immovable object—hard-core poverty, and a culture of dependency that Franklin Roosevelt called "a narcotic, a subtle destroyer of the human spirit."

When it comes to poverty, conservatives and administration supporters say the glass is half full, while CDF and its liberal allies blame the president for a glass half empty. What should be discussed is whose agenda is more likely to fill the glass.

The glass could be filled by an agenda that promotes individual enterprise, public safety and traditional values. Indeed, 20 years after the launching of the Great Society, it is surprisingly easy to envision a Republican war on poverty. It might consist of:

Tax Relief: The president's tax-simplification package would drastically reduce the federal tax burden on the under-$15,000 group. For helping low-income working families, it was the only tax plan to earn a perfect rating from the House Select Committee on Children, Youth and Families. It helps to make work more rewarding than welfare.

Enterprise Zones: Owning a small business is one of the greatest work incentives and family-strengtheners in history. Enterprise zones have twice passed the Senate and even won Walter Mondale's blessing. But the House blocks them.

Job Training: The administration, with the Job Training Partnership Act, replaced leaf-raking with skill-making. Over half the trainees find permanent jobs in the private sector. This approach can be expanded: Bob Woodson of the National Center for Neighborhood Enterprise suggests making relief payments available in lump sums for training programs or as risk capital for starting a business.

Youth Opportunity Wage: Willing workers age 16–21 should not be subject to regular minimum-wage laws when looking for temporary summer jobs. The National Conference of Black Mayors agrees, recognizing that the chance to begin learning the skills and attitudes of job-holding means more in the early period than how much one gets paid.

Public Housing: The most responsible tenants should get to manage the properties,

with the chance to buy them over time. In experimental cases, drugs, vandalism and vacancies have dropped sharply. Look to England: Margaret Thatcher's Tories have a housing strategy that has created anti-property tax and pro-free market political support among lower-income former Laborite voters.

Stopping Crime: Serious crime was falling even before the effects of the anti-crime legislation pushed through Congress in 1984 were felt. But it will always be worst in poor neighborhoods. No group that speaks out "for the poor" is too credible if it lacks a plan to further cut crime rates. Yet how many Republicans think to market their tough stance on crime as real concern for poor America?

There would be universal support for a crackdown on violent juveniles. Their offenses at present do not count toward a "police record." That means hardened criminals don't technically start their hardening until age 18. But stiff sentences early prevent crimes later. This is called "targeted sentencing," and innocent poor children would be alive today if there were more of it.

When it comes to welfare-state approaches to poverty, the liberals are intellectually bankrupt. The government is just plain bankrupt. Fighting poverty these days means accommodating both fiscal reality and human nature. The new poverty numbers should be the foundation from which Republicans innovate—using approaches they already happen to be comfortable with.

WHY AMERICA CAN'T COMPETE

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. YOUNG of Alaska. Mr. Speaker, sometimes when Congress yells the loudest about something, it's our own fault. Right now, when everyone is clamoring for trade barriers because our goods can't compete abroad, small businesses are being shut down by bureaucracies established and charged with carrying out laws by Congress and the States. Instead of embracing entrepreneurship and the creation of new wealth through new ideas, the legacy of an overzealous legislating spree is killing opportunity in the land of opportunity. The following story, if it fails to do anything else, should make the blood boil in any red-blooded American. The article, entitled "A Lot Abalone" appeared in the August 23, 1985 National Review, and I ask that it be inserted in the RECORD in its entirety.

The article follows:

[From the National Review, Aug. 23, 1985]

A LOT ABALONE

(By Harrison L. Moore)

The middle of August, 1984. The roar from the beat-up orange International Harvester forklift drowns out other sounds of new construction on Monterey's Cannery Row. Sitting straight up at the controls of the forklift, his curly white hair contrasting with a deep tan, George Lockwood, 49, shouts orders as he loads abalone tanks aboard a two-section flatbed tractor-trailer. His sweating crew watches the boss intently, quickly responding to each command to align the grey fiber-glass tanks piled one on top of the other in the wood-framed shipping crates. At each movement, the old forklift belches another blue cloud into the air.

The truck Lockwood is loading will haul the 24 tanks in this shipment north to Oakland. There another giant forklift will transfer the entire platform onto a sea-going barge. Lockwood is leaving Monterey. A decade before he had set out to create a new industry. He would raise abalone, one of the world's most expensive shellfish, on a mass scale "like chickens and turkeys." It was a risky proposition, but he succeeded, at least with abalone. But the state of California and the 55 different government agencies that claimed the right to interfer in some critical way in Lockwood's business proved too much of a challenge. So today he is heading for the Kona coast of Hawaii, where he has been promised a more hospitable reception.

An abalone is a mollusk, similar to a clam but with only half a shell, that thrives in the waters off California. If takes eight years to grow to maturity, then measures about eight inches across the length of its oval shell and weighs about four pounds. Abalone meat rates as a delicacy, particularly appeciated by the Japanese, and only the fanciest restaurants in California serve it. It is customarily deep-fried in bread crumbs, like Wiener schnitzel, and in fact tastes a bit like veal. The abalone catch today, however, is only 10 per cent of what it was twenty years ago. The meat can cost more than $25 per pound, and restaurant patrons rarely pay less than $20 for a very thin slice.

In the early Seventies, the continuing decline in the abalone harvest inspired Lockwood to consult with a poultry geneticist about the possibility of breeding the things and raising them commercially. They speculated about a process of highly controlled nutritional, environmental, and genetic conditions. With $250,000 in seed money from a handful of investors, Monterey Abalone Farms was born.

Lockwood assumed that his time would be spent on research and business development. By 1975, he had perfected novel techniques for spawning and raising abalone in his lab, and he now stood ready to enter the production stage. After raising an additional $1 million, he remodeled an old sardine cannery on Monterey's Cannery Row. Then, "as soon as it became obvious that we were a business," the government got involved.

First, Lockwood had to get a business license from the city of Monterey, then a kelp harvester's license, a wholesale fish dealer and preserver's license, and an oyster grower's permit. But the California Coastal Commission (CCC) wouldn't approve the necessary land-use permits without the consent of the California Regional Water Quality Control Board (WQCB). The WQCB wouldn't consent.

Since its start in 1974, Monterey Abalone Farms had discharged sea water containing the abalone's natural eliminations into the ocean. Because of the multi-stage filtering and treatment process used by Lockwood, the discharged water was cleaner than when drawn from the bay. That didn't matter. The WQCB's position was that the abalone could not do on land what they did in the ocean without a waste-discharge permit. The WQCB dealt with Monterey Abalone Farms as if it were a sewage-treatment facility and required Lockwood to fill out the same thirty-page form as the city of Los Angeles.

Next came the Monterey County Health Department, which is charged with enforcing regulations on the taking of oysters, mussels, clams, and scallops—but not abalone. Those other shellfish take bacteria out of the water and store it in their guts. The abalone doesn't. Moreover, you don't eat the abalone gut. Health Department officials overlooked these points and decided to investigate Lockwood's operation. He spent the better part of a month proving to them that abalone was biologically different from the other shellfish and convincing them that the omission of abalone from their mandate was not merely an oversight. "When you do something new," says Lockwood, "bureaucracies don't know how to handle you."

Lockwood's system required a supply of undenatured alcohol, as well as some drugs and antibiotics for testing and treating the abalone. To get them he had to apply for permits and face inspections from the U.S. Treasury Department, the Food and Drug Administration, the Justice Department's Drug Enforcement Administration, and California's Board of Pharmacy.

In ths spirng of 1975, the National Marine Fisheries Service, a federal agency, advised Lockwood that the most effective way to sterilize water is to bubble ozone through it at a low-concentration level. At the concentration involved, ozone is harmless to people, though it can make them lightheaded, in which case they should leave the area. The feeling quickly disappears. Monterey Abalone Farms bought a small ozone generator, and though neither Lockwood nor anyone else had ever felt any effects from the ozone, he allowed only two employees into the room in which it was used.

Early one morning a few months later, inspectors from the California Division of Industrial Safety (CAL-OSHA) showed up at the abalone farm and said they had been tipped off to a severe ozone hazard inside. Once the CAL-OSHA men had gotten in, Lockwood realized they didn't have any ozone-monitoring equipment. The chief inspector revealed that they intended to conduct a wall-to-wall safety inspection of all aspects of his business. Lockwood replied that since that was neither the expressed purpose of their visit nor the reason he'd allowed them in, they would have to leave. They refused and quickly cited Lockwood for 13 violations. Lockwood appealed all thirteen.

One violation cited was a standard conveyor belt hauling crates from the first to the second floor. It didn't have enough protective covering. An employee might catch a finger in the pulleys or the belt drives. The conveyor belt wasn't worth the cost of rebuilding it, so Lockwood removed it. A month later, an employee developed a hernia from lugging a heavy carton upstairs.

Eventually, two inspectors showed up with ozone-monitoring equipment. They found lower levels of ozone than in the air of Los Angeles. Lockwood won ten of the 13 appeals.

Next Lockwood found that the same government that was regulating him planned to become his biggest competitor. The California Department of Fish and Game wanted to cultivate shellfish. In 1976, it hired away Monterey Abalone's chief biologist, who had been privy to Lockwood's proprietary secrets about growing abalone. Should the state—with its great resources—exploit those secrets, Monterey Abalone Farms would be finished.

Lockwood sought from Fish and Game a promise that its new employee would not be involved in raising abalone. Fish and Game refused. Lockwood filed suit. Fish and Game backed down.

But the government still wanted to compete with Monterey Abalone Farms. The California Sea Grant Program, administered by the National Oceanic and Atmospheric Administration, started out as a good idea—a congressionally funded bridge between academia and industry for the practical application of oceanographic knowledge. Toward the end of 1976, however, Lockwood got wind of Sea Grant-funded abalone research being done at the University of California at Santa Barbara. The purpose of Sea Grant, he'd been assured by the director, was not to duplicate our compete with private-sector work but to open new areas.

Nevertheless, when the university refused to reveal the nature of its Sea Grant research, Lockwood got suspicious. He filed a formal demand under the California Freedom of Information Act for the relevant papers on the Santa Barbara project. He had been right. The Sea Grant people had in fact targeted taxpayers' dollars to create competition with Monterey Abalone Farms. The people running Sea Grant maintained that abalone was too valuable a resource for its cultivation to be left in the hands of private individuals.

Lockwood protested to Louisiana Congressman John Breaux, who had sponsored the Sea Grant legislation. Early in 1978, more than a year after Lockwood had first heard about the Santa Barbara project, Breaux called a meeting in his Washington office with Lockwood and the national director of Sea Grant. After several hours of questioning, Breaux pointed his finger at the national Sea Grant boss and fulminated, "We're not giving you money to compete with private enterprise." Sea Grant backed down.

Despite spending 60 per cent of his time throughout the last half of the 1970s dealing with the regulators, by 1980 Lockwood actually had his business running. Among his best customers were French restaurants that preferred tender, young two-inch abalone. But as soon as he started shipping the two-inchers in quantity, the Fish and Game Department pounced. By selling undersized abalone Lockwood was violating wildlife protection laws. But they aren't wildlife, he protested, they're farm-grown stock.

Doesn't matter, said the Fish and Game folks, we can't tell cultivated from wild ones, and if we permitted you to sell two-inchers other people would slip wild ones by us. They claimed "administrative convenience"—judicious enforcement is more trouble than a blanket prohibition. So Lockwood headed to Sacramento. There the staff attorneys for the state legislature declared that they never intended for the Fish and Game Department to regulate farmed marine stock. Lockwood later negotiated this point into the 1982 Aguaculture Development Act.

As excessive regulation eroded economic growth in California, demands for relief shook Sacramento. In 1979, the legislature enacted a bill creating the Office of Administrative Law (OAL) charged with screening every regulation for compliance with seven criteria. The seven points stipulated in part that the regulation be consistent with the agency's authority, that it be necessary, that it be written in clear English that it not adversely affect small business. With prospects for an improved regulatory environment, Lockwood believed his problems were behind him. In 1980 he went searching for coastal property to grow kelp to feed his creatures.

He found some down the coast, south of Monterey. Since the California Coastal Commission had zoned this piece of land for agriculture, he assumed his project would qualify. The Coastal Commission, however, maintained that aquaculture was an industrial use and rejected his petition. A few months later, the state legislature passed the Aquaculture Development Act of 1982, which defined aquaculture as agriculture. It didn't help. Sure, said the CCC, Lockwood could go ahead with his abalone farming. But he couldn't put up any buildings to house his breeding tanks or production facilities because that would constitute a "commercial" use of the land zoned only for agriculture.

Lockwood could have fought and won. But he felt that, given the CCC's attitude, it would have been a Pyrrhic victory. "We could beat them here and there," he says now, "but they have the final word. When the system says 'No,' you go elsewhere."

In July 1984, Hawaiian Abalone Farms, George Lockwood president, broke ground at its new Kona coast facility, featuring newly perfected technology. Governor George Ariyoshi was there to welcome Hawaii's newest industry.

THE FINANCIAL STATEMENT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. MAZZOLI. Mr. Speaker, it has been my custom to submit a statement of financial disclosure every year that I have served in the House of Representatives. While the law now dictates that Members of Congress submit financial statements in May of each year, I continue to file this more detailed family financial report. In this way, my constituents are kept fully and completely informed concerning my financial status.

Romano L. and Helen D. Mazzoli

STATEMENT OF FINANCIAL WORTH AS OF DECEMBER 31, 1984

Cash on deposit:	
Lincoln Federal Savings & Loan, account 10373390	$3,923.53
Northern Virginia Savings & Loan, account 5-99-76	1,360.44
Northern Virginia Savings & Loan, account 05-18-00241	811.67
Northern Virginia Savings & Loan, M.M. account 05-96-1906	2,578.24
Government Services S&L, Money Fund account 80-450336-2	2,642.70
Sergeant At Arms, U.S. House of Representatives 5348	2,521.73
Total	13,838.31
Individual retirement accounts:	
Liberty National Bank & Trust Co. IRA account 01-527329	7,308.80
Lincoln Federal Savings & Loan, IRA account 1-01-205323	2,379,55
Lincoln Federal Savings & Loan, IRA account 1-01-205694	2,156.84
Total	11,845.19
Bonds and Treasury bills:	
U.S. Government Bonds, series E	1,671.96
U.S. Treasury bill, account GS7-2-400-40-3938-01	10,000.00
U.S. Treasury bill, account GT5-1-400-40-3938-01	10,000.00
Total	21,671.96
Real property:	
939 Ardmore Dr., Louisville, KY:	
Assessed Value	42,000.00
Less: Mortgage, The Cumberland S&L Association	7,319.75
Total	34,680.25
1030 Anderson St., Alexandria, VA:	
Assessed Value	109,200.00
Less: Mortgage, Cowger & Miller Co.	44,750.27
Total	64,449.73
Cash surrender value of life insurance policies:	
American United Life Insurance Co., policy 1011729	4,432.70
American United Life Insurance Co., policy 1116312	520.14
Total	4,952.84
Federal employees retirement system: Accumulated contributions	$59,775.70
Automobiles (assessed value):	
1965 Rambler	200.00
1973 Chevrolet	1,199.00
Total	1,399.00
Household goods and miscellaneous personal property	8,000.00
Total assets	220,612.98
Miscellaneous liabilities	1,000.00
Net assets	219,612.98

INCOME AND EXPENSES FOR CALENDAR YEAR 1984

Income:	
U.S. Teasury bills (EP5-2-400-40-3938-01; EY6-2-400-40-3938-01; FRO-2-400-40-3938-01; GA6-2-400-40-3938-01)	1,921.10
Liberty National Bank & Trust Co. IRA account 01-527329	665.81
Lincoln Federal Savings & Loan, account 37339-5	213.36
Lincoln Federal Savings & Loan, IRA account 1-01-205323	223.43
Lincoln Federal Savings & Loan, IRA account 1-01-205694	156.84
American United Life Insurance Co., policy 1116312	22.73
American United Life Insurance Co., policy 1011729	17.59
Northern Virginia Savings & Loan, account 5-99-76	66.24
Northern Virginia Savings & Loan, account 5-18-241	77.30

Northern Virginia Savings & Loan, account 05-96-1906	78.24
Government Services Savings & Loan, account 80-450336-2.	396.34
Government Services Savings & Loan, account 01-112091-0.	7.93
Total interest and dividends	3,846.91
Honorariums:	
Agricultural Producers, Inc	1,000.00
National Grocer's Association	250.00
Brookings Institution	250.00
National Association of Broadcasters	1,500.00
Northern Ky. Chamber of Commerce	300.00
American Committee on Intl. Personnel	1,000.00
Pfizer Chemical Co	1,000.00
Tobacco Institute	1,000.00
California Farm Bureau Federation	1,500.00
Agricultural Producers, Inc	1,000.00
Motion Picture Association of America	2,000.00
Total honorariums	10,800.00
Salary:	
U.S. House of Representatives (R.L. Mazzoli)	73,366.68
V.V.K.R., Inc. Architects (Helen Mazzoli)	25,361.10
Total salaries	98,727.78
Gross income	113,374.69

1985 INCOME TAX RECAPITULATION (FEDERAL, STATE, AND LOCAL)

Federal:	
Gross income	112,012.00
Adjustments to income	9,348.00
Adjusted gross income	102,664.00
Deductions and exemptions	15,816.00
Taxable income	86,848.00
Tax withheld	26,915.00
Tax due	26,469.00
Refund	446.00
Kentucky:	
Tax withheld and tax credit	3,682.00
Tax due	3,317.00
Refund	265.00
Virginia:	
Tax withheld	1,171.00
Tax due	671.00
Refund	500.00
Louisville & Jefferson County:	
Tax due	396.00

REMARKS BY W. CLARK DURANT III

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. PURSELL. Mr. Speaker, I would like to submit for the RECORD a speech delivered by Legal Services Corporation Board Chairman, W. Clark Durant III, when the LSC Board was sworn in on June 24. In reading Mr. Durant's speech, I was inspired and encouraged that LSC will be headed in a positive direction that will truly help the needy in this Nation.

REMARKS BY W. CLARK DURANT III

What is it that we do here today? We celebrate a moment, a moment and an opportunity pregnant with possibilities. It is a significant moment, but not for the generally reported reason. It is not because this is the first confirmed Board of Directors for the Legal Services Corporation in four years. There have been confirmed Boards in the past and there will be confirmed Boards in the future (although given the lengthy process, perhaps not again in my lifetime). So what then is the significance of this moment? It lies, as do so many things these days, in the vision of Ronald Reagan.

In his usual fashion President Reagan makes possible new hopes and new directions for all of us, yes even all of us concerned about legal services, if we will but stand back, pause a moment, and dream. For our dream is grounded in a profound sense of justice and love for the least of our brethren. And like the dream of Martin Luther King it is rooted in a sense of what is good about America. And what is good is that our creativity combined with a special kind of courage can bring about a more abundant, efficient, compassionate and effective delivery of dispute resolution services to individual poor people than now exists. If we are to meet the challenge of maximizing access to justice for the poor, we must tap into the abundant resources of the human spirit and but discover the rich viens of generoisity, innovation, creativity, and giving, so characteristic of the traditional American entrepreneur.

How can we dare to dream such things when the Legal Services Corporation always hovers under a seemingly dark cloud? We dream it because Ronald Reagan has encouraged us all, by the example of his courage, to ask basic questions about the purpose and effects of government programs. He asks such questions, as do we, not in a mean spirited way, but in a generous way, in a way that allows us to maximize the potential within each of us. They are radical questions but they are fundaments. We must ask them if we are serious about equal access to justice for poor people.

The works of Charles Murray, George Gilder, and others should give us pause about the effectiveness and compassion of many of the social programs of the sixties, including legal services. Do these programs really liberate and empower people to lead lives of upward mobility, dignity and opportunity? Are we really any closer to equal access to justice? Have we unleashed or shackled the entrepreneurial energies of our free, diverse, beneficient, selfless and prosperous people to help us insure that justice comes to all our brothers and sisters.

Murray and Gilder are not alone. Senator Edward Kennedy at Hofstra University this past March noted: "The mere existence of a program is no excuse for its perpetuation . . . whether it is a welfare plan or a weapons system, the unexamined program is not worth keeping . . . and good intentions cannot redeem bad results. Too many of our public service jobs and public assistance programs have done too little to break the cycle of poverty and dependence . . . and too often they have proved to be counterproductive."

What is important in any examination of a program is the spirit of the inquiry. For this Board and me it is a benevolent spirit; it is a spirit embodied with an open heart and an open soul. Our public policy will change only because generous people care, care enough to ask honest questions, care enough to be open to a broad vision of the delivery of legal services.

Edgar and Jean Cahn, the former Deans of the Antioch School of Law, noted once that poverty lawyers can unwittingly become part of the vast bureaucracy charged with the care and tending of the poor and thereby lack accountability to the poor. In some instances legal service programs have been gravely unresponsive to major needs, concerns, and grievances of the client population—as unresponsive as the very institutions that have been a source of injustice to the poor. The Cahn's go on to note that legal advocacy can be emancipating; it can compel accountability in a manner which enhances the capacity of individuals to cope on their own, to secure justice, and to avoid injury. But we will not bring justice to the poor by a wholesale importation of attorneys to swell the ranks of those care-taking officials who presently help to perpetuate dependency. The key guarantee that legal representation will not be used as a form of manipulation to generate dependency is to be found in the time-honored nature of the lawyer-client relationship—a relationship which makes the lawyer the employee of the client, accountable to the client and retained to use his professional skills as an advocate on behalf of his client's best interest. But the client retains the ultimate power to determine what that best interest is.

Inexplicably, lawyers for the poor seem to feel freer to discard this fundamental relationship—perhaps because they are not paid by the client, perhaps because they perceive the client as powerless to do anything about it. Thus in the case of the poor, the lawyer may feel that he can, with impunity, impose his own will and his own convictions as to what is "best for his client." And in some instances—where law reform units, research centers, or academic institutions have become involved—there is no identifiable client, present or prospective, to whom one need feel accountable. That accountability is imperative. That accountability can bring growth and opportunity to the delivery of legal services. That accountability affirms the intrinsic value of every client as a child of the Lord.

I strongly support the provision of legal assistance in civil matters to those individuals unable to afford them. Likewise, I strongly support reauthorization of the Legal Services Corporation, something that has not occurred since 1979. But it saddens me that in recent mark-up proceedings on our Act, the House Judiciary Committee so completely ignored the Republican minority in crafting a bill. For the first time in the history of the Legal Services Corporation there has been a total absence of bi-partisan support in the House Judiciary Committee. The reason is clear. All earlier bills were designed to establish a consensus and to insure the political and operating independence of the Corporation. This bill does not do this. I hope action on the floor of the House, in the Senate, and in the conference committee will bring a different result. I hope this Board will see a bill that we can ask the President to sign. And I thank with great affection all those in the House and Senate who are working to bring this to pass. We are all available to help.

Two final notes. Last March the President spoke at St. John's University. He called this the age of the entrepreneur. Indeed, we should at every turn encourage the ability of entrepreneurs to be a part of the delivery of legal services. I have seen imagination and dedication in existing LSC programs. I reach out to ask people in the field how can we stimulate private sector initiatives to expand our service to the poor. How can we

open the doors of our own profession to allow a broader participation in the delivery of justice? How can we allow the principles of the opportunity society to expand our resources for the poor for the resolution of disputes? Last February I was privileged for the first time in my life to sit in the House Chamber to hear our President give his State of Union Address. He called upon the nation, upon us, to untake a Second American Revolution of hope and opportunity, to be "an America of compassion that opens its heart to those who cry out for help. We accept the challenge to participate in a revolution creating and maintaining an opportunity society for all, a society that does not ignore the plight of the less fortunate.

I think Gavin Miller, the former President of the Los Angeles County Bar Association is quite right when he says that we must end the "Holy War" over legal services. There is much good that needs to be done and can be done when there is a shared vision of the good that can be attained. As we search always for ways to do what we do better, let us not be afraid of the new and untried. For only with such can there be growth and opportunity. Let us be humble in the debate to define the good and, as the President suggested in the closing line of his address, let us go forward with unity, justice and love.

AIR SAFETY AND THE FEDERAL AVIATION ADMINISTRATION

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. GINGRICH. Mr. Speaker, while we need to reform much of the Federal Aviation Administration [FAA], the central points made by Adm. Donald Engen, Administrator of the FAA, in the article below from the September 16 Washington Post, are correct. It is an injustice to scare people off of safe airplanes and onto the less safe highway. This article is well worth my colleagues' attention.

THE SKIES ARE NOT UNSAFE

(By Donald D. Engen)

In his recent column ["The Unsafe Skies," op-ed, Sept. 3] Carl Rowan expressed understandable concern about aviation safety today. But many of his specific statements were so inaccurate and unfounded that some clarification is in order.

There have been a number of unfortunate and unrelated international aviation disasters this year. Because no common set of causes has been established, corrective action taken in one case will probably have little bearing on other cases.

Nevertheless, aviation safety demands continuing attention to even the smallest details. It seems that some vital details have difficulty fitting into Carl Rowan's vision of the world.

Rowan claims that because of airline deregulation and reduced fares, airlines may have cut safety expenses to make financial ends meet.

The possibility of this occurring is something the Federal Aviation Administration has followed very closely since deregulation. And for that reason, we inspect airlines having financial or managerial difficulties with particular vigor, and have an ongoing program to help identify these airlines at an early stage.

During the past year, for example, FAA safety-related inspections have resulted in the suspension or revocation of the operating certificates of 17 airlines. I will not hesitate to ground an airline if its safety performance does not meet our standards.

By every measure, aviation safety has improved in the years since deregulation. Comparing the five-year periods before and after deregulation, the total flight hours increased by 15 percent after deregulation, to over 55 million, while the total accident rate declined by 18 percent, and the fatality rate declined by 34 percent.

Rowan alleges that "'a lot of controllers are overworked, some are incompetent and some are drinking and using drugs on the job. . . .' He provides no evidence to support these charges.

The FAA is vigilant about these serious problems. We are implementing the best available rehabilitation programs where appropriate, and we have strong disciplinary programs wherever we confront such problems. Our penalties affecting safety-related positions are more stringent than those affecting other groups of employees.

We will work with our people, but we will not knowingly allow any impaired performance to endanger the flying public.

Rowan notes that some air traffic controllers are "management people who went into airport towers during the air traffic controllers strike of 1981." The implication is that these managers aren't qualified to direct air traffic. On the contrary, they were seasoned air traffic controllers who rose through the ranks; in fact, they are among the most qualified controllers in the world.

Rowan concluded that "we just demand that our government act, setting a safety standard for the world." The plain fact is that the United States does set the aviation safety standard for the world. Air transportation has become so safe, thanks in great part to the leadership of our nation, that we are shocked any time an aviation accident occurs.

SERVICE TO OTHERS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues an outstanding act of public service performed by one of my constituents, Linda Wiezeorek. Ms. Wiezorek went above and beyond the call of duty in assisting a couple of stranded motorists. Her actions reflect her excellent character and the good Samaritan attitude that is so much a part of America. We should commend her.

[From the Lompac (CA) Record, Sept. 11, 1985]

SERVICE TO OTHERS

Twice this month, Valley residents learned of good deeds performed by its citizens. Both examples speak highly of us all.

In the first instance, two San Francisco motorists cited the action of an unnamed Lompoc teacher who stopped to aid a family stricken with misfortune. The family, stranded with a failing car, was penniless, hungry and desperate enough to post a sign at a roadside stop asking for aid. They waited until 10 p.m. to no avail.

The San Francisco couple who related the story noted with amazement the fact that a Lompoc woman stopped at that hour to offer her assistance. The couple watched as the local woman rescued the family, paid for needed gasoline, wrote them a check for traveling money and left them the fried chicken she had been taking home to her son.

It was an act so astonishing the couple wrote the Record in thanks. They never named the good samaritan but her actions spoke so clearly that several people called the newspaper to supply the name. Los Berros teacher Linda Wiezorek was characteristically humble when asked if it was her.

"Personally I didn't do anything that anyone else wouldn't have done," she said. "Sure, it might have been a sham," she continued, "but I felt it was authentic." An observation borne out by the fact the family kept the check instead of immediately cashing it, said Wiezorek.

"If this is the kind of citizens you have in your town," wrote Mr. and Mrs. Turner of San Francisco, "the next time we drive south we will go out of our way to see and stay overnight in your city."

IAFPE TO HOLD CONGRESSIONAL RECEPTION ON GANDHI DAY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. GARCIA. Mr. Speaker, I would like to include in the RECORD a press release from my friends and the Indian American Forum for Political Education. The Forum's president, Dr. Joy Cherian, and a member of its board of directors, Dr. Oliver Wilson, have worked closely with my office on a number of activities concerning the Indian American community.

This year in particular, the United States has placed an increased emphasis on its relationship with India. There have been a variety of events from cultural—the festival of India—to political—Prime Minister Rajiv Gandhi's visit to the United States—that have helped us gain a better understanding of India's people and culture.

The IAFPE has been active in promoting a greater understanding between India and the United States for a number of years. I hope my colleagues have the opportunity to get to know more about the IAFPE and the excellent work it does on behalf of India, the United States, and the Indian American community.

IAFPE TO HOLD A CONGRESSIONAL RECEPTION ON GANDHI DAY

The Indian American Forum for Political Education (IAFPE) will hold a Congressional luncheon reception on Capitol Hill in Washington, DC on October 2, Mahatma Gandhi's birthday.

According to an IAFPE press release, this program, "A Salute to the U.S. Congress," is designed to show the appreciation of Indian-Americans for the efforts of the U.S. Congress which helped to preserve family reunification rights, higher educational

grants, small business programs, and equal employment opportunities. IAFPE is also impressed with the recent Congressional efforts to improve India-U.S. relations.

The reason for selecting October 2 to hold this function is to emphasize the values of Gandhian principles in the modern world and to promote an increasing awareness among U.S. legislators about the contributions of Indian-Americans to the American society. For details of this program, contact Dr. Shailendra Kumar, 3726 Rhode Island Ave., Brentwood, MD 20722 (Telephone: 301/864-6556) (day) or 301/299-3503 (evening))

A FEW WORDS ABOUT THE INDIAN-AMERICAN FORUM FOR POLITICAL EDUCATION

Introduction

As Indian-American develop long-term interests in the U.S. political system, it becomes necessary for them to educate themselves in order to make intelligent decisions. The Indian-American Forum for Political Education (IAFPE), which was established on October 11, 1982, will serve as an instrument for such an education process. This non-partisan educational organization has chapters in several states around the country and is the only national association for political education of American citizens and residents of Asian-Indian origin.

Purposes and Functions

The major purposes of the Forum are to function as a catalyst in promoting political awareness and developing civic consciousness and to provide opportunities for learning various aspects of issues affecting the lives of individuals of Indian origin residing in the United States of America. This learning process is to take place through discussion sessions on contemporary civic, economic, and political developments.

Although no political activities are planned, the Forum will attempt to influence and encourage participants toward appropriate political initiatives when the necessity arises. Therefore, the educational activities will be result-oriented. The meetings of the Forum may attract political leaders who are interested in educating Forum participants about various local, national, and international issues and in hearing the concerns and opinions of the participants. Eventually these two-way informal exchanges of ideas among the active participants of the Forum and political leaders will develop an atmosphere of mutual respect and understanding. The good will and political awareness emerging from these contacts can be utilized for the benefit of all participants whenever they face problems either as individuals or as members of the community. Political leaders, conversely can receive support and advice from Forum participants whenever the need community support in activities such as election and passage of legislative proposals.

TEACHING THE STORY OF THE HOLOCAUST

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. OBEY. Mr. Speaker, I am inserting in the RECORD an excellent article by Anthony Podesta which appeared in the Wisconsin Jewish Chronicle on September 13.

This article puts in correct perspective the obligation we have as a society to make certain our children are constructively exposed in the classroom to important lessons of history, one of which is the history of the Holocaust.

I commend this article to my colleagues.

NO, MRS. SCHLAFLY, HOLOCAUST EDUCATION ISN'T CHILD ABUSE

(By Anthony T. Podesta)

In commemoration of the 40th anniversary of the end of World War II, President Reagan presented Nazi death camp survivor Elie Wiesel with the Congressional Gold Medal of Achievement.

In his remarks at the White House ceremony, Reagan praised Wiesel's life-long dedication to preserving the memory of the six million Jews who perished in that war—and underscored this nation's pledge to teach "every new generation of Americans the story of the Holocaust."

But there is a growing number of people in this country who don't want Reagan to carry out that pledge. The controversy going on in our schools right now is not how to teach the story of the Holocaust, but whether to teach it at all.

The object of this debate is a course for eighth and ninth graders called "Facing History and Ourselves: The Holocaust and Human Behavior." Developed with federal funds, and taught in both private and public schools around the country, it explores the history of antisemitism and the events and conditions leading up to the Third Reich's reign of terror. The course also covers another—but less well-known—atrocity, the massacre of almost a million Armenians 30 years earlier in Turkey.

EXTREMIST ATTACKS

Recently, "Facing History" has come under increasing attack by extremists. Some, like the hate group Liberty Lobby, argue that the Holocaust is a "myth," and that those who speak about it are "liars." The Liberty Lobbyists are mounting a campaign that urges the governor of New Jersey to withdraw his endorsement of the course, calling it "Anti-Defamation League propaganda" and "filth."

Much more troubling however, is a broad-based effort by national organizations on the right, such as Phyllis Schlafly's Eagle Forum, and the Pro-Family Forum. These groups also want the course cancelled, but for very different reasons.

In her new book "Child Abuse in the Classroom," Schlafly singles out "Facing History" as too controversial and deceitfully designed to change students' attitudes on political and social issues. In a recent issue of Pro-Family Forum's newsletter, a former school board member from Camden, Maine, claims that teaching such a course is a form of "child abuse."

These critics object to students being asked to write personal journals about what they have thought about or learned in the course. Those opposed to the course say it's a violation of the Hatch Amendment, a federal law which prohibits "psychological testing" without parental permission.

The amendment, whose regulations were issued by the Department of Education last year, is being misused by groups on the right to censor classroom discussions of any subject they don't like. Sex education, drug and alcohol prevention courses, the problem of teenage suicide, even evolutionary biology, are all targets of their censorship campaign.

ATTACKING THINKING

Apparently, Schlafly and other self/supported censors believe that independent thinking—and grappling with moral questions—is a form of "psychological testing." They're using the diary of a student who took the course to explain why "Facing History" should not be taught.

"Life used to be easy," writes the student, "there always seemed to be an answer to everything . . . In these past four months, however, I have been forced to think. It hasn't been easy."

No one has ever said that learning about the tragedies of history is "easy." But teaching students about these troubling events is not "child abuse" in the classroom. It's an integral part of education—and the purpose of education is to teach the students how to make up their own minds, and form their own sense of judgment and morality.

Sheltering students from controversial issues, or troubling historical events, leaves them less prepared to face the difficult questions of citizenship in a democratic society. Not teaching them about the Armenian massacre, or the Holocaust, or the more recent genocide in Cambodia, deprives them of knowledge they need to prevent such atrocities in the future.

We must not allow Schlafly and her fellow extremists to erase the memory of the Holocaust. It is too important a lesson for all of us.

SUPERFUND BILL MUST BE STRENGTHENED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. FLORIO. Mr. Speaker, as my colleagues know, several House committees are now in the process of considering legislation to reauthorize the Superfund Program. The Energy and Commerce Committee recently reported a bill (H.R. 2817) which many have criticized because it includes provisions which are substantially weaker than the reauthorization legislation (H.R. 5640) adopted overwhelmingly by the House last year, 323 to 33.

I voted against the Commerce Committee's bill because I believe it will not result in satisfactory cleanup of toxic waste sites. The bill fails to incorporate several crucial and fundamental reforms of the Superfund Program. Such provisions as the establishment of a strict, mandatory schedule for cleanup and strong uniform national cleanup standards are vital if we are to rescue this troubled program and make it an effective cleanup effort. These provisions were included in last year's House Superfund bill but were fatally weakened in the bill approved by the Commerce Committee.

I bring to my colleagues' attention a recent editorial published in the Los Angeles Times which urges the House to remedy the significant weaknesses in the legislation:

[From the Los Angeles Times, Sept. 4, 1985]

CLEANING UP THE CLEANUP

Congress has less than a month to clean up the complex issues that stand in the way

of a proper cleanup of toxic dumps whose chemicals threaten the nation's health and water supplies.

The federal Superfund law, which will expire Sept. 30, sorely needs tougher standards and deadlines and far more money for a job far bigger than it looked five years ago when the fund was created.

But legislation now before Congress is not the answer, partly because it would give too much discretion to the Environmental Protection Agency to decide when cleanups should begin, how soon they would have to be completed, and how clean is clean.

And it may well be that the country would be better off in the long run if Congress gave itself more time to write a strong bill instead of rushing to get a weak bill into law.

The House Energy and Commerce Committee has approved a bill co-sponsored by its chairman, Rep. John D. Dingell (D-Mich.), and Rep. James T. Broyhill (R-N.C.). The bill is not as bad as environmentalists portray it, but neither is it as tough as one sponsored by Rep. James J. Florio (D-N.J.). Florio's bill is far more precise about what the EPA would have to do, and when. The House Public Works Committee, which shares jurisdiction on the issue, could help get the better legislation back on the track by approving Florio's bill.

Even if the questions of deadlines and standards are resolved, two would remain: How much will the cleanup cost, and who will pay?

At present the Superfund is financed partly out of general revenues, but largely from a tax on chemicals. The chemical industry raises the legitimate point that it has not created all the toxic waste by itself, and that industrial users of chemicals should share the costs by paying a tax of their own.

The Senate Finance Committee version of the Superfund bill relies heavily on an excise tax on manufacturing—an approach opposed by the White House. The House is considering a variety of approaches—the manufacturing tax, an increased contribution from the general fund and a waste-end tax on toxic products brought to a dump. The waste-end tax has the advantage of encouraging a search for better, safer ways than landfills to dispose of toxic wastes. In one sense the tax would conflict with itself. It might prevent future problems, but it would mean less money for correcting mistakes of the past. The conflict could be cured with a mix of revenue sources. The federal government could also do a far better job of recovering cleanup costs from corporations that have contributed to the dumping.

No one dreamed when the present $1.6-billion Superfund was created in 1980 that it would have to cover 22,000 dumps. The Senate measure calls for spending $7.5 billion over the next five years; the House figure is $10.1 billion. The Environmental Protection Agency says that it could not spend more than $5 billion even if Congress appropriated more. Florio says that it could if Congress ordered it to.

The most serious problem for the Superfund now is time. In a matter of days the measure must go through three House committees, the full House and the full Senate. That is hardly enough time to clear up such side questions as how many sites have been cleaned up, let alone the more pressing question of tighter deadlines under which the EPA would be required to clean up the thousands of sites that still have not been touched.

Haste, in this case, can leave a lot of waste. It would be far more prudent for Congress to extend the existing Superfund for one year and take the time that it should have taken this year to concentrate on passing the toughest possible bill. The fact that next year will be a congressional election year should help raise its environmental consciousness.

FIRST PRESBYTERIAN CHURCH CELEBRATES 150TH ANNIVERSARY

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. PURSELL. Mr. Speaker, 1985 marks the 150th anniversary of the First Presbyterian Church of Plymouth, MI, my home town. During those years the church has been regarded as one of the mainstays of the community providing both moral guidance and social consciousness. In addition, it's history is rich with several anecdotes about the church.

In 1836 the church was destroyed by fire. But curiously, the church Bible and pulpit were untouched by the flames. Church members state that the items were saved when they fell to the basement when the sanctuary floor collapsed. While some called this a miracle, Mr. Ripley at least thought it deserved recognition in Ripley's "Believe it or Not."

In the early years the church wielded a strong moral influence over its members and the community. Records show that in the 1800's members were chastized for drunkenness and dancing. In 1922, the church opposed a local theater showing Sunday movies. The leaders complained that the theater was enticing children from Sunday vespers. During the late 1920's and early 1930's the church provided more social and educational activities including box socials and "penny suppers" for those hurt by the Depression.

I congratulate the church and its members on its 150th anniversary and its rich history. The church has an important place in Plymouth's history and should not be forgotten.

TERRORIST PLANS IN EL SALVADOR REVEALED

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. LAGOMARSINO. Mr. Speaker, further terrorist plans in El Salvador have been revealed following the capture of a leading Communist Party figure. The captured leftist, Americo Mauro Araujo Ramirez, is reported to be a member of one of the groups making up the FMLN, the Salvadoran guerrilla front. According to Araujo, the guerrilla organizations plan to increase military actions and acts of sabotage to damage the Salvadoran economy. He also reportedly told authorities of plans to use Communists infiltrated in such groups as the Committee of Mothers of Political Prisoners and Missing and in the nongovernmental Salvadoran Human Rights Commission [CDHES].

I urge my colleagues to read the following report taken from the September 5 issue of the Salvadoran newspaper La Prensa Grafica.

PCES LEADER CAPTURED, REVEALS "TERRORIST PLANS"

[San Salvador La Prensa Grafica in Spanish, Sept. 5, 1985]

A leader of the Communist Party of El Salvador [PCES] and second in command after Jose Shafick Handal has been captured by the national Police and has revealed terrorist plans.

A police spokesman yesterday identified him as Americo Mauro Araujo Ramirez, who was known in the Armed Forces of Liberation [PCES-FAL] as Commander Hugo. He also used the false names of Americo Duran Flamenco, Mario Americo Duran Ordonez, and Francisco Lopez Santos. He is a sociologist and he confessed that he is an active member of the PCES. He is second in command after Jorge Shafick Handal in the Secretariat of the Central Committee.

He added that he is a member of the political commission and coordinator of political-military chiefs of that clandestine organization which is part of the FMLN. He said that he is an adviser in the implementation of strategic plans, in charge of information and documentation of the intelligence commission, and PCES-FAL representative in the FMLN.

He confessed that the subversive organizations are currently planning: (1) an increase of military actions and sabotage to further harm the national economy; (2) the reactivation and consolidation of professional and trade union cadres by using the Coordinating Board of Solidarity With Workers (CST), the Committee for 1 May, and the National Association of Salvadoran Teachers 21 June as means of propaganda, and by using communists infiltrated in the Independent Movement of Salvadoran Professionals, in solidarity and support groups such as the Committee of Mothers of Political Prisoners and Missing, and in the nongovernmental Salvadoran Human rights Commission (CDHES), and by infiltrating some agricultural cooperatives, the national university, and other front organizations.

He said that in December 1984, the FMLN appointed him political-military official of the metropolitan area. He said that in addition to the previous tasks, one of his main tasks was to obtain logistics aid for the various war fronts and to recruit new members to join the clandestine activity.

He added that he joined the PCES in 1960 as a member of the so-called Vanguard of the Salvadoran Youth, which in 1972-1973 became the Union of Patriotic Youths and later the Salvadorn Communist Youth under PCES leadership.

In 1962 he received a scholarship to attend the famous Patrice Lumumba University in Moscow, where he received extensive Marxist political-ideological training. He returned to El Salvador in 1967. He has gone to Cuba twice and has also gone to Nicaragua carrying out missions of the PCES-FAL and the FMLN-FDR to coordinate political-diplomatic work and economic aid from the various international solidarity committees.

Regarding the Zona Rosa case, Araujo Ramirez said that in March 1985, he, as representative of the PCES-FAL, attended a meeting of the Unified Revolutionary Directorate (DRU) that was also attended by Mario Gonzalez from the Revolutionary Party of Central American Workers [PRTC], chief of the "Mardoqueo Cruz," Urban Commandos, and "Tomas" of the National Resistance—Armed Forces of National Resistance in a restaurant of the Zona Rosa of San Benito. When they noticed that U.S. citizens were eating there, they decided to carry out an attack against them. They informally "drew straws" among themselves as to which of the terrorist organizations would carry out the action, and the action fell on the PRTC.

The prisoner gave extensive information of future terrorist plans that involve the PCES-FMLN. He said that in the new reorganization of the direction of the FMLN-FDR, the PCES-FAL has hegemony due to ideological disagreements within the other subversive organizations.

It has been reported that Commander Hugo and the respective initial investigations have been turned over to a military investigative court.

SLOUCHING TOWARD DEMOCRACY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. GARCIA. Mr. Speaker, Peter Bell of the Carnegie Endowment for International Peace, the former president of the Inter-American Foundation, has written a poignant article on United States-Chilean relations. I am submitting it for the RECORD for my colleagues perusal.

[From the Los Angeles Times, Sept. 11, 1985]

CHILE'S DEMOCRATIC STIRRINGS NEED A BOOST

(By Peter D. Bell)

Twelve years ago today the Chilean military overthrew the elected government of Socialist President Salvador Allende in a bloody coup. Gen. Augusto Pinochet, who led the coup, is still in power, and his intransigence has become the central fact of political life in Chile. The Chilean people are now confronting that reality. The time is ripe for the United States to confront it as well.

Many politically moderate Chileans had hoped that the military regime would be an interim, caretaker government. They soon realized that Pinochet's commitment to a "protected" democracy—one from which the left was eliminated—was in fact a formula for perpetuating his dictatorship. His belief that Christian Democrats are stalking horses for communists and socialists has led to the harassment, detention, torture and exile of thousands of Chileans, not only of the left but also of the center.

Through most of the past 12 years (the Carter Administration being the exception) the United States has supported Pinochet. The argument for doing so usually favored the general's presumed ability to keep order over the uncertainty about who would succeed him—sticking with the devil we know. A recent Reagan Administration review of relations with Pinochet, however, has resulted in a subtle adjustment, a shift from easy to uneasy friendship. Some policymakers are looking at Pinochet and seeing Anastasio Somoza. They fear that Pinochet's rabid anti-communism may actually advance communism by driving moderates into the left or out of the political equation altogether.

Pinochet, 69, and apparently in good health, seems determined to stay in office for life. Pinochet's constitution, approved five years ago in a questionable plebiscite, calls for a presidential referendum in 1989, but also provides for only one nominee—one chosen by the military junta. If Pinochet has his way, he will be "elected" president until 1997, which would put his rule now at the halfway point.

Within the last month, however, there have been signs that the military is not as untouchable as analysts have portrayed it, and even more encouraging signs that the political opposition is closing ranks and becoming more pragmatic.

In early August there was a purge of the National Police, supposedly for death-squad activities. It revived Air Force commander Fernando Matthei's warning of a year ago: If a transition to democracy does not begin soon, "we will end up destroying the armed forces more efficiently than any Marxist infiltration can."

Then, two weeks ago, the democratic opposition showed that it is ready to put the national good above partisan differences. With the blessing of Cardinal Juan Francisco Fresno, the leader of 11 parties, from conservative to left-of-center, agreed to work for direct presidential and congressional elections in 1989. Tens of thousands of ordinary Chileans are now adding their signatures to this "National Accord," which the State Department has hailed as "positive, pragmatic and forward-looking."

One hopes that State's response reflects a serious rethinking of Administration policy toward Chile. For five years the Reagan Administration has pursued a course of "quite diplomacy." That meant showing friendliness toward Pinochet (for example, through joint naval maneuvers and renewed U.S. support for multilateral bank loans) and keeping silent in public about human-rights abuses, while trying discreetly to persuade him to reduce the repression. Pinochet, of course, got the better part of the bargain. He treated Reagan's policy as a display of U.S. support and turned a deaf ear to any U.S. criticism made in private.

The Administration is still unwiling to risk an open break with Pinochet, but it is no longer comfortable with being viewed as giving him unqualified support. Pinochet, who is not a subtle man, remains convinced that, when push comes to shove, the White House will stand by him. In mid-June he again showed his disrespect for Reagan's softness on repression: He lifted a seven-month state of siege in return for U.S. support of a crucial loan package, then immediately decreed a state of emergency that reinstated most of his repressive powers.

If the United States is serious about promoting democracy in Chile, it must make a decisive, effective change in its policy, which so far has been ambivalent and unproductive. It can no longer presume that Pinochet will agree to a political opening of his own accord. Nor should the United States try to force him out. It is the Chileans' responsibility to forge a democratic transition; the "National Accord" is an attempt to do this. What the United States can do is use its leverage to prevent further repression.

The Administration's good words for the accord should mark the beginning of a policy that strongly, consistently and publicly demonstrates the U.S. commitment to democracy in Chile. We should make it clear to Pinochet that we support this new opportunity for free and public political expression, and that we will not be silent if he attempts to suppress it. Such a policy would increasingly distance the United States from Pinochet, and put us on the side of the overwhelming majority of Chileans, who see free and fair elections as the way out of their national tragedy.

NATIONAL UNICEF DAY

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. BATES. Mr. Speaker, this year, Halloween is National UNICEF Day. UNICEF [the United Nations Children Fund] will help children in 115 developing countries around the world. They will provide food, medicine, education, and immunization from such preventable diseases as measles, tuberculosis, and polio. These diseases are now killing millions of young children around the world each year.

UNICEF will be beginning its annual fundraising drive in nearly every congressional district during the week of Halloween. In my district, San Diego children will be participating in the "Coins for Kids" program, sponsored by the county board of education.

The San Diego activities will be kicked off with our first annual black-tie gala Bal Masque at the Hotel del Coronado on October 26.

The children of the world need and deserve our support. By becoming involved in these activities throughout the United States, you can help improve their lives.

THE CONSUMER BANKING ACT OF 1985

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. SCHUMER. Mr. Speaker, earlier this year I introduced an omnibus banking bill called the Consumer Banking Act of 1985. This legislation is intended to ensure that as deregulation, legislative, and regulatory changes, and technological developments radically transform our banking system, financial institutions remain responsive to the needs of consumers.

One of the key provisions of the legislation would establish State-based Financial Consumers' Boards. These organizations would act as an institutional watchdog for consumers' interests; representing citizens in financial services matters before regulatory agencies, legislatures, and the courts, and informing bank customers of these actions. The organizations would also con-

duct surveys on a variety of banking issues, and disseminate information such as shoppers' guides to financial services, as well as assist citizens in resolving consumer complaints.

At a press conference held the day the legislation was introduced, Ralph Nader eloquently explained the urgent need for this legislation and the philosophy underlying it. His remarks focus particularly on financial consumer boards and the role they can play in the modern financial world, detailing experience in several States with consumer boards active in public utility issues. I urge my colleagues to read Mr. Nader's remarks and I ask that they be inserted in the RECORD at this time.

STATEMENT BY RALPH NADER, PRESS CONFERENCE, THE CONSUMER BANKING ACT OF 1985, JUNE 4, 1985, WASHINGTON, D.C.

The Consumer Banking Act of 1985 is landmark legislation that addresses the major citizen, neighborhood, civil rights, and small business concerns raised by the current restructuring of banking institutions and the dramatic changes in banking industry practices. Although banking deregulation has increased competition, it has also had adverse impacts—confusion over increasingly complex deposit and loan instruments, greater risks for borrowers with variable rate loans, and reduced access to both deposit and credit services for certain bank customers, especially persons of modest means and residents and small businesses located in less affluent neighborhoods or slow growth areas. The legislation introduced today by Congressman Schumer contains carefully crafted reforms that would curb these adverse impacts, yet still allow banks plenty of room to adopt new technologies and compete among themselves and against non-bank competitors.

The philosophy underlying the Consumer Banking Act of 1985 has four premises. First, banks should be prohibited from overreaching. Hence, the need for limits on check holds and safeguards on adjustable rate mortgages. Second, full disclosure is necessary for effective marketplace competition. Thus the need for comprehensive disclosure on deposit services. Third, banking institutions should be subject to public benefit requirements that are commensurate with the advantages that such institutions receive. These requirements should be structured to maximize the productive impact that banks can have on local communities and advance the goal of equity for persons of modest means. Fourth, whenever possible, citizen empowerment mechanisms should be established to enable citizens to inform and protect themselves. Hence, the need to establish state-based Financial Consumers' Boards (FICUBs).

There is mounting citizen concern that financial institutions are not being run in a responsible manner and are not adequately serving citizen and local community needs. During the last several years the collapse and bailout of financial institutions has occurred at an accelerating pace. Front page stories include the LDC debt crisis, the dramatic collapse of savings and loans in Ohio and Maryland, the record number of banking failures in 1984, the Continental Bank bailout, the Baldwin-United debacle, and the recent bankruptcy of several securities dealers. The recent collapse of non-federally insured savings and loans in Ohio and Maryland and the Continental Bank bailout have demonstrated in dramatic fashion that depository institutions are critically dependent on government backing. The key government props are federal deposit insurance and the Federal Reserve's lender of last resort facility. Two recurring themes in these failures are insider dealing and speculative investments far removed from local community credit needs.

Citizens have drawn two fundamental lessons from this experience. First, depository institutions are not subject to normal market discipline and therefore must be regulated for safety and soundness purposes. Second, federally insured depository institutions, given the government props they receive, are the proper subject for public benefit requirements. The broad range of citizens organizations that support this legislation believe that public benefits should be defined in terms of local community investment and access to banking services for persons of modest means.

Perhaps the most important section of the Consumer Banking Act is Title VI, which would authorize the chartering within each state of a citizens' association with a mandate to inform and represent citizens in financial service matters. These proposed associations, which have been termed "Financial Consumers' Boards" (FICUBs), would be analogous to the Citizens' Utility Boards (CUBs) which have been established in Wisconsin, Illinois, Oregon, and California to represent citizen interests in utility matters. FICUBs, like CUBs, would be democratically controlled membership organizations funded by membership contributions.

A FICUB would be given the right to insert enclosures encouraging citizens to join the association in the deposit account statements that federally insured depository institutions mail to their customers. As the CUB experience has shown, this insert privilege is a crucial, cost-effective means to build a membership base. Although a FICUB's insert privilege would be limited to banks, its mandate to represent citizen interests would cover the full spectrum of financial services providers, including finance companies, mortgage companies, insurance companies, retailers, check cashiers, and securities firms.

A charter mandate of a FICUB would have the following three elements:

No. 1, to disseminate information and advice to citizens on specific financial services offered in their local market. FICUB would publish shoppers' guides for specific financial services, including mortgage loans, consumer loans, deposit accounts, home owners' insurance, auto insurance, and life insurance. These guides would contain not just rate and term data, but also advice to educate citizens, and warnings concerning hidden charges and other sharp practices.

No. 2, to represent citizen and local community interests before agencies, the legislature, and the courts; and in negotiations with individual financial service providers. FICUB would be an advocate for stronger consumer protection, community reinvestment, and civil rights laws in the financial area and more effective agency enforcement of such laws. FICUB would have the resources and technical expertise needed to be an effective citizens advocate on such complex and diverse financial issues as: (1) insurance rate-making proceedings (consumer intervention is virtually non-existent); (2) monitoring mortgage loan data to determine patterns of discrimination; (3) monitoring finance companies and mortgage companies that take advantage of low income, high risk persons who need credits; (4) legislative remedies for lower income persons denied access to the deposit and payment system by virtue of high fees and non-price barriers; (5) unfair or deceptive deposit or credit practices that are not prohibited by existing regulation; (6) challenging the lending records of depository institutions that fail to reinvest in their local communities: (7) crafting cogent public interest positions on the fundamental questions raised by financial deregulation.

No. 3, to assist citizens in the resolution of consumer complaints. FICUB would become a focal point for the handling of consumer complaints related to financial service matters. This will directly benefit citizens, since the efforts of finanical regulators to resolve consumer complaints are at best lethargic. Equally important, review of consumer complaints would place FICUB in close contact with new problems which citizens encounter in a rapidly evolving financial services environment. This continuous feedback concerning citizens problems will make FICUB more effective both as an advocate and as a source of information.

FICUB is a concept whose time has arrived for two basic reasons. First, there is a growing demand for information and advice on financial services. Financial deregulation and technological change have unleashed a growing array of new and increasingly complex financial services. This has brought consumer confusion and marketplace inefficiency, just the opposite of the intended goal of deregulation. Moreover, consumers have deeply rooted concerns about the manner in which their credit applications are handled and information on their credit histories is disseminated. Just last week Federal Trade Commission Chairman James Miller reported that credit problems are the number one source of consumer complaints to the FTC.

Citizens need precise facts to facilitate comparison shopping and avoid hidden fees, but also unbiased advice so that they can understand such complex products as adjustable rate mortgages, whole life insurance, or split rate money market accounts. FICUB would meet this need by publishing shoppers' guides for various financial services. Unlike most financial institutions which increasing market their services to "upscale consumer," FICUB would tailor its information and advice to citizens of modest or average means.

Second, there is growing recognition that financial regulators have only a limited capacity to represent citizen and local community interests. As financial deregulation has increased the volatility of financial institutions and reduced the margin for error, financial regulators, both state and federal, have of necessity channeled more and more of their agency resources to safety and soundness (solvency) regulation. Given the constraints on agency budgets, the financial regulators have been forced to divert resources away from consumer protection and community reinvestment efforts. Under the Reagan Administration the effect of resource constraints has been reinforced by ideological hostility or apathy towards consumer protection and community reinvestment action.

Against this background of dwindling regulator commitment to consumer protection and community reinvestment, the self-education, self-representation, and self-sufficient features of FICUB are very compelling. Moreover, even if financial regulators were to devote more resources to consumer protection and community reinvestment,

they would find it increasingly difficult to adjust their regulations fast enough to keep pace with the rapid rate of innovation in financial service markets. Another great value of FICUB in an era of financial deregulation is its flexibility and ability to respond quickly.

FICUB represents a fundamental structural reform from the perspective of banking accountability. It creates a citizens empowerment mechanism that can: (1) resolve many citizen concerns with financial services by self-help methods, without resorting to unsympathetic financial regulators; and (2) provide a stronger advocate for regulation in cases where legislation or agency action is required.

KERMAN, CA, AND KANNAMI, JAPAN—SISTER CITIES

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. COELHO. Mr. Speaker, on October 12, 1985, Mayor Harry Pedersen of Kerman, CA, and Mayor Hiro Nakamura of Kannami, Japan, will participate in a ceremony establishing Kerman and Kannami as sister cities.

Last year, a delegation of city officials and citizens from Kannami visited Kerman. During their stay, they were able to experience American culture and learn firsthand about the prolific agricultural industry in the Kerman area. After returning home, Mayor Nakamura invited a similar delegation from Kerman to visit his city. Over 30 city officials and citizens of Kerman have accepted the invitation, and will arrive in Japan in early October. The highlight of their trip will be a ceremony in the Kannami Worker's Gymnasium at which the two cities will sign documents cementing their official relationship as sister cities.

I would like to commend the citizens of Kerman and Kannami for bridging the 6,000 miles of ocean that separates their two cities with a bond of friendship that undoubtedly will last for many years to come. The leaders of our world can learn a valuable lesson in international relations from these citizens: People, regardless of where they come from, can overcome national and cultural boundaries and become good friends—thus furthering the cause of world peace.

As Kerman's representative in the U.S. Congress, I would like to extend my best wishes to Mayor Nakamura and all the citizens of Kannami, and commend them, along with the citizens of Kerman, for their important grassroots effort aimed at furthering international friendship and understanding. I know that both Kerman and Kannami will benefit in many ways from this undertaking.

ATTORNEY GENERAL MEESE TARGETS DOMESTIC MARIJUANA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. RANGEL. Mr. Speaker, the issue of domestically cultivated marijuana has been a priority of the Select Committee on Narcotics Abuse and Control which I chair and will continue as such throughout the 99th Congress. Increased production estimates, the violence of the growers, and the increased availability of domestic marijuana has necessitated ongoing scrutiny by the select committee. While the most recent report of the National Narcotics Intelligence Consumer Center [NNICC] indicates that domestic marijuana accounts for 11 percent of the marijuana consumed by Americans, down from last year's statistic of 15 percent, the select committee and I continue to consider the issue of domestic marijuana as a serious threat to the well-being of Americans regarding both health and law enforcement.

In the course of the 98th Congress I visited the marijuana producing regions of California and Hawaii to ascertain the severity of the marijuana problem and to obtain a local perspective on the issue. During select committee field hearings in Redding, CA, in July 1983 and during a briefing in Honolulu, HI, in January 1984, two centers for the trade, I heard firsthand how the increase in marijuana production was creating unprecedented law enforcement problems, and how violence by and among growers had increased, particularly as growers sought to protect valuable high potency sinsemilla marijuana plants.

The report which issued and detailed the Redding and Honolulu data concluded that.

There appears to be little doubt that the illicit cultivation of marijuana in the United States is a problem of great magnitude. There is equally little doubt that the efforts to stop such enterprises leaves much to be desired.

I stressed at that time the need for the Federal commitment to domestic marijuana eradication to increase, specifically to providing States with more DEA funding for their eradication efforts.

This call for greater Federal involvement did not go unheeded. Attorney General Meese in a recent column in USA Today outlined the administration's most recent crackdown on domestic marijuana cultivation and some of the arguments advanced for making the eradication of domestically grown marijuana a top law enforcement priority.

Whether the eradication blitz, as it was called by Mr. Meese, can or will be sustained for any meaningful period of time is a matter for speculation. However, if it be for but 1 week out of the year, results similar to those of this summer's campaign surely send the message to the growers and those along the chain of distribution that our laws will be enforced and that this illegal enterprise will not be tolerated.

The Attorney General in his column offers a timely and incisive analysis of the eradication blitz and several of the public health and law enforcement concerns which prompted it. The numbers concerning how many plants to date have been confiscated and destroyed are impressive. I will hope that in the future, prior notification of operations such as this will be dispensed with in order to maximize the yield of the confiscated crop while minimizing the dangers to our law enforcement personnel.

The column follows:

[From USA Today, August 9-11, 1985]

THESE GROWERS ARE CRIMINALS

(BY EDWIN MEESE III)

This week Federal agents joined more than 300 State and local law enforcement agencies in searching out, uprooting, and destroying marijuana plants that had been growing in hidden plots in every State.

As of Thursday, our eradication blitz had resulted in the destruction of 342,635 plants.

This effort will continue, because the Reagan administration is very serious indeed about the war on drugs, and particularly on marijuana production.

That is the message we want to send, as emphatically as possible, to criminal growers within our own borders and to governments abroad.

Marijuana is too often regarded as a harmless drug. Actually, recent medical studies show it has a very serious impact on health. Consider.

Its active ingredient, THC, causes disease-fighting cells in the body to grow more slowly, move more slowly, and respond poorly to invading disease.

Reaction time for motor skills, such as driving drops an average of 42 percent after smoking one marijuana cigarette.

Smoking 5 marijuana cigarette a week has the same effect on the respiratory system as smoking 112 tobacco cigarettes.

Harmless? Hardly.

What's more, the criminal cultivation of marijuana is invariably accompanied by other serious crimes, including crimes of violence, as growers and their associates go to any lengths to protect their efforts to harvest, transport, and market their crop.

Those involved don't care who gets hurt in the process, thus innocent citizens can become victims of this criminal activity without any warning.

A significant fraction of the domestic crop is grown on Federal lands, where people on backpacking trips, picnics, fishing, or hunting expeditions can stumble onto a plot rigged with booby traps, or where growers use guns to injure those who get too close.

Trip-wired explosive devices, bear traps, punji stakes, fish hooks dangling at eye level—these are weapons of the criminal grower. We cannot permit it.

We will continue to tear up and destroy the plants wherever we encounter them. The growers should know we consider them criminals and together with State and local law enforcement agencies we will do everything in our power to send them to prison.

HONORING JOHN HUERTA FOR CONTRIBUTIONS TO THE COMMUNITY AND THE MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. TORRES. Mr. Speaker, I ask my colleagues to join with me in honoring Mr. John Huerta for his commitment to justice and civil rights.

I have had the pleasure of knowing John for many years during which time he has distinguished himself as an advocate for civil rights. He has done an admirable job serving the Mexican American Legal Defense and Education Fund [MALDEF] as an associate counsel since 1980. On September 18, 1985, MALDEF will host a farewell reception for John as he leaves to pursue other interests.

Previous to joining MALDEF he served as a Deputy Assistant Attorney General in the Civil Rights Division for the U.S. Department of Justice. He is a former professor of law at the University of California, Davis from 1973 to 1977.

John is a graduate of California State University at Los Angeles and earned his law degree from the University of California, School of Law (Boalt Hall), Berkeley in June 1968. He is a member of the State Bar of California, the District of Columbia Bar, American Bar Association, Hispanic Bar Association, and the Los Angeles County Bar Association. He has been admitted to practice before the California Supreme Court and the U.S. Supreme Court.

He has lectured extensively on civil and human rights to professional, civil rights and university groups throughout the United States and Latin America.

Mr. Speaker, I rise here in the House today to recognize the contributions John Huerta has made to the community. His services will be missed by MALDEF, but I have no doubt that John will continue to work vigorously for civil rights and justice. I wish him all the best in his new endeavors.

THE 90TH ANNIVERSARY OF CHIROPRACTIC HEALTH CARE

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. BORSKI. Mr. Speaker, I wish to invite my colleagues to join me in recognizing a significant event in the American tradition of maintaining sound health habits: the 90th anniversary of the origin of chiropractic health care.

Ninety years ago this week, September 18, 1895, the first chiropractic patient was examined and treated. On that date Daniel David Palmer, the father of chiropractic, conducted a spinal examination and administered a chiropractic manual adjustment to Harvey Lillard, a janitor by trade, of Davenport, Iowa.

From that singular beginning until today, chiropractic health care has made an invaluable contribution to the public well being. Like other specialists in the health care field—such as dermatologists, dentists, and podiatrists—doctors of chiropractic specialize in the care of the spine. The spine is certainly one of the most sensitive, complex, and important parts of the human anatomy. Who has not experienced the discomfort of back pain? It is estimated that 8 of 10 Americans suffer a back problem at some time during their lives.

Without the trained body of experts that make up the chiropractic community, the spinal health of this Nation would be severely undermined. For example, time lost from work due to back problems contributes immeasurably to a lower industrial productivity.

I commend the thousands of chiropractors in the United States and abroad for their determination and desire to serve the health needs of all people. Probably no single segment of the health care profession has fought such a persistent battle over the years against adversaries in medicine, hospitals, legislatures of the land, and even the Government of the United States. In the face of opposition ranging from harassment to outright illegal boycotts, doctors of chiropractic have stood firmly to protect their right to serve the millions of people who seek their care and expertise.

I would like to recognize the chiropractic profession for its steadfast defense of these principles and for its continued adherence to strengthening the education and training of new chiropractors. Today, chiropractors are licensed to practice in all 50 States. Their education must consist of a total of six academic years following high school graduation. Two of these years must be in a preprofessional college curriculum followed by 4 years in residence in a chiropractic college. The Council on Chiropractic Education is recognized as the national accrediting agency by the U.S. Department of Education.

Chiropractic health care fits well in a time when people are more concerned than ever with maintaining good health, practicing prevention through moderation of lifestyles and observing stricter discipline in nutrition and exercise. With medical and hospital costs soaring, observing and practicing a sound health care maintenance program is a rational and prudent philosophy for all to consider.

Please join me in wishing all doctors of chiropractic and their professional associations—the International Chiropractors Association and the American Chiropractic Association—many more successful years in serving the health needs of the public.

A FARM BILL CRITERION

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. GRADISON. Mr. Speaker, I take this opportunity to call my colleagues' attention to the thought-provoking editorial from Saturday's Washington Post.

Soon, the House will consider the farm bill. Without question, much of American agriculture is in bad shape. As we approach the farm bill debate, we should recognize that much of the current problem stems from our Rube Golberg agriculture policies, so aptly illustrated by this editorial, and it is not likely to be lessened by more of the same.

The Post's editorial should serve as a stark reminder that we have a significant opportunity to redirect U.S. agricultural policy. We can set Federal agricultural policy on a clear path away from Government subsidies and toward the marketplace, which is the criterion against which I plan to evaluate the new farm legislation.

The best way to solve America's chronic farm problem—overcapacity—is a gradual, compassionate transition to a market-based farm sector.

[From the Washington Post, Sept. 14, 1985]

COWPATH

There are, give or take a few moos, 11 million dairy cows in this country. That's at least a million more than are needed to produce the dairy products that consumers are prepared to buy. As science continues to produce new feed additives, growth hormones and breeding techniques, fewer and fewer cows will be needed. Congress recognizes that it has to curb the cost of keeping all these surplus cows in clover. But the farm bill approved this week by the House Agriculture Committee suggests that the road to reform is likely to be as crooked as a cowpath.

The most straightforward way to reduce dairy production would be to continue reducing gradually the dairy price supports that, when they were sharply increased in the late '70s, gave rise to the current surpluses. That approach has strong bipartisan support in the Senate. But letting market forces work, even gradually, requires Congress to admit it cannot foresee every contingency and ease every adjustment—an admission that the House committee is apparently reluctant to make.

The House bill, drafted with help from the National Milk Producers Federation, starts from the presumption that the most humane way to lead a cow to slaughter is to pay its owner for doing so. Such a diversion program did succeeed in temporarily slowing surplus accumulations last year, although not without disruptive effects in some localities. Paying farmers to cut herds, however, costs money, and farm programs already cost billions. So the bill levies an assessment—essentially a producertax—on all milk still produced.

Why would dairy farmers want to pay themselves to cut their own production? One reason is that not all farmers would be equally affected. Relatively efficient farmers would end up paying most of the tax, while those on the verge of going out of

business would tend to benefit. But the committee has also thoughtfully provided higher price-support levels to reimburse producers for their contributions to the diversion program.

Higher price supports, however, also mean that consumers end up paying much more for milk. That would add billions to family grocery bills as well as to the cost of government food programs for the needy. It would also cause consumers to buy fewer dairy products, and that means bigger surpluses. To keep that from happening, the bill set up a dairy product research and promotion effort—to be financed by another increase in the producer tax.

Of course, sending thousands of dairy cows to slaughter is likely to drive down red-meat prices. To deal with that, the bill requires the federal government to cut purchases of other surplus commodities for donation to local school programs and buy red meat instead. Of course, you'd still have to worry that, since school lunches are already loaded with red meat, localities would then cut back their own purchases of red meat. Maybe you could require school kids to eat more. Or make them take doggy bags home to their parents. Of course, then the parents might buy less, but maybe you could add another requirement . . . Or maybe you could junk the committee bill and start over.

NATIONAL ACCORD FOR THE TRANSITION TO FULL DEMOCRACY

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. ROTH. Mr. Speaker, on August 25, 11 of the principal political parties of Chile signed a National Accord for the Transition to Full Democracy. The accord is significant for a number of reasons: First, it rejects violence as a means of political action. By so doing, the accord signatories reject the participation of the Communist Party in the political process. Second, previous demands by the Democratic Alliance for the immediate removal of President Pinochet and the institution of a provisional government are dropped. Third, the emphasis in the document is to provide for an effective democratic transition process.

Chilean political opposition leaders have criticized the procedures now set up by the 1980 constitution for the election of the President and representatives. The principal items of the accord include: a call for legalizing political parties, construction of electoral registers, and electoral laws that will permit direct elections of the President, senators, and deputies.

In a September 2 statement, the Government of Chile viewed the accord process as a positive contribution by its signatories.

On September 12, Representative MICHAEL BARNES introduced House Concurrent Resolution 188 which commends the accord. However, I believe that as presently worded, the resolution is counterproductive to a peaceful transition process in Chile. While commending the signatories of the accord, it is unnecessarily inflamatory.

If the intent of a congressional resolution is to serve as a positive element in Chile's democratic transition process, I see no useful purpose in making derogatory remarks. The accord is a very positive development as is its reception by the Pinochet government. The U.S. Congress should use this opportunity to also serve as a positive catalyst and not detract from recent developments.

Consequently, I am today introducing a resolution which not only commends the signatories of the accord for their efforts to achieve a peaceful return to democracy, but also encourages the Government of Chile and the accord signatories to engage in direct dialog on the measures contained in the accord.

H. CON. RES. —

Concurrent resolution expressing the support of the Congress for a peaceful return of democratic rule in Chile

Whereas on August 25, 1985, Cardinal Juan Francisco Fresno brought together 11 political parties to sign a National Accord for the Transition to Full Democracy in Chile;

Whereas the Accord signatories repudiate violence as a method of political action;

Whereas the measures prescribed by the Accord call for free and fair elections and a political process that will ensure a return to democratic rule; and

Whereas the Government of Chile views the Accord as a positive contribution by its signatories: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress supports the efforts of democratic forces in Chile to achieve a peaceful return to democratic government, and expresses its view that the National Accord for the Transition to Full Democracy in Chile is an important first step toward that goal. Furthermore, the Congress encourages the Government of Chile and the signatories of the Accord to engage in direct dialogue and discussions as an important second step toward democratic rule.

CONSIDER THE REALITIES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. LAGOMARSINO. Mr. Speaker, I wish to call to the attention of my colleagues, the following editorial from the Lompoc Record (Wednesday, August 28, 1985), regarding the need for American testing of an antisatellite weapon. Given the facts in this instance (including the knowledge that the Soviets currently possess the world's only operational ASAT system, and have moved closer to attaining a highly capable ground-based laser ASAT system), I concur with the analysis provided by the Lompoc Record when it states, "Failing to develop an American counter would only mean that, in a crisis, the Soviets could strike at the eyes, ears, and communications voice of American intelligence and the U.S. Armed Forces while the United States would be unable to respond in kind."

I support the President's decision regarding the need for ASAT testing, as approved by the Congress in the fiscal year 1985 and 1986 DOD authorization bills, and recommend the following editorial to my colleagues.

[From the Lompoc Record, Aug. 28, 1985]

CONSIDER THE REALITIES

The Reagan administration is proceeding with plans for a third test of an anti-satellite missile, overriding in the process objections from domestic critics and the Soviets alike. The debate offers some instructive insights into the mindset of everyone involved.

The Soviets rationale for opposing development of an American anti-satellite missile is, of course, rather obvious. For the record, the Soviets keep talking about preventing the "militarization of space," as if about 80 percent of their own activities in space dating back to the early 1960s were not conducted chiefly for military purposes. Their actual, immediate objective is to preserve their present monopoly on operational anti-satellite weapons.

An even more urgent motivation was suggested on Sunday by Georgi Arbatov, member of the Soviet Communist Party's Central Committee and frequent spokesman for the Kremlin. Mr. Arbatov described the scheduled test of a U.S. anti-satellite missile as a "new, very dangerous step in the arms race . . . endanger(ing) the arms control process because it is a part of the 'Star Wars' concept."

The germ of truth in this propagandistic rhetoric is the link between anti-satellite systems and the technology that could one day protect Americans from a Soviet missile attack. As one Defense Department official put it recently, "Virtually any anti-ballistic missile system is going to have a capability against satellites as well. So if you actually did ban means of attacking satellites, you would be banning the SDI (Strategic Defense Initiative)."

Some domestic critics of the Reagan administration's strategic programs share (for different reasons, of course) the Soviets' opposition to development of an American ASAT weapon and U.S. defenses against ballistic missile attack. Rep. George E. Brown Jr., D-Calif., who led opposition in the House to more testing of the anti-satellite missile, would prefer a U.S.-Soviet agreement banning testing, production, and deployment of anti-satellite weapons. That happens to be the official Soviet position as well.

Unfortunately, there is virtually no way that compliance with such an agreement could be monitored with sufficient certainty to prevent Soviet cheating. The existing Soviet system for attacking American satellites employs easily concealable warheads lifted into space by ordinary rocket boosters of the sort used routinely for Soviet space launches. Hundreds of these warheads could be manufactured in secret while the rocket boosters were produced openly without betraying any violation of a ban on anti-satellite weapons.

In addition, the Soviets are working on laser and particle-beam weapons that could destroy satellites from ground stations. None of the arms-control enthusiasts nipping at Mr. Reagan's heels have suggested ways to identify such ground facilities as indisputable violations of an anti-ASAT treaty.

As against the obviously hostile intent of the Soviet Union and the wishful thinking of Rep. Brown and others who would put their faith in arms control, the Reagan administration had to consider hard realities in deciding whether to order more tests of the anti-satellite missile. First, the Soviets already had an operational system. Granted its technology is a bit crude but the system nevertheless succeeded in at least 18 of 27 known tests from 1969 to 1983.

Failing to develop an American counter would only mean that, in a crisis, the Soviets could strike at the eyes, ears, and communications voice of American intelligence and the U.S. armed forces while the United States would be unable to respond in kind. Secondly, no treaty banning such weapons could be adequately verified. And, as Mr. Arbatov and his superiors so obviously recognize, stopping the American anti-satellite weapons program would likely cripple research into a future defense against nuclear ballistic missiles.

Viewed from these perspectives, the Reagan administration would have been grossly negligent in not proceeding with additional tests of an anti-satellite missile system. Experience during the last decade and a half has shown conclusively that neither unilateral restraint nor unenforceable treaties protect America's security.

TECHNOLOGY AND THE HANDICAPPED

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. BROWN of California. Mr. Speaker, today I would like to bring to the attention of my colleagues contributions made by the National Aeronautics and Space Administration to the ever expanding technology base in this country and how it impacts on the handicapped. The American space program utilizes the finest materials, talent, and information. The constant searching for breakthroughs has led to outstanding discoveries which spill over into many areas of society.

NASA plays more than a passive role in fostering civilian applications for their evolving technologies. To the contrary, NASA has an aggressive program to apply space technology to help the handicapped. Unfortunately, industry is slow to pick up on NASA's lead. For example, there exists a wheelchair, designed by NASA, made out of composite materials which is half the weight of an ordinary wheelchair. Clearly, a lightweight wheelchair would lessen the burden on millions of handicapped, as well offer greater mobility. Yet technology transfer to the private sector is stunted by corporate hesitancy to improve on a wheelchair they consider already good enough.

I believe that the employability of the handicapped will increase in direct proportion with the number, and availability, of handicapped assistance devices. And technology, coupled with an aggressive public awareness campaign to dispel myths about the handicapped, is the formula which will turn the tide of centuries of discrimination.

Over the last few years, programs have proliferated to meet the call of employing the handicapped. For one, the National Challenge Committee of the Disabled, founded and spearheaded by Mary Doremus, was organized to promote handicapped awareness, acceptance, integration, and independence. Mrs. Doremus is determined to make individuals with disabilities full working partners in the Nation's economic system. The administration has also launched the National Initiative on Technology and the Disabled. This initiative, being promoted by Margeret Heckler, Secretary of the Department of Health and Human Services, will seek to draw on the technological expertise of the aerospace industry to voluntarily develop devices for specific handicapped needs.

This week we celebrate the abilities of the handicapped with Inspire 85, a festival being held in Washington, DC, designed to exhibit and showcase the accomplishments of disabled Americans in sports, recreation, cultural arts and employment. Inspire 85 is an event sponsored by the President's Committee on the Employment of the Handicapped. These programs, and many others like them, are part of a groundswell of support for the Nation's handicapped.

Naturally, the Federal Government will continue to play a role in transferring practical technology to aid the handicapped. But if a significant transfer is to take place, and thereby greater employment, it will require the concerted efforts of government, special interest groups, and private industry. An effort on this scale would improve the lives of the disabled, as well as the lives of those they depend on. Rather than just another Federal expense, investing in the disabled will prove financially beneficial in the long run.

Below are three more examples of technology that were developed with space technology. While these devices represent great hope for the handicapped, they are of little use if they remain on NASA's shelves:

A device developed from research conducted by the Man-Machine Integration Branch of NASA, is the versatile portable speech prosthesis [VPSP]. There are an estimated 2 million people in the United States with speech impairments. The VPSP is the first communication aid to rely on synthesized speech. Its versatility allows it to accommodate a variety of input devices including single-switch, multiple-switch, joystick, or other keyboard controls which physically limited people have the ability to use. The VPSP uses a microcomputer with a phoneme speech synthesizer and a specially designed television screen. It can be used to transmit up to 10 words a minute with single-finger typing. It has been successfully tested as a proof-of-concept system and is currently available for commercial development.

For the approximately 1.8 million deaf people in the United States, a new pair of eye-glasses, developed at Gallaudet College in conjunction with NASA, allows deaf people to understand and converse with people who don't know sign language. The eye-glasses, called a Speech Autocuer, primarily enhances a deaf person's lip-reading abilities. By sending automatically derived visual cues in real-time to a wearable eyeglass display, it allows deaf people to distinguish between sounds which appear alike. This device is commercially available, but its cost is quite high. Presently, Medicare/Medicaid will not cover it.

Finally, by instituting the maneuvering system used by astronauts to drive the Lunar Rover during the Apollo missions, NASA, along with Johnson Engineering Corp. and the Veterans' Administration, has developed the unistik. It allows the severely handicapped the ability to drive an automobile. In most instances transportation is a great barrier to leading a normally productive life as a handicapped person. The unistik controls electric motors of a standard vehicle with a two-axis joystick and a fly-by-wire type of control used in spacecraft. By moving the joystick in various ways, one can carry out such activities as steering, braking, and accelerating with just the movement of a hand.

Mr. Speaker, each of these devices, and many others, are capable of tapping the hidden resources of the handicapped. I urge my colleagues to pay closer attention to the true potential of the handicapped, and through their achievement, the value to our society. The Federal Government should never halt its assistance to the disabled, yet if we are ever to reduce the handicapped's dependency we must aggressively seek ways of utilizing one of America's greatest untapped resource—the handicapped.

HONORING MR. ROBERTO GRACIA FOR OUTSTANDING SERVICE TO THE COMMUNITY AND THE STATE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. TORRES. Mr. Speaker, I would like to bring to the attention of my colleagues an individual who has distinguished himself in his community and State.

Mr. Roberto Gracia of Sacramento, CA, has served as chief of equal employment office, for the State employment development department, since 1981, following a progressive career in State service that began in 1969 as a job agent in southern California.

An outstanding employee, Mr. Gracia has always found the time and the energy to work with various community groups involved with increasing educational and employment opportunities for young Californians.

As chairman of the State planning committee for the 1984 and 1985 Chicano and Latino Youth Leadership Conferences, Mr. Gracia has once again demonstrated his commitment and leadership in coordinating the weeklong conference held in Sacramento. His example serves as a positive role model to the participating high school

students and to the many volunteers and supporters of the conference.

Several of my constituents have participated in this annual conference and I am pleased to note that the positive experience and support that students receive under leadership of Mr. Gracia is very encouraging to the parents in my district.

On September 18, 1985, members of the communtiy from throughout California will convene in Sacramento to honor the dedication and outstanding job that Mr. Gracia has performed as chairman of the conference for the past 2 years.

Mr. Speaker, I ask that my colleagues join me in congratulating Mr. Roberto Gracia for the honors being presented to him by grateful parents, students, and the numerous community leaders and organizers for his contributions and support for the development and education of our young people.

THE BILL COSBY SHOW

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. GRAY of Pennsylvania. Mr. Speaker, the State of Pennsylvania and the city of Philadelphia have both had a long tradition of producing men and women of distinction—people who have left their mark on the pages of American history.

Today I wish to pay homage to a man whose name has become synonymous with fatherhood in this country—Dr. William Henry Cosby, Jr.

Every Thursday night an estimated 40 million Americans tune in to "The Bill Cosby Show" to follow the ups and downs, and joys of the "Huxtables"—a family of four daughters and one son patterned after Cosby's own children. Many families across this Nation have come to identify with Heathcliff, Clair, Theo, Rudy, Denise, and Vanessa. Indeed, the show has been called therapy for some.

Bill Cosby has come a long way from the days in 1962 when he took a leave of absence from Temple University to earn $5 a night as a standup comic at the Cellar, a coffeehouse in Philadelphia. Just recently, Newsweek magazine described him as "a one man multimedia phenomenon." He can claim credit for 22 albums, 10 films, scores of nightclub appearances and concerts.

Mr. Cosby, who holds a doctorate in education from the University of Massachusetts, has not forgotten his roots or the friends he grew up with in Philadelphia's Germantown neighborhood. For the past several years, he has been an integral part of Temple University's public relations program, making commercials which highlight the excellent programs and curricula at this outstanding Philadelphia institution of higher education.

And there are other examples of Cosby's unselfish commitment to his hometown. Recently, he emceed a benefit concert for the victims of a disastrous fire which wiped out 60 homes and left hundreds homeless.

On Tuesday, September 24, the city of Philadelphia will salute this fine American and native son at the Academy of Music. I know my colleagues will join me in paying tribute to a man who has not only entertained millions, but has served as an inspiration and positive role model for our Nation's young people.

MACALESTER COLLEGE CELEBRATES 100 YEARS OF SERVICE

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. VENTO. Mr. Speaker, 100 years ago this month, a new liberal arts college opened its doors to its first class of freshman students. Since that day a century ago, Macalester College of St. Paul, MN, has graduated thousands of students who have gone on to achieve distinction in every walk of life; from the ministry to medicine, from art to science, and from education to government and public service. The college's orginal benefactor, Charles Macalester, envisioned the establishment of a liberal arts college which would train young men for the ministry. Thirty-six students were enrolled under the guidance of an original faculty of six professors in 1885. Today, Macalester's student body stands at 1,700 men and women, 10 percent of whom come from 1 of 72 foreign countries. This represents one of the largest percentages of foreign students on any American campus of comparable size. Additionally, over one-third of Macalester's students go abroad to study at some point in their academic careers. Macalester College also has a sizable contingent of National Merit Scholars from across the country. Many of Macalester's graduates later go to graduate schools in medicine, law, and various other professions. Last year, one of these students, Walter Mondale, even ran for President.

While many of Macalester's students have gone on to achieve notoriety, so too have many of Macalester's fine faculty members. Before being elected to public office, young Hubert Humphrey spent several years teaching political science at Macalester where he instilled a commitment to public service in countless students. Another Macalester professor, Dr. G. Theodore Mitau, who also served as chancellor of the Minnesota State College system inspired three generations of Macalester students during an illustrious teaching career.

Macalester College could not have survived and thrived over these past 100 years had it not been for the steady guidance of outstanding leadership. Former presidents of the college, such as Dr. James Wallace, Dr. Arthur Flemming, Dr. John B. Davis, Jr., and others laid the groundwork that insured that Macalester College would be in the ranks of the finest small liberal arts colleges in the Nation. Macalester's new president, Dr. Robert M. Gavin, Jr., has continued the college's commitment to the liberal arts.

During the early 1980's, as enrollments in private colleges across the country have leveled off and in some cases even declined, Macalester has planned for the future. This planning has been made possible through the generous support of the college's alumni as well as private foundations and corporations from Minnesota and throughout the country. Minnesota, and indeed the Nation, have been enriched because of Macalester College. While Macalester celebrates its 100th birthday this month and a century of service, we look forward to many future years of achievements and contributions from this outstanding institution.

WESTWAY TRADE-IN LEGISLATION

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. GUARINI. Mr. Speaker, together with my colleague TED WEISS, I'm pleased to introduce legislation which will guarantee that New York can build a new highway on the west side of Manhattan and provide aid to its crippled mass transit system at the same time.

Under my bill, if Mayor Koch and Governor Cuomo choose to trade in Westway, Federal funding for alternate highway and mass transit projects would be guaranteed. Specifically, New York would receive a $220 million annual appropriation from the highway trust fund for these substitute highway and mass transit projects. This annual appropriation would continue until the estimated Federal share of the cost of building Westway, as specified in the 1983 interstate cost estimate, has been expended. Since the 1983 cost estimate put that amount at approximately $1.71 billion, all of the funds for a Westway trade in would be paid out in 8 years.

Many Westway supporters have said they would consider a trade in if Federal funding for substitute projects was certain.

Just yesterday in the New York Times it was reported that Governor Cuomo said: "If funds for a trade-in were made as certain and as reliable as funds for regular highway projects" he could "find better purposes than this particular Westway project" for the funds.

My bill will make it very clear to Westway supporters that trade in is a reliable option and it's time to find those "better purposes."

Westway supporters also claim that New York is not assured the same level of Federal support which Congress has already authorized for Westway. With my bill, New York would receive the full trade-in value for Westway. Moreover, the State would receive its 85 percent Federal financing for substitute highway and transit projects without another congressional appropriation. Therefore, there would no basis for the additional assertion that obtaining

trade-in funds would be hindered by anti-New York sentiment in Congress.

Ensuring Federal funding for these substitute highway and mass transit projects will not only benefit New York residents, it will benefit residents of the region and city residents throughout the Nation as well. Under current law substitute highway projects are funded from the highway trust fund, whereas substitute transit project funding comes from general revenues. By funding both substitute highway and mass transit projects from the highway trust fund, mass transit improvements in New York would not require an increase in our general revenues. Furthermore, mass transit projects in other States would not be competing with Westway trade-in projects for Federal funding.

As the trade-in deadline nears we must do all we can to enhance this option. New York must know that our commitment to trade in and sound transportation planning is real. By supporting this legislation we will be making a real commitment to New York which will benefit the entire Nation. It will be evident that last week's overwhelming vote against Westway was not a vote against New York but a vote against a boondoggle. On these grounds, I urge your support for this necessary and timely legislation.

CENTENNIAL OF AMERICAN INTERNATIONAL COLLEGE

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. BOLAND. Mr. Speaker, my congressional district is fortunate to be the home of many exceptional institutions of higher education. One of these, American International College [AIC] of Springfield, MA, is in the midst of a celebration of its centennial. I want to join with the many friends of AIC in offering my congratulations on a century of achievement in the field of education.

AIC was founded in Lowell, MA, in 1885 by a group of ministers concerned with the education of French Canadian individuals in the area. The college moved to Springfield in 1888, and with that move came a broadening of the authority contained in the college's charter. Although AIC's origins are in another city, its roots are in Springfield. The relationship between the college and the community in which it resides has been a mutually beneficial one and the citizens of Springfield regard AIC's success as a source of considerable civic pride.

From its inception, AIC has had what I consider to be a unique ability to tailor its programs to meet the needs of its students. In so doing, it has performed a valuable service not only to the city of Springfield and the Commonwealth of Massachusetts, but to the entire Nation as well. In its early years, AIC specialized in providing the training necessary for citizenship to persons new to the United States. Immigrants from 42 nations received the instruction in English, U.S. history, civics and associated cultural skills they needed to become effective citizens in communities throughout the country. After World War II, the college took the steps necessary to accommodate the influx of veterans seeking higher education and added a program designed to expand the training opportunities available to teachers. Countless children of the baby boom generation have been taught by individuals prepared by AIC. Recognizing the special needs of servicemen, AIC set up programs of instruction available to active duty military personnel in Massachusetts and at bases around the globe. Today, thousands of AIC graduates throughout the world are productive members of their communities because of the opportunities made available to them by the college.

Mr. Speaker, AIC's centennial reminds us of the integral place that educational institutions have in our communities. Institutions like AIC serve so consistently and effectively that we may be at times tempted to take them for granted. I want to assure President Harry Courniotes and the faculty, staff, and students of this great institution that AIC's 100th birthday will also serve to remind us to resist that temptation. The enterprise in which they are engaged is among the most important in our society. I want to wish them continued success as they inaugurate the college's second 100 years.

H.O. "SONNY" DAVIS RETIRES AS POLICE CHIEF

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. LEWIS of California. Mr. Speaker, it is with great pride that I rise today to recognize a gentleman who, through his remarkable career, has had a great impact on the citizens of Barstow, CA: Mr. H.O. "Sonny" Davis.

For 34 years, Sonny Davis has served the city of Barstow as a member of its police force and, since May 1970, as its chief of police. This year, Sonny will retire from the force and Barstow will be loosing one of its most dedicated officers.

I could recite the many citations and awards bestowed upon this man, for they are numerous. I could tell you of Chief Davis' extensive training, for his knowledge goes far beyond expertise. I could describe Sonny's dedication to his family, his community and his Nation, for he has truly committed himself to guarding the safety and well-being of his fellow man. All this I could do, as many others have and will, for Sonny Davis has been an inspiration to colleagues, friends, and family.

However, Mr. Speaker, I would just like to take this time to join with the citizens of Barstow in saying thank you to Chief Sonny Davis for having the courage and the dedication to be one of the finest members of his community, and to wish him all the best for a healthy and happy retirement.

SICKLE CELL POSTER CHILD LATOYA WILLIAMS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. BROWN of California. Mr. Speaker, I would like to bring to the attention of my colleagues an exceptional young lady in my home district. Her name is LaToya Williams, and she has been selected as this year's Sickle Cell Anemia Poster Child of the Inland Counties. This young woman has shown great courage in dealing with this genetic disorder.

As you are aware, sickle cell anemia is a serious blood disorder which often results in intense pain. One in six hundred black Americans suffers from this disease, and sickle cell anemia accounts for over 80,000 deaths annually throughout the world. Great strides are being made in the prevention of and supportive care for those with sickle cell anemia, but we are a long way from finding a practical cure.

While medical science is still far from a satisfactory solution to sickle cell anemia, two recent breakthroughs show promise. The first, sustained blood transfusions with compatible red blood cells suppresses the symptoms of sickle cell anemia. Unfortunately, this form of treatment is reserved for extreme cases, because transfusions cause progressive iron overload and blood volume overload. These conditions invariably result in a number of internal complications.

The second approach, bone-marrow transplantation, has been very successful, but carries with it the risk of failure in a substantial percentage of patients and the possibility of graft-versus-host disease in others. There is a chilling 30 percent chance that a patient undergoing a transplant will not survive. We in Congress have a responsibility to help even these odds for LaToya and the some 70,000 Americans inflicted with sickle cell diseases.

Mr. Speaker, LaToya, the daughter of Essie Williams, is like most children of 7. She attends the third grade at Mountain View School in San Bernardino. When she is not in school, LaToya loves to ride her bike and play with her dolls. She's active, outgoing, and friendly. Fortunately, LaToya has not had any serious problems because of her condition.

I commend the Sickle Cell Organization of the Inland Counties for their efforts in helping to comfort and aid those afflicted with sickle cell anemia. They have also been instrumental in bringing this issue public attention. Let us joint the Sickle Cell Organization, and groups like them, to work toward a final end to this dreaded disease.

CONFUSING SCHOOL WITH EDUCATION

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. GINGRICH. Mr. Speaker, a recent article in Newsweek by Robert J. Samuelson accurately describes the real dilemma we face in our education system today.

I urge my colleagues to take this essay to heart. It's essential that we reduce the bureaucracy which is stifling our education system.

BACK-TO-SCHOOL ECONOMICS

(By Robert J. Samuelson)

It's the start of a new school year: 57 millon Americans—one out of every four of us—are trooping back to the classroom. Perhaps no other people place so much faith in schools. But our illusion is that we deeply value education when actually we often don't. Education confers understanding, knowledge and competence; schools confer degrees. If you grasp that distinction, you may understand why so much of today's education debate is sterile.

Ever since the gloomy conclusions of the National Commission on Excellence in Education in 1983, we've been bombarded with reports exhorting us to improve our schools. Fine. But none of these studies has examined how we already spend our edcuational investment. Since World War II education spending has roughly doubled; in 1984 it was 6.7 percent of the gross national product. Much of our spending has been and is wasted. Unless we confront this waste—and I'm skeptical we will—our education debate is mostly a fraud.

We often invest in schooling, not education. Specifically, we subsidize too many students to try college. The money would be better spent on preschool, primary- and high-school education, where student skills and self-esteem are shaped. Moreover, the ease of going to college undermines our high schools; it reduces pressures for students to do well. And our bureaucratic public schools compound the waste; in the past decade they've spent more without significantly improving educational quality.

The result is a society that produces more and more degrees that mean less and less. Some high-school graduates today are barely literate. I am not saying (as some would) that better schools can solve all our social problems. Most of these are not of the school's making. Roughly one in five children is now, by the government's measure, poor. And, in a competitive world, our economic vitality increasingly depends on the competence of our work force. But if schools did not create these problems, good schools will help us handle them—and bad schools will make them worse.

Our infatuation with quantity schooling subverts the requirements of quality education: competent teachers and motivated students. If the picture of mismanagement seems overdrawn, consider these facts:

Higher education now accounts for about two-fifths of all education spending. Before World War II the proportion was about one-fifth. By one estimate, two-thirds of high-school graduates try some post-high-school education, including community colleges. But many drop out, and colleges increasingly are attempting to make up for earlier learning deficiencies. At many colleges, one-quarter to one-third of freshmen take remedial-reading, writing or mathematics courses. Meanwhile, 59 percent of 11th graders report they typically do less than an hour of daily homework.

In the 1970s public-school spending per student (adjusted for inflation) rose 25 percent. But student test results didn't improve significantly, and the money wasn't used to attract better teachers by raising salaries. Adjusted for inflation, the average salary ($22,000 in 1984) is lower than in 1970. No one really knows where the extra money went or why it didn't help. Typical explanations are: more special education and bilingual teachers, more curriculum coordinators, more assistant principals or, more simply, more administrators.

The education debate largely ignores these realities because they're inconvenient. They call into question many of our basic ideas about education policy. The whole point of the postwar expansion of state-university systems was to make college accessible to everyone. In 1950 college studens were split between private and public institutions; now nearly four-fifths go to state schools, where the cost to students covers only about a quarter of total costs. Spread over four years, tuition, room and board fees (about $3,200 annually) slightly exceed the price of the average new car.

Our education system is not universally rotting; its diversity reflects society's strengths and weaknesses. But it is much less than it could be, and unless we face the basic problems, it won't get much better. For example, we can't raise teacher quality simply by stiffening academic requirements, although that's needed. Schools can hire only teachers who are available. Getting better teachers means paying them more. A 25 percent compensation increase (thought inadequate by many experts) would cost $15 billion, 10 percent of today's public-school spending. Where's the money to come from?

Even if we could afford massive new government spending—and we can't—it would be undesirable. Mostly, we need to make better use of what we're already spending. States need to raise their university standards and focus subsidies on the neediest students. Bluntly, this means shutting down some campuses and passing the savings backward to preschool, elementary- and secondary-school programs. And, somehow, public schools need to be jolted out of their lethargic ways. They're inefficient little monopolies, with students as their captive customers.

Poor Prospects: Is any of this likely? I doubt it. When the Reagan administration proposed modest cutbacks in college-student assistance, there were howls of protest. In Minnesota, Gov. Rudy Perpich asked his legislature to permit public-school students to transfer to schools outside their home districts. The idea was to have school districts compete with each other—to prod them to educate more effectively. Otherwise, they might lose students and state aid. School boards, administrators and teachers' unions mobilized against the proposal; most of the plan was rejected.

Our education debate is vapid because it avoids the issues that threaten the vested interests of educators and challenge popular wisdom. But, in the end, we will get the schools we deserve. Students react to the cues society sends. If society doesn't value teachers, why should students value learning? If getting to the next level of schooling is made easier, than why work harder? Somehow we got hooked on the idea that more schooling would bring us, as individuals and a society, more economic security and higher status. It's a charade. In this case, a little less schooling might produce a lot more education.

A TRIBUTE TO DR. FRED BROCKMAN, SUPERINTENDENT OF FARMINGDALE SCHOOLS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. LENT. Mr. Speaker, in today's rapidly changing society, America's educational system faces great challenges in preparing our children to become the leaders of tomorrow. Proficiency in the basics of reading, writing and arithmetic is essential; however, it has become increasingly apparent that students must have a solid background in computers, communications, and technology in order to prepare them for today's modern world.

At this time, I would like to take the opportunity to recognize the contributions of an individual who has taken bold, innovative strides toward progress in education. That individual is Dr. Fred Brockman, superintendent of the Farmingdale, NY, School District. On September 26, Dr. Brockman will be honored by his family, friends, and colleagues at a testimonial dinner on the occasion of his retirement.

During his 8 years as superintendent, Dr. Brockman has served as an articulate spokesman for education at county and State levels, and he has made outstanding achievements toward better education, especially in the areas of curriculum development.

Widely recognized as a leader in his field, Dr. Brockman broadened the depth and scope of the school district's curriculum to include a new computer literacy program for grades kindergarten through 12, improved elementary sciences classes, and an introduction to foreign languages program for grade 7.

He also established the alcohol awareness program for grades kindergarten through 12, the district-wide composition program, and the elementary summer remedial program.

An innovator in new ideas, Dr. Brockman sought to modernize the school district's administrative and managerial functions as well. In that effort, he initiated the planned program budgeting system, as well as a revised, updated business administration computer system.

Dr. Brockman is credited with developing a legislative liaison program to provide regular communication with State and Federal legislators, as well as dedicating considerable time and effort to improving the partnership with business and industry in order to strengthen the educational bond within the community.

Dr. Brockman is a shining example of how one individual can make a difference in our society. His commitment and devo-

tion to excellence in education is worthy of the highest commendation, and I extend to him my deepest gratitude and appreciation for his many years of hard work and achievement as superintendent of the Farmingdale School District. I'd like to join his many friends and colleagues in congratulating Dr. Brockman on this memorable occasion and in wishing him continued health and happiness in the years ahead.

JACQUES LESSTRANG: GREAT LAKES MAN OF THE YEAR

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. PURSELL. Mr. Speaker, I rise to pay tribute to my very good friend, Jacques LesStrang who has been named "Great Lakes Man of the Year" by the eight Great Lakes States and the Canadian Provinces of Ontario and Quebec.

It is a great pleasure for me to call the attention of my colleagues to this tremendously talented individual.

Jacques LesStrang is recognized worldwide as one of the Nation's outstanding and most widely quoted authors on the Great Lakes-St. Lawrence Seaway system. He is senior editor and publisher of the highly respected maritime journal, Seaway Review. For over 15 years, 1952–69, he served as president and creative director of an international marketing firm which carried his name, with offices in Michigan and London, England, and with clients in seven foreign countries. His work has been published in 16 languages and includes subjects on marketing—both domestic and international—government and economics/transportation. He is listed in the Marquis' "World Who's Who."

Jacques LesStrang is the first American to receive the "Great Lakes Man of the Year" award. This extraordinary man who deserves to be known as the "conscience of the Great Lakes" is the first person ever to be honored with both the "Writer of the Year" and "Man of the Year" in the same year.

His contributions to the development of better understanding between the United States and Canada on common issues and objectives for the Great Lakes and the St. Lawrence Seaway cannot be equaled.

It is with great admiration of Jacques LesStrang that I insert an article from the Charlevoix County Press, Boyne City, MI, describing his accomplishments in the RECORD:

LESSTRANG NAMED GREAT LAKES MAN OF YEAR

Author and Publisher Jacques LesStrang has been named Great Lakes Man of the Year by the eight Great Lakes states and the Canadian Provinces of Ontario and Quebec.

Functioning through the Great Lakes/St. Lawrence Maritime Forum, those governments recognized LesStrang's editorial and personal contributions to the region's maritime industry by identifying him as the first American to receive this bi-national honor. LesStrang, publisher of Seaway Review, the transportation business magazine of the Great Lakes/St. Lawrence region and the author of several books on the Great Lakes maritime industry, was also named "Maritime Writer of the Year" for 1985 by the American merchant marine industry at Portland, Oregon. That award was presented by the Propeller Club of the United States at its annual conference late last year.

The citation to LesStrang, which was presented in Toledo, Ohio, called him "a driving force in creating the awareness, both in North America and abroad, of the Great Lakes/St. Lawrence Seaway System, influencing decision makers and the public on matters relating to Great Lakes shipping while at the same time being one of the most widely quoted authors on maritime matters in North America."

The citation indicated that in 1980 he was chosen by the Ontario government "as the only American citizen to sit on Ontario's Great Lakes/Seaway Task Force chaired by Ralph Misener."

In Great Lakes maritime affairs, the citation stated, "where most are government officials or association executives, we sometimes forget that Jacques LesStrang is a private businessman, an independent entrepreneur who must make ends meet each month and each issue of his magazine. (Nonetheless) he freely shares his ideas, his information, and most important, his time to the benefit of the System.

"As the water of the Seaway flows steadily to the sea, the written words of Jacques LesStrang flow far past the borders of our two great countries and have been a marvelous modifier of opinion and outlook toward our mutual waterway.

"When Seaway folk heroes are created and ballads are written, if they are not from the hand of Jacques LesStrang, I am sure they will be from the thoughts and the words of this man who deserves to be known as 'the conscience of the Great Lakes'."

LesStrang is the author of Seaway, Book-of-the-Month Club non-fiction selection, 1978, originally published by Superior Publishing Company, Seattle, as a Salisbury Press book. Seaway was subsequently released in full-size softcover by Harbor House Publishers and is being reissued later this year.

He is also the author of Lake Carriers which was published as a slip-cased companion to Seaway also by Superior Publishing. Lake Carriers was reprinted under the title Cargo Carriers by Crown Publishers and has since been reissued as a full-size softcover by Harbor House Publishers.

LesStrang has also authored many Congressional reports on Great Lakes matters and is frequently read into the CONGRESSIONAL RECORD. LesStrang has been published in sixteen languages on subjects of international marketing, government and transportation economics.

Seaway Review maintains offices in its own building at 221 Water Street, Boyne City, Michigan. LesStrang, a 1949 graduate of George Washington University and a 1951 University of Michigan graduate, maintains a residence on Harbor Island, Glen Arbor, Michigan.

PRESIDENT'S COMPROMISE POSITION ON SOUTH AFRICA

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. GOODLING. Mr. Speaker, I would like to go on record today as commending President Reagan for his compromise position on the issue of sanctions against the South African policy of apartheid. I feel that the President has sent a clear message to President Botha and his government that continuation of this policy is unacceptable.

Mr. Reagan has implemented nearly all of the sanctions proposed by Congress. It is my hope that we have not pushed too far, too fast. Perhaps we should remember our own humbling experience, in the not too distant past.

In conclusion, I would like to voice my sincere desire that the President's Executive order sends the desired message to the South African Government, without destroying the economic base upon which it and all its citizens, black and white, depend.

THE SANCTUARY MOVEMENT ON TRIAL

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. MOAKLEY. Mr. Speaker, ever since the outbreak of civil war in El Salvador, I have been very concerned about the plight of the Salvadoran refugees who have fled the violence and danger that exists in their homeland. Some 500,000 Salvadorans are currently displaced in their own country, many living in displaced persons camps. Nearly 300,000 have fled to seek refuge in neighboring countries such as Honduras, Costa Rica, and Mexico. And nearly 500,000 have come to the United States to wait out the storm.

If apprehended in this country, Salvadorans usually face detention and deportation. I believe that it is wrong and inhumane at this time to deport these people back into the heat of battle.

In response to the current levels of violence and civil unrest in El Salvador, I have introduced legislation (H.R. 822) which would temporarily suspend the detention and deportation of Salvadorans now in the United States for approximately 2 years. The suspension will allow time for the General Accounting Office to conduct a study concerning the general conditions that face the Salvadoran refugees and the overall conditions in El Salvador. Senator DENNIS DECONCINI has introduced identical legislation in the U.S. Senate.

Mr. Speaker, I would like to share with my colleagues an excellent article, written by my former colleague from Massachu-

setts, Robert F. Drinan, S.J., on the issue of Salvadoran refugees. Father Drinan is currently a professor of law at the Georgetown University Law Center in Washington, DC. While serving in the Congress, Father Drinan was a courageous advocate for human rights. He continues in that role today. I would like to submit for the RECORD Father Drinan's article which appeared in America magazine:

[From America, Aug. 24, 1985]

THE SANCTUARY MOVEMENT ON TRIAL

(By Robert F. Drinan)

On Oct. 15, 1985, 12 church-related officials, including three Catholic nuns and two Catholic priests, will go on trial in a Federal court in Phoenix for harboring aliens from El Salvador. The trial and the verdict will reflect the jury's reactions to the Government's clandestine surveillance of religious sanctuary groups in Arizona, the sincerity of the religious feelings of those accused of crime and the fairness of the policy of the Immigration and Naturalization Service (I.N.S.), which denies asylum or refugee status to almost all Salvadorans.

The estimated number of Salvadorans now in the United States ranges from 300,000 to 500,000. The I.N.S., understandably anxious to stop this vast migration, deports thousands of Salvadorans each year. But the sympathy for these people is increasing in the United States, as the opposition to U.S. military intervention in El Salvador intensifies. On March 24, 1982, the second anniversary of the murder of Archbishop Oscar Romero, the sanctuary movement was officially born in Tucson, Ariz. It is now a part of the life of 200 congregations in 12 denominations in 30 states. Although the term "sanctuary" suggests some legal or historical validity for the concept, sanctuary as a legal doctrine was terminated by Henry VIII and has never held any real place in American law. But offering sanctuary, at least symbolically, is mandated in Leviticus and is recommended in the Letter to the Hebrews: "Be not forgetful to entertain strangers, for thereby some have entertained angels unawares."

The proponents of sanctuary insist that many, perhaps most, Salvadorans now in the United States desire asylum because they are refugees, as defined in international law and by the 1980 Refugee Act passed by Congress. That law gives refugees status to every alien in the United States who can claim a "well-founded fear" of persecution or death if he or she returns to his or her own country. The I.N.S. and the State Department claim, on the contrary, that there is little evidence that the Salvadorans who are returned to that country are persecuted or even treated badly. The evidence on this last point is in dispute, although the overall situation in El Salvador continues to be unbelievably bad.

By mid-1984, close to one-fourth of the 4.9 million people of El Salvador were either refugees outside their borders or were internally displaced, and the International Commission of the Red Cross was providing services to 105,000 displaced persons in conflict zones in El Salvador. Seven hundred and fifty thousand fled the country in the 1980-84 period. An additional 500,000 fled their homes but not their borders. Another 200,000 displaced persons are not even registered with the Government. In El Salvador at the present time almost 25 percent of the people have been displaced. In Afghanistan that figure is only 16 percent. During the worst days of the Vietnam War the number of internal refugees never exceeded 8 percent of the population.

In addition, Tutela Legal, an agency associated with the Archdiocese of San Salvador, reported that 2,024 civilans were killed in 1984. This is a decrease from the 5,142 killed in 1983, but the likelihood of injury to civilians by the army or the guerrillas is still very high. Nor is there much hope for prosecution of those who have committed the crimes. The conviction of the murderers of the four American churchwomen is the only successful prosecution in recent times. Even President Jose Napoleon Duarte recently spoke of the "culture of terror" in his country.

The I.N.S. nonetheless feels that the appalling conditions in El Salvador do not warrant the granting of asylum or even a period of Extended Voluntary Departure (E.V.D.). In 1984, the I.N.S. processed 13,373 asylum applications from Salvadorans; only 328 (2.5 percent) were granted. The proponents of asylum for the Salvadorans claim that the I.N.S. is acting contrary to a protocol on refugees agreed to by the United States. In 1984, for example, 40,621 petitions for asylum were considered from all countries; 8,277 or 20.4 percent were granted.

Through a Freedom of Information Act request, the political asylum project of the American Civil Liberties Union (A.C.L.U.) obtained the list of 8,500 Salvadorans who were sent back to their country. This list was compared with a listing of 15,000 known victims of violence in El Salvador. Dozens, even hundreds, of cases of harm coming to returnees where discovered. But this evidence is not free from doubt and is not entirely reconcilable with some conclusions reached by the State Department.

The sanctuary movement feels that E.V.D. should be granted for two years, as provided for in the bills proposed by Senator Dennis DeConcini (D., Ariz.) and Representative J. Joseph Moakley (D., Mass.). Virtually every religious denomination in the nation, including the U.S. Catholic Conference, favors the enactment of this measure. Legal experts can point to 15 groups with a status comparable to the Salvadorans who have been given E.V.D. over the past 25 years. The United States allowed 25 percent of Filipinos requesting asylum to remain, 61 percent from Iran, 51 percent from the Soviet Union, 33 percent from Poland, 39 percent from Rumania but only 2.5 percent from El Salvador and 0.4 percent from Guatemala.

The implications of what Congress intended by enacting the 1980 Refugee Act are not free from doubt or controversy. Federal court judges are wrestling with this question. at least one Federal court in California has ruled that a former right-wing military official from El Salvador, who feels that he would be killed or injured if he returned, is entitled to asylum. But there is still no clear consensus on what the law should mean for the thousands of peasants who have fled from El Salvador, somehow got across Mexico and who now, residing in all of the major cities of the United States, are begging for some relief from uncertainty and fear generated by their existence in a legal no man's land.

There is credible evidence that the I.N.S. and the Reagan Administration could be more generous at least in granting E.V.D. The United Nations High Commission for Refugees in 1982 seems to have said that those fleeing El Salvador are bona fide political refugees. The Administration insists, however, that Salvadorans come to the United States only for economic gain and not to escape political oppression. The proponents of asylum counter that the Administraion is denying asylum because to grant it would be to contradict its constant boast that things have improved greatly in El Salvador and that the citizens of that democracy should return there. The Reagan Administration can plainly be faulted for disregarding a clear mandate placed by Congress in the 1984-85 State Department Authorization Act that Salvadorans be granted E.V.D.

The already complex moral and legal issues involved in asylum, E.V.D. and the religious motivation of those helping aliens will be further complicated in the trial in Phoenix by the secret infiltration of the Government into the religious groups allegedly harboring aliens in a manner contrary to Federal law.

I saw the ominous implications of this infiltration when I participated in a day-long forum on this topic in Phoenix in June. The forum attracted 600 spellbound persons who for over four hours listened to speakers reflect on the fact that the Federal Government had spied on several church groups in Arizona.

The facts are unbelievable. Without a warrant and in all probability in violation of regulations of the Justice Department, the I.N.S. hired two paid informants, Jesús Cruz and José Morales, to infiltrate the sanctuary movement. Pretending to be men of faith and believers in asylum for refugees, these two men tape-recorded Bible-study meetings and a wide variety of activities carried on in Protestant and Catholic churches in Arizona. With hidden microphones the Government, through its two informants, collected and produced 40,000 pages of secretly taped conversations of church workers.

On the basis of the evidence clandestinely obtained by the informants, the Government on Jan. 14, 1984, indicted 16 persons (now reduced to 12) on 91 counts. Sixty refugees, mostly campesinos now scattered throughout the United States, were named as unindicted co-conspirators. The special U.S. Attorney in charge of the case, Donald Reno, conceded in a pretrial hearing that the information obtained from the concealed recording devices is "asbolutely essential" for the prosecution of the cases.

Those involved in the sanctuary movement are understandably outraged at what was done to them. Some of them will concede that they have engaged in civil disobedience but claim nonetheless that clandestine wiretapping without a warrant violates their rights under the Fourth and possibly under the First Amendments. In a protest against the warrantless surveillance, the A.C.L.U. said in a brief that "pastors and parishoners are entitled to at least as much First Amendment due process as pornographers."

If the evidence were suppressed because of its tainted origin, the case would probably collapse. It seems unlikely, however, that Judge Earl Carroll will stop the case by throwing out the fruits of the warrantless search. But such a search has never in all of American history been carried out against religious groups. No cases can be found where the Government clandestinely infiltrated the Mormons or the "Moonies" in order to get an indictment and a conviction. Some clergy were probably wiretapped during the Vietnam War and during the early years of the civil rights movement. But the 21 lawyers and the 12 sanctuary de-

fendants have discovered no case where the Federal Government employed informers without a warrant to infiltrate a religious movement over an extended period of time and, on the basis of the information obtained by these "spies," produced indictments.

The closest case is probably the Camden 28. In that case in 1973, 28 religiously motivated persons invaded a Federal draft board. Because of an informant working within the group, the Federal officials knew of the projected break-in and immediately arrested all of those who trespassed on Federal property. The jury acquitted all of the defendants because the jury apparently felt that the Government had infiltrated a religious organization to an intolerable degree.

That the warrantless infiltration is unprecedented does not yield many answers as to its constitutionality or propriety. Everyone at the Phoenix meeting was still stunned that the Government did it. There is enormous sympathy for Sister Darlene Nicgorski, who has been indicted, and for the Rev. John Fife, a distinguished Protestant minister, also indicted. But is the Government prevented by law or by the Constitution from investigating a group of churches if it feels that some church members are clearly in violation of a precise Federal statute that makes it a crime to "harbor" certain kinds of aliens?

Lawyers for the defendants in Phoenix have been searching for evidence that the framers of the First and Fourth Amendments must have intended to ban surreptitious searches of churches by the Government. After all, the founding fathers would have wanted to prevent any repetition of the searches and seizures carried out by the officers of the crown in Tudor England designed to suppress and destroy the literature of both Catholics and Puritans. The authors of the Constitution must have intended that the separation of church and state must mean that the churches can carry out their works of mercy for refugees without having their words and deeds recorded by clandestine informants. But history and law are silent as to whether the intrusive tactics of the I.N.S. are so shocking to one's sense of fairness that the suit should be dropped.

The I.N.S. responds, of course, by stating that it is investigating only the nonreligious aspects and activities of the churches and that no entrance into anything sacred was attempted. But the participants in the sanctuary movement do not find this explanation satisifactory. All of their words and deeds, whether sacred or secular, merit privacy because they were done in a church-related context and by people who have a right to be free from betrayal by a Government agent who receives their trust and then abuses it.

Theologians and jurists who are following the Phoenix case fear that if even one item of evidence derived from the clandestine surveillance is used against the 12 defendants, a terrible precedent will have been established in American law.

No one can predict very confidently how the Phoenix sanctuary trial will play out. The trial, with a predicted length of six weeks, will involve tangle elements of U.S. policy in Central America, a misguided pattern of law enforcement and a parade of witnesses who will testify, if allowed, to their strong opposition to the war that the United States is waging in El Salvador. Many of the critics of the sanctuary movement assert that the movement is just another way for the actors involved to articulate their opposition to what the United States is doing in Central America. That allegation has some truth, but many of the courageous persons involved in sanctuary are obviously helping the refugees because of their sincere religious commitment to the poor and to the powerless.

It is not clear that the trial in Phoenix will resolve many of the questions involved in the Refugee Act of 1980. Those issues are being litigated in cases involving Haitians, Cubans and others. Eventually only Congress can bring into existence a clear, comprehensive and credible policy on how the United States should handle the many categories of refugees and aliens.

Until that day occurs, the nation should be grateful to those people who extended hospitality and love to refugees from El Salvador. They are like the laity and clergy in Finland, Denmark, Bulgaria and Norway who hid the Jews. They can be compared to those who defied the fugitive slave law of 1850 and eventually persuaded Congress to change it. They are the ones who remind us that the very existence of the United States required the kind of protest against Government for which 12 brave people in Phoenix will soon go on trial.

SI SE PUEDE Y SI PODEMOS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. STARK. Mr. Speaker, it is my great pleasure to rise today and recognize a local organization of volunteers in Hayward, CA, who provide essential services to the Hispanic community. The name of this distinguished organization is La Familia Counseling Service.

September 21 marks the 10th anniversary of the founding of La Familia Counseling Service. This group was formed as the result of a grassroots community organizing effort to provide bilingual/bicultural mental health services for Hispanics. Since its inception, La Familia Counseling Service has expanded its role in the community and now provides programs in the areas of counseling and community services, community education and information, specialized youth counseling, case management services for the developmentally disabled, and children's day treatment services. For its excellent service to various ethnic groups who traditionally have lacked access to more traditional services, La Familia Counseling Service has been recognized by Alameda County, the city of Hayward, regional center of the East Bay, United Way of the Bay Area, and many private foundations.

I applaud the fine job La Familia Counseling Service has performed in providing fundamental services to local communities. I believe groups such as La Familia Counseling Service provide leadership and services at the level where they are most effective and visible—at the community level. La Familia Counseling Service has certainly shown, and Congress should certainly recognize, that it lives up to its motto—"Yes, we can do it!"

WALTER KANER OF NEW YORK IS HONORED FOR 33 YEARS OF SERVICE TO NEEDY, HANDICAPPED, AND HOMELESS CHILDREN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to Walter Kaner, who is being honored at a gala dinner at the Swan Club in Glenwood Landing, NY, on September 22, for his 33 years of loving service to the children of New York.

Walter Kaner writes a colorful, informative, and well-read column about the people and happenings of Queens, Brooklyn, and Long Island. His words have captured our interest and imagination since 1977, in the pages of the New York Daily News; before that, his column graced the Long Island Press.

But Mr. Kaner's involvement in his community goes far beyond his fine writing. Over the past 33 years, he has brought love and joy into the lives of more than 85,000 handicapped, homeless, and needy children. Last month alone, the Walter Kaner Children's Foundation made it possible for 2,000 kids to spend some time at the Rockaway's Playland amusement park. A day of fun, rides, hot dogs, and cotton candy is more than a treat for these youngsters. Mr. Kaner's Fun In The Sun Outing was a first for many of these kids—a time of joy, a time to be like every other child in the neighborhood, a moment to be remembered and treasured.

Mr. Speaker and my distinguished colleagues, holidays are not always warm and loving celebrations in the lives of homeless or underprivileged children. Want and loneliness do not abate simply because of the date on the calendar. But every year, Walter Kaner hosts a Thanksgiving/Christmas party, where children can experience the laughter and the fun that should be a part of every childhood, and where every one of them receives a special gift. Last year, as in the past, the gala was held at Antun's in Queens Village, and children came from 55 hospitals, orphanages, children's shelters, and health and welfare centers to share in this festive celebration.

Mr. Speaker, Walter Kaner's list of awards and accomplishments is a long and distinguished one. He has informed and served his community for many years. He is a recipient of the Long Island Distinguished Leadership Award, and his invaluable contributions to New York children have been publicly praised by Presidents Nixon, Carter, and Reagan. He is respected, admired, and loved by the city of New York, and by millions of people across this country.

But the jewel in Mr. Kaner's crown is surely his love for children in need. And for three decades, he has set about alleviating that need. Through his efforts, more than 85,000 children have received perhaps

the only gift they will get that year; tasted some of the joy and hope every child should know; and had a special day of fun, freely given to them by a very special person.

Mr. Speaker, I would like to take this moment to ask all of my distinguished colleagues in the U.S. House of Representatives to join with me now in commending Walter Kaner, for his outstanding contributions to the needy, homeless, and handicapped children of New York.

THE DAIRY SANITY PLAN: OLIN-MICHEL SUBSTITUTE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. BROWN of California. Mr. Speaker, in a few days we will be debating the 1985 farm bill. In this debate, we will be asked to fashion a policy which assures and vital farm sector, insures a steady supply of affordable food to consumers, and minimizes Federal outlays. This is a difficult task, given the dire conditions which beset the farm community and the large surpluses in many areas which will require large Federal outlays, at least under current farm programs.

In no other sector is this task as difficult as in the dairy sector. We have seen Federal inventories of dairy products grow in recent years as a result of purchases made to keep dairy prices artificially high. Current surpluses owned by the Government are excessive and total 114 million pounds of butter, 551 million pounds of cheese, and 868 million pounds of nonfat dry milk. Federal outlays to purchase and store these surpluses have risen from $224 million in 1979 to an estimated $2 billion in 1985. In the process, the Federal Government has become the largest single dairy market, purchasing nearly 10 percent of the dairy production over the last 4 years. Consumers have paid as well; retail prices are held artificially high, costing us about $2 billion a year in higher dairy prices.

We have a dairy sector in transition, and Congress has added to this instability with five pieces of legislation in the last 5 years. The most recent approach to a "permanent" solution to bring dairy production into line with dairy consumption was passed about 2 years ago. Since that program expired on April Fools' Day of this year, dairy production has crept upward again, and we are faced with the need to find yet another "permanent" solution.

The permanent solution being proposed this year is called the Dairy Unity Plan. This plan would charge dairy producers for the cost of paying dairy farmers not to produce or to pay them to go out of business. Dairy producers would also pay for the costs of Government dairy purchases, the cost of a marketing research program, and the cost of a dairy product promotion plan. To pay for this, dairy farmers would be assessed between 63 cents and $1.82 for every 100 pounds of milk—hundredweight—produced.

Having dairy farmers pay their way out of the problem seems logical and fair—until we examine who actually pays the bill for these programs.

First, the dairy unity plan would increase the dairy support price from its current level of $11.60 to $13.09 per hundredweight by fiscal year 1990. Then, the dairy unity plan increases the cost of the fluid milk in most of the country by between 7 cents and $1.03 per hundredweight.

These increases will raise consumer prices, and commercial sales will decrease. This will most directly affect low-income consumers dependent upon Federal food and nutrition programs such as the Food Stamp Program and the Women, Infants, and Children [WIC] Feeding Program. With little likelihood that these programs will get more funding, an increase in consumer prices will squeeze the low-income consumer more than any other part of the consuming public. But in the end, all consumers will pay for the cost of the dairy unity plan with an estimated $10 billion in increased dairy prices over the next 5 years.

Will the House approve a plan that, in the midst of an expensive dairy surplus, increases the cost of dairy products and decreases commercial sales? Will the House approve a plan that places a greater burden on food stamp and WIC recipients? Will the House approve a plan that increases the cost of fluid milk by $1 in Florida, $1 in Louisiana, 80 cents in Tennessee, 47 cents in Indiana, 40 cents in Kentucky and Illinois, 34 cents in Ohio, 30 cents in New York, and so on?

Or will the House take a direct approach and enact a genuine, permanent approach to lower support prices until the surplus is at manageable levels, increasing commercial sales and paying back the consumer for the years of excess that the consumer has financed? I plan to support such an approach, contained in the Olin-Michel substitute, when we debate dairy policy in a few days.

Let's replace the dairy unity plan with the dairy sanity plan.

GRASS-ROOT PLEAS STIR LAWMAKERS

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. LELAND. Mr. Speaker, I would like to share with my colleagues two insightful articles regarding South Africa which appeared in the Washington Post yesterday.

The first article, "Grass-Root Pleas Stir Lawmakers," deals with how interest in the South African policy of apartheid has grown in the United States and how this increased interest spurred organizations, Congress, and the President into action.

The second article, "Apartheid Dims Success," describes how the highest ranking black executive at Rank Xerox's South African corporate headquarters views apartheid and its effects. While Mr. Wellington Mnikati enjoys more economic wealth than most blacks in South Africa, he is not isolated from apartheid.34

You may be a senior manager at Rand Xerox," Wellington Mnikati said, "but no matter how successful you may appear, at the end of the day you're black, and they don't miss a chance to tell you you're black."

I urge my colleagues to read the following articles.

[From the Washington Post, Sept. 16, 1985]

GRASS-ROOT PLEAS STIR LAWMAKERS

GOP CONSERVATIVES DEMANDED REAGAN SHIFT ON SOUTH AFRICA

(By Edward Walsh)

Last March, flying home to Kentucky, Sen. Mitch McConnell, a conservative Republican in his second month in the Senate, read a national news magazine account of the growing violence in South Africa.

McConnell, who graduated from the University of Louisville in 1964 just as the civil rights movement reached its peak with enactment of the Voting Rights Act, says he was struck by the basic justice of the cause of South African blacks in their struggle against apartheid.

Back in Washington, the new senator asked his staff to explore the issue. Within a month a bill to impose economic sanctions against the white-minority government of South Africa was introduced by McConnell and Sen. William V. Roth (R-Del.). This legislation was among numerous sanctions bills from which were forged the measure that forced President Reagan to reverse his longstanding opposition to sanctions.

McConnell's decision to seize on South Africa for his first major foreign policy foray was among the many small signs that the Reagan administration's policy of "constructive engagement" in South Africa was being swamped in a rising tide of public and political dissatisfaction.

Long an issue of deep concern to U.S. blacks and Democratic liberals, the plight of South Africa's black majority began to draw the attention of lawmakers like McConnell and some of his equally conservative Republican colleagues in the House.

"Bipartisan" became the watchword to describe the rising tide, and by the time it crested late this summer, Reagan and the other architects of constructive engagement had been forced into a politically untenable position. Faced with certain defeat in the Senate, Reagan, in McConnell's words, "completely caved," abandoning his longstanding policy by signing an executive order imposing a milder form of sanctions than those contained in the sactions legislation that had been headed for overwhelming approval despite a veto threat.

Democrats, who charge that the Reagan executive order is riddled with loopholes, would disagree sharply with McConnell's description of the presidential about-face. But whether Reagan's limited sanctions are seen as a genuine new policy initiative or a ploy to buy time for a failed policy, there is widespread agreement that a fundamental shift has taken place in public and congressional sentiment and in the terms of the debate over U.S. policy toward South Africa.

"The executive order transformed the issue from whether to apply sanctions to

which sanctions are the most effective," said Rep. Stephen J. Solarz (D-N.Y.).

How this came about—how South Africa, apartheid and sanctions moved to the forefront of the American political stage in the summer of 1985—is a case study in the rise of political forces in the age of global media coverage.

Widely scattered events in Washington and Pretoria converged over a relatively short time and were linked in U.S. living rooms by simultaneous media coverage. Prominent politicians such as Sen. Edward M. Kennedy (D-Mass.), who made a highly publicized trip to South Africa in January, played important roles, but so did protesters who were arrested outside the South African Embassy in Washington, and anonymous black youths who were killed by security forces during violent demonstrations in South Africa.

Finally, a new generation of conservative Republicans, arguing that there was no future for themselves or their party in being seen as defending the South African government, joined the liberal Democrats in demanding something more than constructive government.

Whether Reagan, vacationing at his California ranch in August, was aware of the forces closing in on his policy is not known, but by the time he returned to Washington in early September he had been isolated from all but the most extreme elements of his party in Congress. The executive order followed a short time later.

Nothing was particularly new about the issues, and for years liberal Democrats, such as Solarz, a former chairman of the House subcommittee on Africa, had been trying to get the public to pay attention. Still, South Africa and the proper U.S. response to apartheid remained for in the political background.

Several factors contributed to the rise in public awareness of the issues, Solarz said, beginning with the award of the Nobel Peace Prize last October to Bishop Desmond Tutu, a moderate spokesman for South Africa's black majority who suddenly found himself with a vastly enlarged audience.

A month later, a group of U.S. black leaders launched a movement that had an even larger impact on the political debate surrounding the South Africa issue. Alarmed by the deteriorating situation in that country, they formed the Free South Africa Movement and began a daily series of demonstrations and acts of civil disobedience outside the South African Embassy here. Over the next nine months, more than 3,000 antiapartheid demonstrators—including 22 members of Congress—were arrested in the peaceful protests, which were usually recorded by televison camera crews. The demonstrations spread to other cities.

From the beginning, said Randall Robinson, executive director of TransAfrica and national coordinator of the Free South Africa Movement, the protests were part of a two-track strategy aimed at forcing a shift in U.S. policy. While the protests and daily arrests generated growing public awareness of the issues, antiapartheid leaders in Congress pushed sanctions legislation.

The Reagan administration was pursuing its constructive engagement policy as quietly as possible, Robinson said, and they key was to bring the issues to public awareness. "We never doubted from the beginning what the public's response would be," he said.

The direction of this strategy was not immediately clear to even a veteran of the antiapartheid movement such as Solarz.

"When they first embarked on this, it wasn't clear to me how violating the laws of the District of Columbia was going to bring about changes in South Africa," Solarz said. "In retrospect, they were far more effective than all my speaches on the floor of the House."

The parallels between the tactics of the Free South Africa Movement and the U.S. civil rights movement in the 1960s were obvious and did not go unnoticed by a group of young conservative House Republicans, among them Rep. Vin Weber (R-Minn.), chairman of the Conservative Opportunity Society and Solarz's ideological opposite.

"We talked a lot about the South Africa issues," Weber said. "A majority felt that if this going to be a high-profile issue, we don't want to be in the position of defending South Africa in a knee-jerk fashion.

In December, Weber and other members of the Conservative Opportunity Society sent a letter to the South African ambassador warning that they would support a tougher U.S. line unless more progress was made toward dismantling apartheid.

The conservatives' letter, Robinson said, was "extremely important" not only in broadening support for action on the issue but also in "projecting a message to the nation that this is not a squabble between parties for political gain but people saying together that apartheid is wrong."

Weber and the other young Republican conservatives were motivated not only by strong personal opposition to apartheid but by the stakes for their party if it were to achieve majority status. They were particularly concerned about the impact on young voters if Republicans were seen as clinging to an increasingly discredited policy.

In the Senate, McConnell argued to colleagues that he owed his election to younger voters, many of them supporting a Republican for the first time, and that there was no question about where these voters stood on the apartheid issue.

"The issue is of symbolic importance to the younger generation, black and white, and has the most potential to radicalize the campuses again," McConnell said.

Weber, 33, and McConnell, 43, recalled living through the civil rights struggles of the 1960s in explaining how they read the political landscape surrounding the South Africa issue, particularly as it would be seen by younger voters.

"All of us under the age of 40 were politicized during that time we had the great civil rights struggles of the 20th century," Weber said. "There is a consensus among the under-40 voters that that struggle was justified and significant. No serious person in our generation argues about civil rights and the role of government."

Said McConnell:

"In the 1960s, when I was in college, civil rights issues were clear. After that, it became complicated with questions of quota and other matters that split people of goodwill. When the apartheid issue came along, it made civil rights black and white again. It was not complicated."

That is precisely the calculation that Robinson and other leaders of the Free South Africa Movement made in November—that once the issue moved to the political forefront there was no question about the public's response.

According to Ann Welch, research director of the Conference on Issues and Media, a private organization based in Alexandria that monitors national news coverage of political issues, South Africa—events there and related political developments in the United States—has dominated the national news agenda since mid-July. In the two weeks ending Sept. 8, which was the day before Reagan signed the executive order, South Africa accounted for 11.5 percent of national news coverage, more than double the attention paid to the second-ranking issue, U.S.-Soviet relations, Welch said.

"The American audience has to be primed to really look at another place in the world," she said. "It's the tying of issues overseas to events in this country. The fact that black leaders started the protests last November got the public's attention, and quickly a lot more people were willing to look at South Africa beyond the violence they saw on television. Even before the violence escalated, you had a lot of people saying we have to make a decision on this issue."

According to Robinson, the "priming" of the American public on South Africa has only begun. The protests and the pressure for additional change in U.S. policy will continue, he said.

But although sharply critical of Reagan's response to the events of the last 10 months, Robinson said he sees in the broad support generated by the antiapartheid movement even among conservative Republicans such as Weber and McConnell evidence of eventual success.

"I think we can measure progress made and not made over the last 20 years by the behavior of the nation on this issue," he said. "National values were improved by the civil rights movement, a beachhead was erected. I think the nation does not want to go back to what we were. This is a clear measure of how little we want to go back."

APARTHEID DIMS SUCCESS

BLACK MUST SHRINK DREAMS TO GHETTO-SIZE

(By Glenn Frankel)

SOWETO, SOUTH AFRICA.—For now it is just a vacant lot in one of the more affluent sections of this black city, but in a few months Wellington Mnikati hopes to build a new house here.

The house should have been the fulfillment of a dream—Mnikati designed it himself, and it will have a two-car garage, a bedroom for him and each of his three children and a study. But Mnikati's dreams are too big to fit into the confined world of Soweto and the small slot fashioned for blacks like him by South Africa's system of racial segregation called apartheid.

He wants the freedom to escape the ghetto and live wherever he can afford to on the substantial income he earns as the highest ranking black executive at Rank Xerox's South African corporate headquarters. He wants to send his children to integrated public schools. And he wants to be able to vote for those who determine his taxes and his future.

Most of all, he wants to escape the enforced inferiority of being a black man in a world where whites wield virtually total control.

"You may be a senior manager at Rank Xerox," Mnikati said, "but no matter how successful you may appear, at the end of the day you're black, and they don't miss a chance to tell you you're black."

Mnikati is one of a small but growing number of blacks to have made it in the white man's world. Middle-class, politically moderate and sophisticated, he is among those whose support South Africa's white-ruled government must capture if it is ever

to fashion a workable deal over the country's future with its black majority.

Although he is proud of his personal achievements, Mnikati is far, from satisfied with the pace of change in this country. He is deeply angry over the injustices he and his family suffer daily, is deeply worried about the future, and fears that his own position will grow worse as time passes.

That anger and fear, which he shares with the vast majority of his fellow urban blacks, help explain why the government's new proposals this week on restoring citizenship for blacks and abolishing restrictions on urban movement have done little to narrow the yawning gap between white "reforms" and black aspirations.

"As far as I can see, it means I get to have a passport, and that's where it ends," Mnikati said. "We still won't really be South African citizens. Citizenship means certain responsibilities and rights. But [South African President Pieter W.] Botha has made it clear we are not going to have any say in the administration of this country."

He said he fears that the end of "influx control" will only create more slumps because the government will not construct the new housing needed for the flood of black migrants from rural areas. "There will be too many people chasing too few houses," he said. "Then the whites will turn around and say, 'I told you so.' "

In many ways Mnikati could pass for a successful executive anywhere in the world. He wears dark business suits to the office and on weekends switches to jeans and sometimes a "Team Xerox" sweatshirt. There are two cars in the driveway, a Toyota Cressida supplied by the company and an Audi for his wife. A video cassette player dominates the living room.

But there are crucial differences between Mnikati, 41, and the white world within which he operates. He is required by law to reside in segregated townships such as Soweto. Although he has lived in urban areas all his life, he must carry at all times his "passbook" entitling him to live here and to work in "white" Johannesburg or face jail and a fine.

The most important differences concern his children, aged 12, 9 and 6. By law they must attend the segregated public schools where much of their education is in a tribal language rather than the English they will need to advance in the increasingly sophisticated business world they will face after graduation.

Even the government concedes that the education in these schools is inferior to that of whites. To try to close the gap, Mnikati takes his oldest daughter Dipuo to Johannesburg each Saturday for private English and math lessons. He could send the children to integrated private schools, but tuition is high, he said, and the schools are too far away for the children to live at home.

Disruptions caused by a year of political violence have compounded the problem. None of the children wears the uniform to school these days for fear of being assaulted on the street by young activists enforcing school boycotts.

Tear gas was lobbed into Dipuo's schoolyard a few weeks back, by soldiers enforcing regulations against students "loitering" out doors. Some days the schools are closed without notice, and the children have to make their way home unescorted. Mnikati lives in fear that they will be picked up by police and arrested, as more than 1,600 students have been in recent weeks.

"From day to day you're never too sure," he says. "When you get home at night and they're all there, you heave a sigh of relief."

The only whites his children see regularly are the soldiers patrolling Soweto in armored vehicles, and Mnikati said he worries that his children will grow up hating whites and fearing them. He tries to teach them that whites are people like they are and that they should not hate nor feel inferior. At the same time, however, he knows whites can hurt his children, stifle their future or wreck their self-esteem. "Sometimes I wonder if I am making a mistake in teaching my kids that everyone is the same," he said.

Mostly he has tried to prepare his children for what he knows will be a rough career road ahead. "Blacks have to be 50 percent better, if not twice as good as whites to get the same position," he said. "So I have to guide my kids."

Mnikati's own attitudes toward whites are an ambivalent mixture of resentment, envy and, always, suspicion. There are few friendships among his coworkers, and only one white has invited him to her home.

"A lot of white people make the right noises," he said. "The question is when it comes to the crunch, when you're faced with the prospect of having a black neighbor, will you still make the same noise?"

Wellington Mnikati pulled himself up from poverty with less than a high school education. He drove himself through a series of low-level jobs, starting as a janitor in a cigarette factory and working up to senior wages clerk in a construction firm.

He left for Rank Xerox when it was clear that he never would rise to an accountant's position even though he was doing an accountant's work because that classification is reserved for whites.

"I could only give instructions to white women in the form of suggestion," he recalls.

He managed to get his high school diploma at night and is now one course away from a bachelor's degree in business.

At Rank Xerox he is personnel manager, and he is proud of his company's record on equal employment opportunities. But he always feels the tension between being black and being a corporate manager.

"It would be easier for my white counterpart to make an economic decision to fire blacks because at the end of the day he goes home in the opposite direction, while I would go home in the same direction with the same people I just fired," he added.

As political unrest continues, Mnikati fears that the tension between the two worlds in which he lives—the corporate world and Soweto—will only worsen. He feels trapped between young black radicals whose cry for freedom he sympathizes with but who see him as a capitalist enemy, and a system he despises yet is increasingly identified with.

"I am an outsider in both worlds," he said. "You understand the situation and you sympathize with the kids, but at the same time you feel like a piece of meat in a sandwich."

That was one of the main reasons Mnikati had decided to sell his old house in the township of Moroka and build a new one in Diepkloof Extension, a wealthier new area a few miles closer to Johannesburg and more removed from Soweto's turbulent center.

But even the new area is not sealed off from the reality of Soweto. Most of the schools in Diepkloof have been closed much of this year due to boycotts and violence. A few blocks away from Mnikati's lot stands the burned shell of the once-grand house of a community councilman. It was destroyed by a mob that branded him a collaborator with white rule.

Down in a valley a few minutes away is a collection of squalid, all-male barracks, mounds of garbage piled against the walls, where blacks from rural areas are housed while they work on annual contracts. The men who reside there, cut off from families and friends, prowl the streets at night.

On his way home from taking his daughter to her Saturday lessons, Mnikati always buys a Johannesburg Star so he can glance at the real estate ads for whites. He and his wife Cannie often take a Sunday drive to view open house displays in newly developed white suburbs.

There, among freshly painted, two-story houses with balconies and trim yards, is where Wellington Mnikati's real dreams reside.

Other blacks go too, he said, despite the fact they cannot buy. "A lot of us just go there to drool," he said.

Sipping tea in his living room, Mnikati paused briefly to glance at his children. Then he reiterated his impatience: "We are the people feeling the pinch, so we don't have the luxury of waiting until whites see the light," he said. "All I'm asking for is to untie the one hand from behind my back."

REMEMBERING COMMODORE BARRY, FATHER OF THE U.S. NAVY

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. McGRATH. Mr. Speaker, it is with great pride that today we remember Commodore John Barry, who on September 13, 1981, was proclaimed "Father of the U.S. Navy" by a joint resolution of Congress.

Born in Ireland in 1745, John Barry came to the Colonies as a young man who had a great love and skill of the sea. In December 1775, Barry was commissioned as a captain in the Continental Navy and given command of the brig *Lexington*. It was not long afterwards that Barry defeated a slew of British frigates in America's war for independence. Hence, Barry was hailed as a hero throughout the Colonies.

In 1783, following the end of hostilities, Barry was appointed to oversee the building of the frigate *United States*, a sister ship of the *Constitution*. He commanded the frigate for several years and in 1793 was appointed by George Washington to be the U.S. Navy's senior and first commissioned officer. It was at this time that Barry gained the unofficial title as the "Father of the American Navy." Having been instrumental in the establishment of the Navy Department, the opening of many shipyards and starting training programs for new officers, Barry earned the title of commodore shortly before his retirement in 1801.

Mr. Speaker, in his time, Commodore Barry was often denied meaningful education and appointments because of his

Catholic beliefs. His title of "Father of the American Navy" was often taught to school children as belonging to other individuals because of his religion. However, through thorough research and dedication of groups such as the Ancient Order of Hibernians in America, Commodore Barry is now rightfully recognized as the true "Father of the U.S. Navy."

DEPARTMENT OF DEFENSE WASTE IS INTOLERABLE

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. APPLEGATE. Mr. Speaker, reports in the media last week indicate that the Department of Defense is continuing their blatant and total disregard of the outrage and criticism of the American people and this Congress by continuing their past policy of purchasing spare parts at prices that are obscene.

It never ceases to amaze me how DOD seems to think they are a sanctimonious and separate branch of the Government, not answerable to anyone.

It has been over 1 year now since it was discovered the American taxpayer was paying for coffee pots costing $7,622 and toilet seats that were over $600. In spite of all the debate on this subject since then, the 1985 Air Force parts catalog still lists these excessively priced items.

Let met cite a few examples: A copilot's seat, $26,937; windshield wiper motor, $2,212; the stationary pane of a pilot's window, $3,755; the sliding portion of the same window, $2,607; a "no smoking" light, $382; and the coffee pot, still $7,622.

The waste here is incredible, obscene, and intolerable. These tax dollars should be stretched, not squandered. I am again asking DOD to cease this practice immediately or else face the prospect of legislation subjecting all parts purchases to congressional approval. This may be ridiculous and time delaying, but the taxpayers must be protected and if not by Congress, then by who.

BULGARIAN REPRESSION OF TURKS AND MOSLEMS

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. DIOGUARDI. Mr. Speaker, I rise today to condemn the systematic repression of Turkish-Bulgarians by the Government of Bulgaria. As is the case in virtually all Communist nations, human rights have been ignored and widespread repression exists for the good of the state.

Bulgarian repression of Turks and Moslems is not new, however, it has greatly intensified over the last 20 months. The Helsinki Watch issued a report in August of this year and while it is difficult for foreigners to have access to information in Bulgaria—the Bulgarian authorities deny Western reporters access to scenes of transgressions—it is clear that tragic and often fatal injustices are occurring.

According to the report, troubles began when the Bulgarian Government aggressively pursued a policy of destroying Turkish ethnicity in Bulgaria and assimilating them into the totalitarian state. According to the Helsinki Watch, "* * * the Bulgarian Government conducted a gun-point assimilation campaign to force ethnic Turks to change their Turkish/Moslem names to Slavic/Christian names." Turks were presented with census forms with new names that bore no resemblance to their own.

Moslem names are essential to the Turks' religious practices. Efforts to be Bulgarized were resisted. Unfortunately, this resistance often ended in tragedy. Demonstrations by Turks were met with army troops, tanks, and bulldozers. According to reports Turkish men were beaten and killed; women were raped.

The Turkish minority in Bulgaria consists of over one million people. The Christian Science Monitor has estimated that more than 5,000 have been killed and that over 10,000 are held in a special prison in Belene.

On the eve of the new session of the United Nations General Assembly, let us call for an end to this repression. The Congress of the United States has rightfully pronounced its disgust and anger against the South African Government's policy of apartheid. Let us not forget that there are similarly oppressive governments around the world, and that we as a Nation will not tolerate their repugnant regimes. I call upon the Bulgarian Government to show us that they support peace and better relations and they can do so by ending the ethnic liquidation of Turkish-Bulgarians.

THE OLDEST TRUCKING FIRM IN AMERICA

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1985

Mr. DWYER of New Jersey. Mr. Speaker, the Sixth Congressional District of the State of New Jersey has many reasons to be proud. It is an outstanding area, leading the Nation in many fields. It is the home of Rutgers University, corporate headquarters to many pharmaceutical and high tech businesses, and home to 526,000 hardworking and dedicated persons.

But, what my colleagues might not know is that the Sixth District also is home to the oldest active trucking firm in the United States.

Van Brunt & Son, Inc. of Old Bridge, NJ, has been operating in the central New Jersey area since 1837. Now, after 148 years, it is still going strong. The company has an interesting history, which I would like to share with my colleagues today.

Originally called the Matawan Stage Line, it was a stagecoach line which met steamboats that operated between New York City and Keyport, NJ. In 1887 it was bought by William Van Brunt and assumed its current name. Around the turn of the century, the line was operated to haul cargo and provide taxi service.

Then, in 1912, Van Brunt bought his first truck, a 1912 Federal, which was followed by a series of Pierce Arrows and Packards. The business grew rapidly, and was principally involved in hauling farm products from central New Jersey to New York and westward to Pennsylvania.

Following William Van Brunt's death in 1937, the business was run by his son, Harvey. In 1963, Harvey Van Brunt retired and sold the business to Fred Hermann, who continues to operate it today. Hermann conducted a modernization program, replacing the firm's old facility in Matawan with the current terminal in Old Bridge and has continously updated his trucking equipment.

Today, Van Brunt & Son continues to operate as a successful trucking firm, running a modern and efficient business. But, it is careful never to forget the long and proud history it enjoys as the oldest trucking firm in the Nation.