HOUSE OF REPRESENTATIVES—*Monday, October 28, 1985*

The House met at 12 o'clock noon.

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

Let the favor of the Lord our God be upon us, and establish Thou the work of our hands upon us; yea, the work of our hands establish Thou it.—Psalm 90:17.

Gracious God, bless the work of our hands that it may be pleasing in Your sight. May what we do contribute to justice between peoples and peace between the nations. May our hands and hearts, our strength and our witness, be used to Your glory and as an expression of good will to all the people of Your creation. In Your holy name, we pray. 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 had passed without amendment a bill and joint resolutions of the House of the followng titles:

H.R. 3605. An act to provide that the authority to establish and administer flexible and compressed work schedules for Federal Government employees be extended through December 31, 1985;

H.J. Res. 308. Joint resolution designating the week beginning on October 20, 1985, as "Benign Essential Blepharospasm Awareness Week"; and

H.J. Res. 322. Joint resolution to provide for the designation of October 1985, as "National Sudden Infant Death Syndrome Awareness Month".

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

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 Senate insists upon its amendments to the bill (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," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ANDREWS, Mr. COCHRAN, Mr. ABDNOR, Mr. KASTEN, Mr. D'AMATO, Mr. HATFIELD, Mr. CHILES, Mr. STENNIS, Mr. BYRD, and Mr. LAUTENBERG to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1570. An act to amend the Fair Labor Standards Act of 1938 to provide rules for overtime compensatory time off for certain public agency employees, to clarify the application of that act to volunteers, and for other purposes;

S.J. Res. 207. Joint resolution to designate November 1, 1985, as "National Philanthropy Day";

S.J. Res. 227. Joint resolution to commend the people and the sovereign confederation of the neutral nation of Switzerland for their contributions to freedom, international peace, and understanding on the occasion of the meeting between the leaders of the United States and the Soviet Union on November 19-20, 1985, in Geneva, Switzerland;

S.J. Res. 228. Joint resolution relating to the proposed sales of arms to Jordan; and

S. Con. Res. 76. Concurrent resolution asking that the President bring the rights of the Polish people to the attention of the Soviet Government.

UNITED STATES NEEDS NEW POLICY TOWARD PHILIPPINES

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

Mr. RICHARDSON. Mr. Speaker, the deteriorating situation in the Philippines and the subsequent press reports this weekend that President Marcos has an incurable disease, with perhaps only 1 year to live, suggests that the United States needs a new policy towards the Philippines in order to avoid another Iran.

The Reagan administration has acted properly in dispatching Senator LAXALT to convey our concerns. But a stronger policy is needed to avoid a Communist takeover and preserve American security interests, specifically, Subic and Clark bases. Specifically, we need to attach strong conditions to our assistance to that country. First of all, we need to press for fair and immediate Presidential elections so that an orderly democratic transition can take place. Second, we must press the Philippine Government to make urgently needed military and economic reforms and wage a war on the endemic corruption in that economy. Third, we should stress to President Marcos that Chief of Staff Fabian Ver should not be reappointed, given his involvement in the Aquino assassination and his inability to lead the Philippine military insurgency.

Mr. Speaker, like the Shah, President Marcos has lost touch with his people and with reality. Let us act now before we are forced to pull the rug from under him. Let us act now so that our security interests are preserved and the Philippine people, our friends and allies, do not fall under Communist hands.

FEDERAL TRUST FUNDS

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

Ms. OAKAR. Mr. Speaker, today I am introducing legislation that would mandate the Treasury pay back the interest lost because of the loss of investment of trust fund moneys from civil service retirement, military retirement, Social Security retirement, and the highway trust funds.

Mr. Speaker, we have not passed the debt ceiling with the Gramm-Latta Senate amendment and are thus holding these trust funds hostage. We are losing millions of dollars of interest that these trust funds normally invest, and it is very, very, very wrong to do this, grossly unfair to the senior citizens, and some estimate that we will be losing up to $300 million in interest money that belongs to those trust funds because of our failure to act.

I hope Members will take a look at this legislation which would restore that money.

GRAMM-RUDMAN

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

Mr. ALEXANDER. Mr. Speaker, supporters of the so-called Gramm-Rudman proposal are like a man jumping off the Empire State Building and, on passing the fifth floor, announces, "So far so good."

The House is on record in support of strengthening the budgetmaking process, as of last week; and in passing Gramm-Rudman, the other body has made the same commitment. Unfortunately, when one takes a closer look at Gramm-Rudman, it becomes clear that, rather than cutting the deficit, the proposal would bring havoc to

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Federal spending and plunge the Government into chaos.

The fears are expressed by those such as the Nobel Prize winners, the Secretary of Defense, the President's own economic advisers, and the chairman of the Armed Services Committee. The chairman of the Judiciary Committee even advises that the matter is probably unconstitutional.

Mr. Speaker, one must wonder how it would happen that such a prescription for chaos and disaster so poorly designed could ever pass either body of this Congress. Perhaps the answer lies in the small print in that it does not take effect until after the 1986 elections.

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 question on passing bills or 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 Tuesday, October 29, 1985.

DISTRICT OF COLUMBIA BUSINESS

The SPEAKER. The Chair recognizes the gentleman from California [Mr. DELLUMS], chairman of the Committee on the District of Columbia.

TRANSFER OF PAROLE AUTHORITY TO THE DISTRICT OF COLUMBIA PAROLE BOARD

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 2050) to give to the Board of Parole for the District of Columbia exclusive power and authority to make parole determinations concerning prisoners convicted of violating any law of the District of Columbia, or any law of the United States applicable exclusively to the District, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2050

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

SECTION 1. The first sentence of the first section of the Act entitled "An Act to reorganize the system of parole of prisoners convicted in the District of Columbia", approved July 17, 1947 (D.C. Code, sec. 24-201a; 61 Stat. 378), is amended by striking out "for the penal and correctional institutions of the District of Columbia" and inserting in lieu thereof "for prisoners convicted of violating any law of the District of Columbia or any law of the United States applicable exclusively to the District of Columbia".

SEC. 2. The Act entitled "An Act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes", approved July 15, 1932 (D.C. Code, sec. 24-203 through sec. 24-209; 47 Stat. 696-699), is amended—

(1) in section 6 (D.C. Code, sec. 24-206)—

(A) by striking out "(a)" in subsection (a); and

(B) by striking out subsection (b); and

(2) by striking out section 10 (D.C. Code, sec. 24-209) and inserting in lieu thereof the following new section:

"SEC. 10. The Board of Parole for prisoners convicted of violating any law of the District of Columbia or any law of the United States applicable exclusively to the District of Columbia (created pursuant to the first section of the Act entitled 'An Act to reorganize the system of parole of prisoners convicted in the District of Columbia', approved July 17, 1947 (D.C. Code, sec. 24-201a; 61 Stat. 378) has exclusive power and authority, subject to the provisions of this Act, to release on parole, to terminate the parole of, and to modify the terms and conditions of the parole of, any prisoner convicted of violating a law of the District of Columbia, or a law of the United States applicable exclusively to the District of Columbia, regardless of the institution in which the prisoner is confined.".

SEC. 3. Section 304(a) of the District of Columbia Law Enforcement Act of 1953 (D.C. Code, sec. 4-134(a); 67 Stat. 100) is amended by striking out ", or the United States Board of Parole has authorized the release of a prisoner under section 6 of that Act, as amended (D.C. Code, sec. 24-206),".

SEC. 4. (a) After the date of enactment of this Act, individual convicted of violating both a law of the District of Columbia (including any law of the United States applicable exclusively to the District) and a law of the United States shall be given separate and distinct sentences for such convictions.

(b) The United States Parole Commission shall retain parole authority over individuals who, prior to the date of enactment of this Act, received unified sentences for violations of both a law of the District of Columbia (including any law of the United States applicable exclusively to the District of Columbia) and a law of the United States.

SEC. 5. Within one year after the date of the enactment of this Act, the Board of Parole for the District of Columbia, under applicable guidelines, shall make parole eligibility determinations and shall set a date certain for full parole hearings for all individuals brought within the parole authority of such Board under this Act. Each such individual shall be notified in writing of any determinations made under this section.

SEC. 6. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on the date of the enactment of this Act.

(b) The amendments made by sections 1, 2, and 3 of this Act shall take effect one year after the date of the enactment of this Act.

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

Mr. Speaker, this is the third Congress in which this question has been before the body. Two years ago, the House on a voice vote adopted the change in the law, but no action was taken by the other body. Under present law in effect for 50 years or more, the vast majority of offenders convicted of violating either a local District of Columbia law or Federal law that applies only in the District served their sentences in facilities operated by the District of Columbia, and if they are granted parole, it is by the local D.C. Parole Board. One thousand seven-hundred offenders, however, serve in Federal facilities and are reviewed by the U.S. Board of Parole.

H.R. 2050, Mr. Speaker, merely establishes that since they are local offenders, parole jurisdiction will be with the local parole board. That is the arrangement, as you very well know, Mr. Speaker, in the 50 States and should apply here in the District of Columbia.

The chairman of our Subcommittee on Judiciary and Education that conducted the hearings on H.R. 2050 is the gentleman from California [Mr. DYMALLY], who will give a further explanation when he has the floor.

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

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

Mr. Speaker, H.R. 2050, is the same bill introduced and passed by the House of Representatives in the 98th Congress. It would transfer parole over District of Columbia Code offenders in Federal prisons from the U.S. Parole Commission to the District of Columbia Parole Board.

There are over 1,700 District of Columbia Code offenders housed in Federal Bureau of Prison facilities. Male District of Columbia Code offenders are placed in Federal facilities for selective custody and various other reasons. Female District of Columbia offenders sentenced to greater than 1 year terms are routinely placed in Federal facilities as a matter of course. This is due to the absence of a local penal facility for female offenders. Most of these female offenders are confined at Alderson, WV, over 300 miles from the District of Columbia. Others are confined as far away as Texas.

Under present law, at section 24-209 of the District of Columbia Code, the place of an offender's confinement determines parole authority. This law is contrary to current Federal-State parole practices. According to the U.S. Parole Commission, the District of Columbia is the only local jurisdiction housing inmates in Federal correction institutions which does not retain its own parole authority. As a result of this practice, several Federal lawsuits by both male and female District of

Columbia Code offenders in Federal prisons have been filed.

Several points are worth noting. First, since the House passed this bill in the last Congress, the District of Columbia has revised its parole guidelines, consistent with certain recommendations made by Senator ARLEN SPECTER and U.S. attorney for the District of Columbia, Joseph diGenova. Most important, these revised guidelines are modeled closely after current Federal guidelines. Second, the overcrowding problem in the District has resulted in an increased number of District of Columbia inmates being transferred to Federal prisons. Third, Congress recently passed the Comprehensive Crime Control Act of 1983, which would abolish Federal parole and the U.S. Parole Commission in 1991. Fourth, section 24-209 became law almost 50 years ago and 40 years prior to the Home Rule Act.

Lawsuits filed in response to this provision remain unsolved and continue to consume unnecessary time and expense. This legislation provides a practical and logically sound remedy to this longstanding problem and I believe that now is the time for this body to pass this legislation and to save the local government and the local and Federal courts further time and money.

Mr. Speaker, I would add that this bill is indeed a step toward home rule. But also, it is a cost efficient step. If passed, this legislation is estimated to save the Federal Government over $1.3 million on the average for the first 5 years after its passage. Thereafter, the District government will underwrite any expenses attached to the execution of its parole authority.

Thus, for the reasons which I've outlined, I strongly urge my colleagues to adopt this measure.

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

Mr. Speaker, I rise in support of all three bills that have been reported by the Committee on the District of Columbia. I want to focus now, first of all, of course, upon H.R. 2050 which transfers parole authority over the District of Columbia offenders housed in Federal prisons from the U.S. Parole Commission to the District of Columbia Parole Board.

Mr. Speaker, currently there are over 1,400 D.C. Code offenders housed in Federal Bureau of Prisons facilities. Male D.C. Code offenders are placed in Federal facilities for selective custody, and various other reasons. Female D.C. Code offenders sentenced to greater than 1-year terms are placed in Federal facilities due to the absence of a facility specifically for female offenders here in Washington. Most of these female offenders are confined at Alderson, WV, whence the chairman of the subcommittee, Mr. DYMALLY, has just come. As he has pointed out to you, it is over 300 miles away from the District of Columbia.

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

Mr. FAUNTROY. I yield to the gentleman.

Mr. DYMALLY. I thank the gentleman for yielding.

Mr. Speaker, I am pleased to inform the gentleman that some of the inmates were most appreciative of your interest in this inconvenience which their families suffer, and have asked me to convey to you the hope that you would continue this fight to have a facility constructed in the District of Columbia.

Mr. FAUNTROY. I thank the gentleman for his leadership in moving H.R. 2050 through the committee process and now to the floor. I am sure that their hopes will be realized as a result of the vote of the House today.

Mr. Speaker, at present, under the District Code, the determination of parole jurisdiction is controlled by the place of incarceration rather than the jurisdiction of conviction. The result is that the District Board of Parole makes parole decisions for District offenders when they are housed in District institutions, and the U.S. Parole Commission makes parole decisions for District Code offenders when they are housed in Federal institutions.

Mr. Speaker, H.R. 2050 expands the authority of the District of Columbia government by providing it with the right to determine paroles for District Code offenders whether held in District or Federal facilities.

Mr. Speaker, H.R. 2946 establishes an independent jury system for the District of Columbia, our local court. This legislation requested by the Superior Court of the District of Columbia and concerned groups will provide for an efficient jury system for the superior court. This change will help make jury duty for the District of Columbia citizens a more worthwhile civic duty.

The third measure, H.R. 3578, as amended, Mr. Speaker, will require criminal prosecutions concerning violations of the laws of the District of Columbia to be conducted in the name of the District. The bill further provides permanent authority for Hearing Commissioners in the District and modifies certain procedures of the District of Columbia Judicial Nomination Commission, and the District Commission on Judicial Disabilities and Tenure. Mr. Speaker, all three bills further the independence of the District of Columbia judicial and criminal justice system and thereby enhance self-government.

I wish to commend the chairman of the District Committee, Congressman RONALD DELLUMS, and the ranking minority member, Mr. MCKINNEY. I would also like to thank Mr. DYMALLY, chairman of the Subcommittee on Judiciary and Education, and Mr. BLILEY, the ranking minority member.

Mr. Speaker, as you know, I represent more people, taxpayers, than any single voting Member of the House. Indeed, I represent more people who pay taxes in this country than elect seven Senators, because there are, as you know, more citizens in the District of Columbia than reside in seven States in the Union. So I would prefer to have been here not simply to expand the parole authority of the District government with respect to those convicted of code violations in this city, but to turn the entire system over to the local citizenry inasmuch as we, alone among Americans, are continued denial of the right to representation in the U.S. House and Senate.

I would prefer to have passed a measure that would turn the entire court system over to the superior court and therefore allow us to fashion our own jury system procedures. Of course, I would certainly have preferred to have passed H.R. 3578, as amended, as a function of a locally elected mayor and city council, thus providing us the kind of permanent authority that we request here in terms of control of our criminal prosecutions.

Mr. Speaker, I yield back the balance of that time that those two Senators who would have been speaking, rather those Representatives who would have been speaking, had they been freed from the tyranny of taxation without representation here in the District of Columbia, as I am not.

Mr. BLILEY. Mr. Speaker, as the ranking minority member of the Judiciary and Education Subcommittee of the Committee on the District of Columbia, I rise in support of H.R. 2050.

As explained by the distinguished chairman of the subcommittee, Mr. DYMALLY, this bill is a question of equity. The fact is that some convicted District of Columbia criminals are sent to the District's prison at Lorton and some are sent to various Federal institutions around the country. For those people at Lorton, the District Parole Board has jurisdiction, for those men and women in Federal prisons, the Federal Parole Board and its rules and regulations apply.

Since the two parole authorities with responsibility for District prisoners have different criteria and regulations as well as the fact that different conditions may lead to different attitudes and therefore different behavior patterns affecting parole possibilities, I believe that it is a simple question of equity that the District of Columbia have sole parole authority over its own citizens.

I speak for the minority members of the committee when I say that this legislation is fair and equitable for the people and the

government of the District of Columbia and we endorse its passage.

Mr. DELLUMS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. 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 California?

There was no objection.

DISTRICT OF COLUMBIA JURY SYSTEM ACT

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 2946) to establish an independent jury system for the Superior Court of the District of Columbia, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 2946

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Jury System Act".

SEC. 2. ESTABLISHMENT OF DISTRICT OF COLUMBIA JURY SYSTEM.

Chapter 19 of title 11 of the District of Columbia Code is amended to read as follows:

"CHAPTER 19. JURIES AND JURORS

Sec.
"11-1901. Declaration of policy.
"11-1902. Definitions.
"11-1903. Prohibition of discrimination.
"11-1904. Jury system plan.
"11-1905. Master juror list.
"11-1906. Qualification of jurors.
"11-1907. Summoning of prospective jurors.
"11-1908. Exclusion from jury service.
"11-1909. Deferral from jury service.
"11-1910. Challenging compliance with selection procedures.
"11-1911. Length of service.
"11-1912. Juror fees.
"11-1913. Protection of employment of jurors.
"11-1914. Preservation of records.
"11-1915. Fraud in the selection process.
"11-1916. Grand jury; additional grand jury.
"11-1917. Coordination and cooperation of courts.
"11-1918. Effect of invalidity.

"CHAPTER 19. JURIES AND JURORS

"§ 11-1901. Declaration of policy.

"A jury selection system is hereby established for the Superior Court of the District of Columbia. All litigants entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the residents of the District of Columbia. In accordance with the provisions of this chapter, all qualified individuals shall have the opportunity to be considered for service on grand and petit juries in the District of Columbia and shall be obligated to serve as jurors when summoned for that purpose.

"§ 11-1902. Definitions.

"For purposes of this chapter, the following terms have the following meanings:

"(1) The term 'Board of Judges' means the chief judge and the associate judges of the Superior Court of the District of Columbia.

"(2) The term 'chief judge' means the chief judge of the Superior Court of the District of Columbia.

"(3) The term 'clerk' means the clerk of the Superior Court of the District of Columbia or any deputy clerk.

"(4) The term 'Court' means the Superior Court of the District of Columbia and may include any judge of the Court acting in an official capacity.

"(5) The term 'juror' means (A) any individual summoned to Superior Court for the purpose of serving on a jury; (B) any individual who is on call and available to report to Court to serve on a jury upon request; and (C) any individual whose service on a jury is temporarily deferred.

"(6) The term 'jury' includes a grand or petit jury.

"(7) The term 'jury system plan' means the plan adopted by the Board of Judges of the Court, consistent with the provisions of this chapter, to govern the administration of the jury system.

"(8) The term 'master juror list' means the consolidated list or lists compiled and maintained by the Board of Judges of the District of Columbia Courts which contains the names of prospective jurors for service in the Superior Court of the District of Columbia.

"(9) The term 'random selection' means the selection of names of prospective jurors in a manner immune from the purposeful or inadvertent introduction of subjective bias, so that no recognizable class of the individuals on the list or lists from which the names are being selected can be purposefully or inadvertently included or excluded.

"(10) The term 'resident of the District of Columbia' means an individual who has resided or has been domiciled in the District of Columbia for not less than six months.

"§ 11-1903. Prohibition of discrimination.

"A citizen of the District of Columbia may not be excluded or disqualified from jury service as a grand or petit juror in the District of Columbia on account of race, color, religion, sex, national origin, ancestry, economic status, marital status, age, or (except as provided in this chapter) physical handicap.

"§ 11-1904. Jury System Plan.

"(a) The Board of Judges shall adopt, implement, and as necessary modify, a written jury system plan for the random selection and service of grand and petit jurors in the Superior Court consistent with the provisions of this chapter. The adopted plan and any modifications shall be subject to a 30-day period of review by Congress in the manner provided for an act of the Council under section 602(c)(1) of the District of Columbia Self-Government and Government Reorganization Act. The plan shall include—

"(1) detailed procedures to be followed by the clerk of the Court in the random selection of names from the master juror list;

"(2) provisions for a master jury wheel (or other device of like purpose and function) which shall be emptied and refilled at specified intervals, not to exceed 24 months;

"(3) provisions for the disclosure to the parties and the public of the names of individuals selected for jury service, except in cases in which the chief judge determines that confidentiality is required in the interest of justice; and

"(4) procedure to be followed by the clerk of the Court in assigning individuals to grand and petit juries.

"(b) The jury system plan shall be administered by the clerk of the Court under the supervision of the Board of Judges.

"§ 11-1905. Master juror list.

"(a) The jury system plan shall provide for the compilation and maintenance by the Board of Judges of a master juror list from which names of prospective jurors shall be drawn. Such master juror list shall consist of the list of District of Columbia voters, individuals who submit their names to the Court for inclusion on the master juror list, and names from such other appropriate sources and lists as may be provided in the jury system plan.

"(b) Notwithstanding any other provision of law, upon request of the Board of Judges any person having custody, possession, or control of any list required under subsection (a) shall provide such list to the Court, at cost, at all reasonable times. Each list shall contain the names and addresses of individuals on the list. Any list obtained by the Court under the provisions of this chapter may be used by the Court only for the selection of jurors pursuant to this chapter.

"(c) Not less than once each year, the Board of Judges shall give public notice to the citizens of the District of Columbia that individuals may be included on the master juror list by submission of their names and addresses to the clerk of the Court. Such public notice shall be given through such means as will reasonably assure as broad a dissemination as possible.

"§ 11-1906. Qualification of Jurors.

"(a) The jury system plan shall provide for procedures for the random selection and qualification of grand and petit jurors from the master juror list. Such plan may provide for separate or joint qualification and summoning processes.

"(b)(1) An individual shall be qualified to serve as a juror if that individual—

"(A) is a resident of the District of Columbia;

"(B) is a citizen of the United States;

"(C) has attained the age of 18 years; and

(D) is able to read, speak, and understand the English language.

"(2) An individual shall not be qualified to serve as a juror—

"(A) if determined to be incapable by reason of physical or mental infirmity of rendering satisfactory jury service; or

"(B) if that individual has been convicted of a felony or has a pending felony or misdemeanor charge, except that an individual disqualifed for jury service by reason of a felony convicton may qualify for jury service not less than one year after the completion of the term of incarceration, probation, or parole following appropriate certification under procedures set out in the jury system plan.

"(3) Any determination regarding qualification for jury service shall be made on the

basis of information provided in the juror qualification form and any other competent evidence.

"(c)(1) The jury system plan shall provide that a juror qualification form be mailed to each prospective juror. The form and content of such juror qualification form shall be determined under the plan. Notarization of the juror qualification form shall not be required.

"(2) An individual who fails to return a completed juror qualification form as instructed may be ordered by the Court to appear before the clerk to fill out such form, to appear before the Court and show cause why he or she should not be held in contempt for failure to submit the qualification form, or both. An individual who fails to show good cause for such failure, or who without good cause fails to appear pursuant to a Court order, may be punished by a fine of not more than $300, by imprisonment for not more than seven days, or both.

"(d) An individual who intentionally misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be punished by a fine of not more than $300, by imprisonment for not more than 90 days, or both.

"§ 11-1907. Summoning of Prospective Jurors.

"(a) At such times as are determined under the jury system plan, the Court shall summon or cause to be summoned from among qualified individuals under section 11-1906 sufficient prospective jurors to fulfill requirements for petit and grand jurors for the Court. A summons shall require a propsective juror to report for possible jury service at a specified time and place unless advised otherwise by the Court. Service of prospective jurors may be made personally or by first-class, registered, or certified mail as determined under the plan.

"(b) A prospective juror who fails to appear for jury duty may be ordered by the Court to appear and show cause why he or she should not be held in contempt for such failure to appear. A prospective juror who fails to show good cause for such failure, or who without good cause fails to appear pursuant to a Court order, may be punished by a fine of not more than $300, by imprisonment for not more than seven days, or both.

"§ 11-1908. Exclusion from jury service.

"(a) Subject to the provisions of this section and of sections 11-1903, 11-1906, and 11-1909, no individual or class of individuals may be disqualified, excluded, excused, or exempt from service as a juror.

"(b) An individual summoned for jury service may be: (1) excluded by the Court on the ground that that individual may be unable to render impartial jury service or that his or her service as a juror would be likely to disrupt the proceedings; (2) excluded upon peremptory challenge as porvided by law; (3) excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown; or (4) excluded upon determination by the Court that his or her service as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations. No person shall be excluded under clause (4) of this subsection unless the judge, in open Court, determines that such exclusion is warranted and that exclusion of that individual will not be inconsistent with sections 11-1901 and 11-1903 of this chapter.

"(c) An individual excluded from a jury shall be eligible to sit on another jury if the basis for the initial exclusion would not be relevant to his or her ability to serve on such other jury. The procedures for challenges to and review of exclusions from jury service shall be set forth in the jury system plan.

"§ 11-1909. Deferral from jury service.

"A qualified prospective juror may be deferred from jury service only upon a showing of undue hardship, extreme inconvenience, public necessity, or temporary physical or mental disability which would affect service as a juror. The procedure for requesting a deferral from jury service and the procedure and basis for granting a deferral shall be set forth in the master plan.

"§ 11-1910. Challenging compliance with selection procedures.

"(a) A party may challenge the composition of a jury by a motion for appropriate relief. A challenge shall be brought and decided before any individual juror is examined, unless the Court orders otherwise. The motion shall be in writing, supported by affidavit, and shall specify the facts constituting the grounds for the challenge. If the Court so determines, the motion may be decided on the basis of the affidavits filed with the challenge. If the Court orders trial of the challenge, witnesses may be examined on oath by the Court and may be so examined by either party.

"(b) If the Court determines that in selecting a grand or petit jury there has been a substantial failure to comply with this chapter, the Court shall stay the proceedings pending the selection of a jury in confirmity with this chapter, quash the indictment, or grant other appropriate relief.

"(c) The procedures prescribed by this section are the exclusive means by which a person accused of a crime, the District of Columbia, the United States, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter. Nothing in this section shall preclude any person from pursuing any other remedy, civil or criminal, which may be available for the vindication or enforcement of any law prohibiting discrimination on account of race, color, religion, sex, national origin, economic status, marital status, age, or physical handicap in the selection of individuals for service on grand or petit juries.

"§ 11-1911. Length of service.

"The length of service for grand and petit jurors shall be determined by the master jury plan. In any twenty-four month period an individual shall not be required to serve more than once as a grand or petit juror except as may be necessary by reason of the insufficiency of the master juror list or as ordered by the Court.

"§ 11-1912. Juror fees.

"(a) Notwithstanding section 602(a) of the District of Columbia Self-Government and Governmental Reorganization Act, grand and petit jurors serving in the Superior Court shall receive fees and expenses at rates established by the Council of the District of Columbia, except that such fees and expenses may not exceed the respective rates paid to such jurors in the federal system.

"(b) A petit or grand juror receiving benefits under the laws of employment security of the District of Columbia shall not lose such benefits on account of performance of juror service.

"(c) Employees of the United States or of any State or local government who serve as grand or petit jurors and who continue to receive regular compensation during the period of jury service shall not be compensated for jury service. Amounts representing reimbursement of expenses incurred in connection with jury service may be paid to such employees to the extent provided in the jury system plan.

"§ 11-1913. Protection of employment of jurors.

"(a) An employer shall not deprive an employee of employment, threaten, or otherwise coerce an employee with respect to employment because the employee receives a summons, responds to a summons, serves as a juror, or attends Court for prospective jury service.

"(b) An employer who violates subsection (a) is guilty of criminal contempt. Upon a finding of criminal contempt an employer may be fined not more than $300, imprisoned for not more than 30 days, or both, for a first offense, and may be fined not more than $5,000, imprisoned for not more than 180 days, or both, for any subsequent offense."

"(c) If an employer discharges an employee in violation of subsection (a), the employee within 9 months of such discharge may bring a civil action for recovery of wages lost as a result of the violation, for an order of reinstatement of employment, and for damages. If an employee prevails in an action under this subsection, that employee shall be entitled to reasonable attorney fees fixed by the court.

"§ 11-1914. Preservation of records.

"(a) All records and lists compiled and maintained in connection with the selection and service of jurors shall be preserved for the length of time specified in the jury system plan.

"(b) The contents of any records or lists used in connection with the selection process shall not be disclosed, except in connection with the preparation or presentation of a motion under § 11-1910, or until all individuals selected to serve as grand or petit jurors from such lists have been discharged.

"§ 11-1915. Fraud in the selection process.

"An individual who commits fraud in the processing or selection of jurors or prospective jurors, either by causing any name to be inserted into any list maliciously or by causing any name to be deleted from any list maliciously (including malicious data entry or the altering of any data processing machine or any set of instructions or programs which control data processing equipment for such malicious purpose), is guilty of the crime of jury tampering, and, upon conviction, may be punished by a fine of not more than $10,000, imprisonment for not more than two years, or both. This section shall not limit any other provisions of law concerning the crime of jury tampering.

"§ 11-1916. Grand jury; additional grand jury.

"(a) A grand jury serving in the District of Columbia may take cognizance of all matters brought before it regardless of whether an indictment is returnable in the Federal or District of Columbia courts.

"(b) If the United States Attorney for the District of Columbia certifies in writing to the chief judge that an additional grand jury is required, the judge may in his or her discretion order an additional grand jury summoned which shall be drawn at such time as he or she designates. Unless discharged by order of the judge, the additional grand jury shall serve until the end of the term for which it is drawn.

"§ 11-1917. Coordination and Cooperation of Courts.

"To the extent feasible, the Superior Court and the United States District Court shall consider the respective needs of each court in the qualification, selection, and service of jurors. Nothing in this chapter shall be construed to prevent such courts from entering into any agreement for sharing resources and facilities (including automated data processing hardware and software, forms, postage, and other resources).

"§ 11-1018. Effect of Invalidity.

"If any provision of this Act or the application of that provision is held invalid, such invalidity shall not affect any other provision or application of this Act which can be given effect without the invalid provision or application.".

SEC. 3 TECHNICAL AND CONFORMING AMENDMENTS.

Section 1869(f) of title 28, United States Code, is amended by striking out "except that for purposes of sections 1861, 1862, 1866(c), 1866(d), and 1867 of this chapter such terms shall include the Superior Court of the District of Columbia".

SEC. 4. EFFECTIVE DATE.

(a) Except as provided in subsection (b), the provisions of this Act shall take effect 180 days after the date of enactment of this Act.

(b) Upon enactment of this Act, the Board of Judges shall have authority to promulgate and adopt a jury system plan in accordance with this Act and the Court and the clerk of the Court shall have authority to take all necessary actions preliminary to the assumption of the administration of an independent jury system under this Act.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word. Mr. Speaker, this bill relieves the U.S. courts of the task of calling jurors to serve at trials in local District of Columbia courts. The present practice is a holdover from 1970, when the U.S. court handled felony trials and appeals for local offenses. In 1970, the Congress created a trial court and appeals court especially to handle such local cases. If H.R. 2946 becomes law, the local court will handle just the local cases, and the U.S. district court would just call jurors for Federal cases.

A full explanation of the bill will be given by my distinguished colleague, the gentleman from California [Mr. DYMALLY], who chairs the Subcommittee on Judiciary and Education, when he is recognized.

Mr. Speaker, with that brief explanation, I yield back the balance of my time.

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

Mr. Speaker, this bill is quite simple. H.R. 2946 is a bill to establish an independent jury system for the Superior Court of the District of Columbia.

In 1970, this body and Congress passed the District of Columbia Court Reform Act, which became effective in 1971. We established a D.C. court system expressly analogous to State court systems. After nearly 15 years of self-management and competitive efficiency, the court is prepared to administer its own jury system, independent of the U.S. District Court for the District of Columbia.

Most important, it is quite capable of doing so and at the same time continuing to work closely and cooperate with the U.S. District Court for the District of Columbia. Hence, the local district court is "strongly supportive" of this transition. As do State courts, the local courts here have local needs which, like State courts, they should have the authority to address.

Against this backdrop, I urge my fellow Members of this august body to adopt H.R. 2946.

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

Mr. Speaker, I rise as a cosponsor and as the ranking member of the Subcommittee on Judiciary and Education in strong support of H.R. 2946.

This legislation is needed for the District of Columbia court system to effectively and efficiently deal with the large caseload of court proceedings that it is faced with. Last year this body authorized seven new superior court judges for the District of Columbia. The addition of these positions has overstrained the limited capacity of the present jury selection system employed by the District courts.

The courts have also instituted the "one day, one trial" method of jury duty which places larger demands on the panels of jury selection than the traditional method of jury service. I support one day, one trial and I am proud of the work that the chairman of the subcommittee and I did in achieving this carefully written bipartisan bill. The gentleman from California and myself worked hard on this legislation and I feel confident that I speak for the minority on the committee when I say that we enthusiastically support this bill.

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

Mr. BLILEY. I am happy to yield to the gentleman from California.

Mr. DYMALLY. Mr. Speaker, I want to take this opportunity to express my deep gratitude to the gentleman from Virginia [Mr. BLILEY] for his support of this legislation and other legislation affecting the judiciary in the District of Columbia. The gentleman from Virginia has been most cooperative in the committee's deliberations, and I wish to express my thanks to him.

Mr. BLILEY. Mr. Speaker, I thank the gentleman from California [Mr. DYMALLY], and I yield back the balance of my time.

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

Mr. Speaker, I rise simply to compliment the gentleman from California [Mr. DYMALLY] and the gentleman from Virginia [Mr. BLILEY] for their diligent activity and their conscientious efforts as the chairperson of the Subcommittee on Judiciary and Education and the ranking minority member of that subcommittee. Both of these gentlemen are very delightful members to work with. They are conscientious, hard-working members who are very diligent about the business of trying to rectify many of the inadequacies that exist between the Federal Government and the residents of the District of Columbia.

My purpose in rising was only to make that statement, Mr. Speaker, and I yield back the balance of my time.

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

Mr. Speaker, I present for inclusion in the RECORD various items of correspondence from the Department of Justice objecting to the legislation presently being considered. Those items are as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, October 28, 1985.

Hon. ROBERT H. MICHEL,
Minority Leader,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MICHEL: The following bills are scheduled for floor action on Monday, October 28, 1985 on the District Calendar:

H.R. 2050.—a bill to transfer parole authority over District of Columbia offenders housed in federal prison from the United States Parole Commission to the District of Columbia Parole Board.

H.R. 2946.—a bill to establish an independent jury system for the Superior Court of the District of Columbia.

H.R. 3578.—(We are not sure which bill H.R. 3578 or H.R. 3592 will be scheduled for floor action. Originally, H.R. 3370 was introduced on September 19, 1985. A staff markup resulted in H.R. 3578 being introduced on October 17, which the Committee reported out. Subsequent to the Committee markup, H.R. 3592, which is a clean version of H.R. 3578 with additional amendments, was introduced.)—a bill to provide permanent authority for hearing commissioners in the District of Columbia courts, to modify certain procedures of the District of Columbia courts, to modify certain procedures of the District of Columbia Judicial Nomination Commission and the District of Columbia Commission on Judicial Disabilities and Tenure, and for other purposes.

The Department of Justice has sent letters of opposition on H.R. 2050 and H.R. 2946 to the Committee on the District of Columbia (copies attached).

H.R. 2050

The Department opposes H.R. 2050 for several reasons:

(1) Place of incarceration rather than jurisdiction of correction determines parole jurisdiction under the D.C. Code.

(2) The policies and procedures of the D.C. Board of Parole were called into serious question during a hearing on similar legislation (H.R. 3369) during the 98th Congress.

(3) New guidelines established by D.C. Board of Parole in the Spring of 1985 have

not yet been analyzed for efficiency and effectiveness.

(4) The U.S. Sentencing Commission established under P.L. 98-473 (Comprehensive Crime Control Act of 1984) and recently confirmed by the Senate will have to address this issue as it determines how to phase out the U.S. Parole Commission (abolished under P.L. 98-473).

(5) A piecemeal approach to the D.C. sentencing and correctional practices is a real and direct threat to law enforcement interests in the District, especially since August of 1985 when the Federal Bureau of Prisons started to assume custody of all D.C. Code violators sentenced in D.C. Superior Court to assist the District government in responding to a court order to reduce overcrowding at its correctional facilities.

H.R. 2946

While H.R. 2946 contains significant improvements over the jury selection system now in effect in the federal courts, e.g. broadening the base of persons who can be summoned for jury duty, narrowing the number of automatic exclusions from jury service, and increasing the penalties for certain fraudulent conduct in the jury selection process, we do not believe that a bifurcated approach to the D.C. jury selection system—one for the local trial court and one for the federal trial court—is a prudent or efficient one. Such a bifurcated approach would entail administrative difficulties, duplication of effort and additional cost to the federal government. For these reasons, we oppose H.R. 2946 in its present form, but we would consider changes to the Jury Selection and Service Act to incorporate the improvements contained in H.R. 2946.

H.R. 3578

Although this Department has not been asked to comment on H.R. 3370, H.R. 3578 or H.R. 3592, we do have concerns about several provisions contained in these related bills. H.R. 3592 (introduced as a clean version of H.R. 3578 but with several technical amendments) appears to be the bill scheduled for floor action. We do object to Section 2 of this bill which requires the U.S. Attorney for District of Columbia to compile an annual report by category of offense and conviction of D.C. Code violators, and violators of U.S. law exclusive to the District of Columbia. The material is now available and a matter of public record. To have the local U.S. Attorney's office utilize the manpower and resources necessary to compile and publish this report would create serious budgetary problems for that office—an issue the Committee failed to address.

Sections 10-11 of H.R. 3592 would govern public access to materials of the Judicial Nomination Commission. It is our belief that confidentiality promotes candor in such proceedings but we recognize that there may be instances where total secrecy is unfair. Section 13 requires in part that the record and materials filed in connection with the Judicial Disability and Tenure Commission be kept confidential unless the judge whose conduct or health is at issue authorizes disclosure. It is not clear whether the judge can authorize disclosure of some of the information while suppressing the rest. If so, this could result in presenting a very one-sided picture to the public. We suggest that either of the following approaches would be preferable:

(1) requiring a judge who wants part of the record to be made public to consent to all of it being made public, or

(2) following the rule which applies in grand jury proceedings, i.e., the record is kept secret and the decision makers are sworn to secrecy, but witnesses may tell the public about their testimony and submissions if they wish.

We would appreciate any assistance you could give in making our views known on these issues.

The Office of Management and Budget has advised this Department and that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PHILLIP D. BRADY,
Acting Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, September 27, 1985.

Hon. RONALD DELLUMS,
Chairman, Committee on the District of Columbia, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 2050, a bill "to give to the Board of Parole of the District of Columbia exclusive power and authority to make parole determination concerning prisoners convicted of violating any law of the District of Columbia, or any law of the United States applicable exclusively to the District." As set forth in more detail below, the Department of Justice believes that the change sought by this bill would not improve the law enforcement and corrections programs in the District of Columbia and we therefore oppose this bill. Furthermore, we believe that Congress should not undertake piecemeal revisions of the D.C. corrections programs until completion of a thorough and comprehensive review of all sentencing and correctional practices.

At present under the D.C. Code, the determination of parole jurisdiction is controlled by the place of incarceration rather than the jurisdiction of conviction. The result is that the D.C. Board of Parole makes parole decisions for D.C. Code offenders when they are housed in D.C. institutions and the United States Parole Commission makes parole decisions for D.C. Code offenders when they are housed in federal institutions. At the present time over 1,400 D.C. Code offenders are held in Federal Bureau of Prisons facilities. This represents the designed capacity of three modern correctional institutions. Although some of these are in federal custody because of their extremely violent criminal histories or to separate them from other District of Columbia inmates, the bulk of them are in federal custody primarily because of shortages of space to house inmates in the District of Columbia system. Thus, two factors not addressed in H.R. 2050 are the real burden to the Federal Bureau of Prisons of confining this large group of local offenders and the serious problems involved in adding these geographically dispersed inmates to the D.C. Parole Board's caseload.

In the 1930's when the D.C. Board of Parole was established, this divided jurisdictional scheme may have met correctional needs. The Comprehensive Crime Control Act of 1983 abolishes the United States Parole Commission in 1991, however, and legislative attention must clearly be given to the questions of future parole responsibility for D.C. Code offenders designated to Federal institutions. At the same time every effort must be made to insure that the District of Columbia will provide adequate prison space to house its sentenced criminals.

A larger question is what role should parole serve as a correctional tool in the District of Columbia? The legislative history of the Comprehensive Crime Control Act of 1984, P.L. 98-473, clearly reflects the Congressional determination that the "rehabilitation model" upon which the Federal sentencing and parole system was based is no longer valid. S. Rep. No. 225, 98th Congress, 1st Sess. 38 (1983). Based upon a study spanning a decade conducted by the National Commission on Reform of Federal Criminal Law, it was concluded that the Federal sentencing and parole system resulted in significant disparities in criminal sentences. As stated in the Senate Report:

"The shameful disparity in criminal sentences is a major flaw in the existing criminal justice system, and makes it clear that the system is ripe for reform. Correcting our arbitrary and capricious method of sentencing will not be a panacea for all of the problems which confront the administration of criminal justice, but it will constitute a significant step forward.

"The [Comprehensive Crime Control Act of 1984 (CCCA)] meets the critical challenges of sentencing reform. The [CCCA's] sweeping provisions are designed to structure judicial sentencing discretion, eliminate indeterminate sentencing, phase out parole release, and make criminal sentencing fairer and more certain. The current effort constitutes an important attempt to reform the manner in which we sentence convicted offenders. The Committee believes that the [CCCA] represents a major breakthrough in this area." *Id.* at 65.

The current D.C. sentencing and parole system does not reflect this new understanding of the limitations of the "rehabilitation model" as described above.

In addition, the District of Columbia parole system has other demonstrated problems. When we reviewed similar legislation two years ago [H.R. 3369], this matter was discussed in detail in our letter dated July 25, 1983 from Assistant Attorney General Robert A. McConnell to you. The Department noted at that time that the D.C. Board of Parole, according to its 1982 annual report, granted parole at initial hearings to 61 percent of the adult offenders and that 73 percent of the remainder were granted parole upon a rehearing. The Board also reported however, that based upon a study of a selected sample of 322 parolees released on parole between 1977 and 1979, 52 percent were re-arrested during the first two years of parole supervision. Of the parolees who were re-arrested, 77 percent were convicted for crimes committed while on parole. Given the very high percentage of parolees released at the time of initial parole consideration and the very high rate of recidivist criminal activity among those released, the policies and procedures of the D.C. Board of Parole were called into serious question.

We also pointed out that despite the large number of D.C. parolees who commit crimes following parole release, parole apparently was revoked in a relatively small percentage of the cases. In that regard, the D.C. Board of Parole reported that of those parolees in its 1977-1979 sample who were convicted of crimes while on parole, parole was revoked because of the new offense in less than one half of the cases. Although the reason for this statistic was not explained, it appears that it may be attributed to the D.C. Parole Board policy of not issuing parole violator warrants for certain offenses. In this regard, the Board listed in its 1982 Annual Report

the types of offenses it terms "Eligible Offenses" for purposes of issuance of parole violator warrants. It appears that as a matter of policy, the Board will not issue parole violator warrants for burglary of commercial establishments, possession of firearms (unless the defendant is arrested with the weapon in his hand or on his person), grand larceny, embezzlement, fraud, forgery and uttering and for a host of other violations of the District of Columbia Code or the United States Code.

This apparent policy which allows substantial numbers of parolees to continue on parole even after arrest and conviction of serious crimes was of significant concern to us in the past. If these matters have not yet been completely remedied, and it may be too early to conclude that they have, then similar concern is presently warranted. Under H.R. 2050, the jurisdiction of the D.C. Board of Parole would be substantially expanded to include those D.C. Code offenders presently under the jurisdiction of the U.S. Parole Commission. These offenders, however, include some of the most dangerous and violent criminals convicted in the District of Columbia. Premature release of such individuals pursuant to existing parole policies would pose a real and direct threat to law enforcement interests in the District of Columbia.

We believe it is time for a thorough legislative review of District of Columbia sentencing and correctional practices. A major expansion of the capacity of D.C. correctional facilities is essential. The Federal Bureau of Prisons is seriously overcrowded and can no longer accept the overload of the District of Columbia system. This is especially true in light of the increased D.C. prison population that would result, at least temporarily, from a more responsibly run parole system. Replacement of the parole system in the District of Columbia by a sentencing guideline system similar to that adopted by Congress in the Comprehensive Crime Control Act of 1984 should be considered. While expansion of the D.C. inmate capacity must begin at once, other changes can be more thoroughly considered than is done in H.R. 2050.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PHILLIP D. BRADY,
Acting Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, July 31, 1985.

Hon. RONALD V. DELLUMS,
Chairman, Committee on District of Columbia, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to proffer the views of the Department of Justice on H.R. 2946, a bill that would establish an independent jury selection system for the Superior Court of the District of Columbia. While we believe that some of the changes from current law contained in H.R. 2946 would constitute significant improvements over the jury selection system now in effect in the federal courts, we oppose the bill for the reasons set forth below.

Jury selection for both the Superior Court of the District of Columbia and the United States District Court for the District of Columbia is now governed by a single process established by the Jury Selection and Service Act (28 U.S.C. 1861, *et seq.*) and administered by the United States District Court for the District of Columbia. If H.R. 2946 were enacted, there would exist within the District of Columbia two separate jury selection systems—one for the local trial court and one for the federal trial court. Inevitably, such a bifurcated approach would entail administrative difficulties, duplication of effort, and additional cost to the federal government, notwithstanding the provision of the bill that encourages the federal and local courts to share resources and facilities to the extent feasible.

H.R. 2946 would improve the current jury selection system by broadening the base of persons who can be summoned for jury duty, by narrowing the number of automatic exclusions from jury service, and by increasing the penalties for certain fraudulent conduct in the jury selection process. However, we are not persuaded that the prospect of such advances warrants the establishment of another jury selection system in the District of Columbia, with all of the drawbacks that such a course would entail. Rather, we think the better course would be to consider amending the Jury Selection and Service Act to incorporate the improvements contained in H.R. 2946. Such an approach would improve the jury selection process not only in the Superior Court but in all federal courts. Equally important, it would preserve the unified selection system currently in effect in the District of Columbia, thereby avoiding the administrative and financial costs of a bifurcated system.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PHILLIP D. BRADY,
Acting Assistant Attorney General.

Mr. DELLUMS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. 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 California?

There was no objection.

DISTRICT OF COLUMBIA JUDICIAL EFFICIENCY AND IMPROVEMENT ACT OF 1985

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 3578) to provide permanent authority for hearing commissioners in the District of Columbia courts, to modify certain procedures of the District of Columbia Judicial Nomination Commission and the District of Columbia Commission on Judicial Disabilities and Tenure, and for other purposes, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 3578

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Prosecutorial and Judicial Efficiency Act of 1985".

SEC. 2. ANNUAL REPORT ON PROSECUTIONS.

Not later than March 1 of each year, the United States attorney for the District of Columbia shall compile and make available an annual report concerning prosecutions, under the laws of the District of Columbia and the laws of the United States applicable exclusively to the District of Columbia, conducted by the Office of the United States attorney for the District of Columbia in the previous calendar year. Such report shall include the number of prosecutions and convictions by category and nature of offense, and shall include any recommendations concerning the criminal justice system in the District of Columbia.

SEC. 3. HEARING COMMISSIONERS.

Section 11-1732 of title 11 of the District of Columbia Code is amended to read as follows:

"§ 11-1732. Hearing commissioners.

"(a) The chief judge of the Superior Court may appoint and remove hearing commissioners who shall serve in the Superior Court and perform the duties enumerated in subsection (c) of this section and such other duties as are consistent with the Constitution and laws of the United States and of the District of Columbia and are assigned by rule of the Superior Court.

"(b) No individual may be appointed or serve as a hearing commissioner under this section unless such individual has been a member of the bar of the District of Columbia for at least three years.

"(c) A hearing commissioner, when specifically designated by the chief judge of the Superior Court, may perform the following functions:

"(1) Administer oaths and affirmations and take acknowledgments.

"(2) Determine conditions of release and pretrial detention pursuant to the provisions of title 23 of the District of Columbia Code (relating to criminal procedures).

"(3) Conduct preliminary examinations in all criminal cases to determine if there is probable cause to believe that an offense has been committed and that the accused committed it.

"(4) Subject to the provisions of subsection (d), with the consent of the parties involved, make findings in uncontested proceedings, and in contested hearings in the civil, criminal, and family divisions of the Superior Court.

"(d)(1) With respect to proceedings and hearings under subsection (c)(4), a rehearing of the case, or a review of the hearing commissioner's findings, may be made by a judge of the appropriate division sua sponte and shall be made upon a motion of one of the parties, which motion shall be filed

within ten days after the judgment. An appeal to the District of Columbia Court of Appeals may be made only after a review hearing is held in the Superior Court.

"(2)(A) In any case brought under sections 11-1101 (1), (3), (10), or (11) involving the establishment or enforcement of child support, or in any case seeking to modify an existing child support order, where a hearing commissioner in the Family Division of the Superior Court finds that there is an existing duty of support, the hearing commissioner shall conduct a hearing on support, make findings, and enter judgment.

"(B) If in a case under subparagraph (A), the hearing commissioner finds that a duty of support exists and makes a finding that the case involves complex issues requiring judicial resolution, the hearing commissioner shall establish a temporary support obligation and refer unresolved issues to a judge.

"(C) In the cases under subparagraphs (A) and (B) in which the hearing commissioner finds that there is a duty of support and the individual owing that duty has been served or given notice of the proceedings under any application statute or court rule, if that individual fails to appear or otherwise respond, the hearing commissioner shall enter a default order.

"(D) A rehearing or review of the hearing commissioner's findings in a case under subparagraphs (A) and (B) may be made by a judge of the Family Division sua sponte. The findings of the hearing commissioner shall constitute a final order of the Superior Court.".

SEC. 4. APPOINTMENT OF EXECUTIVE OFFICER OF THE DISTRICT OF COLUMBIA COURTS.

Section 11-1703 of title 11 of the District of Columbia Code is amended—

(1) by striking out subsection (b);

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (a) the following new subsection:

"(b) The Executive Officer shall be appointed, and subject to removal, by the Joint Committee on Judicial Administration with the approval of the chief judges of the District of Columbia courts. In making such appointment the Joint Committee shall consider experience and special training in administrative and executive positions and familiarity with court procedures.

"(c) The Executive Officer shall be a bona fide resident of the District of Columbia or become a resident not more than 180 days after the date of appointment.".

SEC. 5. MANDATORY RETIREMENT AGE OF JUDGES.

Section 431(c) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking out "Seventy" and inserting in lieu thereof "seventy-four".

SEC. 6. APPOINTMENT PANEL FOR THE BOARD OF TRUSTEES OF THE PUBLIC DEFENDER SERVICE.

(a) COMPOSITION OF APPOINTMENT PANEL.—Section 303 of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (D.C. Code, 1-2703) is amended in subsection (b)(1)—

(1) by striking out subparagraph (A); and

(2) by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(b) PRESIDING OFFICER.—Section 303 of such Act (D.C. Code, 1-2703) is further amended in subsection (b)(2) by striking out "Chief Judge of the United States Court of Appeals for the District of Columbia Circuit" and inserting in lieu thereof "Chief Judge of the District of Columbia Court of Appeals".

SEC. 7. REORGANIZATION OF AUDIT RESPONSIBILITY.

(a) AUDITOR-MASTER.—Section 11-1724 of title 11 of the District of Columbia Code is amended—

(1) by striking out "(1) audit and state fiduciary accounts,"; and

(2) by respectively designating clauses (2) and (3) as clauses "(1)" and "(2)".

(b) REGISTER OF WILLS.—Section 11-2104(a) of title 11 of the District of Columbia Code is amended—

(1) in paragraph (2) by striking out "and" after the semicolon;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; and"; and

(3) by inserting at the end thereof the following new paragraph:

"(4) audit and state fiduciary accounts.".

SEC. 8. ELIMINATION OF DUPLICATE JUDICIAL FINANCIAL REPORTING REQUIREMENT.

(a) TERMINATION OF FEDERAL DISCLOSURE REQUIREMENTS.—Section 303 of the Ethics in Government Act of 1978 (28 U.S.C. App. 301) is amended by inserting at the end thereof the following new subsection:

"(h) The provisions of this Act shall not apply to any judicial officer or employee of the Superior Court of the District of Columbia or the District of Columbia Court of Appeals.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 308(9) of such Act (28 U.S.C. App. 308(9)) is amended by striking out "courts of the District of Columbia".

SEC. 9. CERTIFICATION OF QUESTIONS OF LAW.

Subchapter II of Chapter 7, title 11, District of Columbia Code, is amended by inserting after section 11-722 the following new section:

"§ Sec. 11-723. Certification of Questions of Law.

"(a) The District of Columbia Court of Appeals may answer questions of law certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or the highest appellate court of any State, if there are involved in any proceeding before any such certifying court questions of law of the District of Columbia which may be determinative of the cause pending in such certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of the District of Columbia Court of Appeals.

"(b) This section may be invoked by an order of any of the courts referred to in subsection (a) upon the court's motion or upon motion of any party to the cause.

"(c) A certification order shall set forth (1) the question of law to be answered; and (2) a statement of all facts relevant to the questions certified and the nature of the controversy in which the questions arose.

"(d) A certification order shall be prepared by the certifying court and forwarded to the District of Columbia Court of Appeals. The District of Columbia Court of Appeals may require the original or copies of all or such portion of the record before the certifying court as are considered necessary to a determination of the questions certified to it.

"(e) Fees and costs shall be the same as in appeals docketed before the District of Columbia Court of Appeals and shall be equally divided between the parties unless precluded by statute or by order of the certifying court.

"(f) The District of Columbia Court of Appeals may prescribe the rules of procedure concerning the answering and certification of questions of law under this section.

"(g) The written opinion of the District of Columbia Court of Appeals stating the law governing any questions certified under subsection (a) shall be sent by the clerk to the certifying court and to the parties.

"(h)(1) The District of Columbia Court of Appeals, on its own motion or the motion of any party, may order certification of questions of law to the highest court of any State under the conditions described in subsection (a).

"(2) The procedures for certification from the District of Columbia to a State shall be those provided in the laws of that State.".

SEC. 10. PUBLIC ACCESS TO MATERIALS OF JUDICIAL NOMINATION COMMISSION.

Section 434(c)(3) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking out the last sentence and inserting in lieu thereof: "Information, records, and other materials furnished to or developed by the Commission in the performance of its duties under this section shall be privileged and confidential. Section 552 of title 5, United States Code, (known as the Freedom of Information Act) shall not apply to any such materials.".

SEC. 11. MEETINGS OF THE JUDICIAL NOMINATION COMMISSION.

Section 434(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by inserting at the end thereof "Meetings of the Commission may be closed to the public. Section 742 of this Act shall not apply to meetings of the Commission.".

SEC. 12. PUBLIC ANNOUNCEMENT OF JUDICIAL RECOMMENDATIONS.

Section 434(d) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by inserting at the end thereof the following new paragraph:

"(4) Upon submission to the President, the name of any individual recommended under this subsection shall be made public by the Judicial Nomination Commission.".

SEC. 13. DISCLOSURE OF CERTAIN INFORMATION TO THE JUDICIAL NOMINATION COMMISSION.

Section 11-1528 of title 11, District of Columbia Code, is amended by striking out all of subsection (a) and inserting in lieu thereof the following:

"(a)(1) Subject to paragraph (2), the filing of papers with, and the giving of testimony before, the Commission shall be privileged. Subject to paragraph (2), hearings before the Commission, the record thereof, and materials and papers filed in connection with such hearings shall be confidential.

"(2)(A) The judge whose conduct or health is the subject of any proceedings under this subchapter may disclose or authorize the disclosure of any information under paragraph (1).

"(B) With respect to a prosecution of a witness for perjury or on review of a decision of the Commission, the record of hearings before the Commission and all papers filed in connection with such hearing shall be disclosed to the extent required for such prosecution or review.

"(C) Upon request, the Commission shall disclose, on a privileged and confidential basis, to the District of Columbia Judicial Nomination Commission any information under paragraph (1) concerning any judge being considered by such nomination commission for elevation to the District of Co-

lumbia Court of Appeals or for chief judge of a District of Columbia court.".

SEC. 14. REAPPOINTMENT TO JUDICIAL OFFICE.

Section 433(c) of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(1) in the first sentence by striking out "three months" and inserting in lieu thereof "six months"; and

(2) in the second sentence, by striking out "thirty" and inserting in lieu thereof "sixty".

SEC. 15. MODIFICATION OF JUDICIAL REAPPOINTMENT EVALUATION CATEGORIES.

Section 433(c) of the District of Columbia Self-Government and Governmental Reorganization Act is amended in the third sentence by striking out "exceptionally well-qualified or".

SEC. 16. SERVICES OF RETIRED JUDGES.

Section 11-1504(a) of title 11, District of Columbia Code, is amended by striking out paragraphs (2) and (3) and inserting after paragraph (1) the following new paragraph:

"(2) At any time prior to or after retirement, a judge may request recommendation from the District of Columbia Commission on Judicial Disabilities and Tenure (hereinafter in this section referred to as the "Commission") to be appointed as a senior judge in accordance with this section.".

SEC. 17. EXTENSION OF PERIOD FOR SUBMITTING JUDICIAL NOMINATIONS.

Section 434(d)(1) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking out "thirty days" each place it appears and inserting in lieu thereof "sixty days".

SEC. 18. EFFECTIVE DATE.

This Act shall take effect on the date of the enactment of this Act.

COMMITTEE AMENDMENTS

The SPEAKER pro tempore. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, strike out line 3 and insert in lieu thereof "Judicial Efficiency and Improvement Act of 1985'."

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that the committee amendments be considered en bloc, considered as read, and printed in the RECORD.

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

There was no objection.

The remaining committee amendments are as follows:

Committee amendments: Page 7, line 6, strike out "subsection (b)(2)" and insert in lieu thereof "subsection (b)(1)".

Page 7, line 7, strike out "Chief Judge" and insert in lieu thereof "chief judge".

Page 8, line 5, strike out "Section 303" and insert in lieu thereof "Section 301".

Page 8, line 16, insert "(a) IN GENERAL.—" before "Subchapter II".

Page 10, after line 11, insert the following new subsection:

(b) TECHNICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"11-723. Certification of questions of law."

Page 12, line 22, strike out "second" and insert in lieu thereof "third".

Page 13, line 5, strike out "third" and insert in lieu thereof "fourth".

Page 13, line 14, strike out "'Commission'" and insert in lieu thereof "'Commission'".

Page 5, strike out line 4 and all that follows through line 8 on page 5 and insert in lieu thereof the following:

"(D)(1) Subject to paragraph (2), the findings of the hearing commissioner shall constitute a final order of the Superior Court.

"(2) A rehearing or review of the hearing commissioner's findings in a case under subparagraphs (A) and (B) may be made by a judge of the Family Division sua sponte and shall be made upon a motion of one of the parties, which motion shall be filed within ten days after the judgment. An appeal to the District of Columbia Court of Appeals may be made only after a hearing is held in the Superior Court."

Mr. DELLUMS. Mr. Speaker, I simply wish to explain briefly that the committee amendments presented to the body are perfecting amendments, and I ask that they be approved.

The SPEAKER pro tempore. The question is on the committee amendments.

The committee amendments were agreed to.

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

Mr. Speaker, this bill makes certain changes in the local courts in Washington, DC, suggested by local practitioners, officials, and the courts, and makes permanent authority for hearing commissioners, authority which Congress has granted from year to year in appropriation bills.

Hearings were held before our Subcommittee on the Judiciary and Education chaired by the gentleman from California [Mr. DYMALLY], with the ranking minority member being the distinguished gentleman from Virginia [Mr. BLILEY], each of whom will give a further explanation of the bill at the appropriate time.

With the brief introductory set of remarks, Mr. Speaker, I yield back the balance of my time.

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

Mr. Speaker, since the 98th Congress, the Subcommittee on Judiciary and Education has focused its attention on improving the administration of Justice in the District of Columbia, and at the same time transferring to the District authority over its agencies, consistent with the legislative intent underlying the District of Columbia Court Reform and Criminal Procedure Act of 1970 and the District of Columbia Self-Government Act and Government Reorganization Act of 1973, as amended.

This legislation emanates from these significant legislative developments. It reflects both self-government considerations and the improvement and efficiency of the local judicial system. The bill itself evolves from recommendations of the District of Columbia Court Study Committee and the District of Columbia courts.

A brief history of its development are in order. In 1978, the District of Columbia Bar Association formed the District of Columbia Court Study Committee. This committee (commonly known as the Horsky Committee) was charged with evaluating the District of Columbia Court Reform and Criminal Procedure Act of 1970 and making appropriate recommendations for improving the judicial system. Over a 4-year period, the court study committee conducted its mission. Certain provisions in this bill represent the committee's work product.

In sum, H.R. 3578 would create permanent authority for District of Columbia hearing commissioners, eliminate duplicate judicial financial reporting, provide authority for the District of Columbia Court of Appeals to answer certain undecided questions of District of Columbia law pending in other courts and amend a panoply of provisions involving judicial nomination, reappointment, and tenure processes.

It would also require the U.S. attorney to publish an annual report regarding its District of Columbia criminal justice activity. Further, it would modify the appointment panel for the Board of Trustees of the Public Defender Service.

These noncontroversial provisions would further improve local judicial nomination and tenure processes and at the same time move the local government one step further toward self-government. Most important, it is estimated that the bill would save the local government over $600,000 a year at no cost to the Federal Government.

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

Mr. Speaker, I rise to support the passage of H.R. 3578. This bill makes a number of minor, but important and needed corrections in the procedures and efficiency of the District of Columbia courts.

Mr. DYMALLY, the chairman of the Judiciary and Education Subcommittee, was diligent in his efforts to craft a piece of valuable legislation that all parties could agree to. I am pleased to be able to lend my support to his efforts and to thank him for his bipartisan spirit.

Mr. Speaker, the minority members of the District of Columbia committee support passage of H.R. 3578.

□ 1235

Mr. DELLUMS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, and was read the third time, and passed and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. 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 objecton to the request of the gentleman from California?

There was no objection.

H.R. 2965

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

Mr. SMITH of Iowa. Mr. Speaker, I would like to make the Members of the House aware of an unfortunate set of circumstances in the other body concerning H.R. 2965, the fiscal year 1986 appropriations bill for the Departments of Commerce, Justice and State, the Judiciary and Related Agencies. The House passed this bill July 17, leaving the other body ample time to act and for the two Houses to go to conference and send the bill to the President prior to the beginning of the fiscal year. The bill was reported out of the Senate committee on October 4, 4 days into the new fiscal year. The bill is now bogged down on an extraneous issue that has nothing to do with the provision of funds for law enforcement, drug enforcement, dealing with terrorist activities, and numerous important programs in the Commerce and State Departments and other agencies. I understand that the bill may not come up again in the other body unless this matter can be resolved.

The bill the Senate committee reported not only provides for programs in the House bill, but also other items and projects added that Members of the Senate are interested in. In addition, I also understand that the bill is undergoing a number of floor amendments, as many as 37, that should be resolved in a conference on this bill.

If this bill does not go to conference because of this totally extraneous item, these matters will have to be worked out with all the others in the context of the continuing resolution.

If this bill is conferenced in the continuing resolution, I can assure the Members of the other body that it will be very difficult for the individual projects put into such legislation by amendment or referenced in the Senate-reported bill to receive a favorable consideration that they might otherwise receive if we had an opportunity to go to conference on the individual bill. That is not a threat. It is just a plain fact that Members of the House and Members of the other body, the departments and agencies involved and the American taxpayers are all much better served if this bill is passed separately in conference, instead of being incorporated into a continuing resolution.

GREAT FINISH OF 1985 WORLD SERIES

(Mrs. MEYERS of Kansas asked and was given permission to address the House for 1 minute.)

Mrs. MEYERS of Kansas. Mr. Speaker on behalf of the Kansas City Royals, and the people of the Third District of Kansas, I am here to gloat—respectfully, of course.

The headline in this morning's Kansas City Times says it all—You Gotta Love It!

Now, you are looking at George Brett's Congresswoman. And also I have some other Royal constituents who are now household names. Buddy Biancalana, Bret Saberhagen, Dane Iorg, Danny Jackson, Bud Black, Charlie Liebrandt, Darrell Motley, Jim Sundberg, and Dan Quisenberry.

After losing the first two games at home, and down 3 to 1 in the series, the Royals became the first team in history to bounce back from such a deficit and win the World Series. Obviously, the Kansas City Royals can teach us a thing or two about overcoming deficits.

It's a great day for Kansas City, for the State of Missouri, and for many of us in Kansas and for the entire Nation as the curtain finally comes down on what has been a truly great finish of the 1985 World Series.

FAIR LABOR STANDARDS AMENDMENTS OF 1985

Mr. MURPHY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3530) to amend the Fair Labor Standards Act of 1938 to authorize the provision of compensatory time in lieu of overtime compensation for employees of States, political subdivisions of States, and interstate governmental agencies, to clarify the application of the act to volunteers, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3530

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

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Fair Labor Standards Amendments of 1985".

(b) REFERENCE TO ACT.—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 Fair Labor Standards Act of 1938.

COMPENSATORY TIME

SEC. 2. (a) COMPENSATORY TIME.—Section 7 (29 U.S.C. 207) is amended by adding at the end the following:

"(o)(1) Employees of a public agency which is a State, a political subdivision of a State, or an interstate governmental agency may receive, in accordance with this subsection and in lieu of overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required by this section.

"(2) A public agency may provide compensatory time under paragraph (1) only—

"(A) pursuant to—

"(i) applicable provisions of a collective bargaining agreement between the public agency and representatives of such employees; or

"(ii) in the case of employees not covered by subclause (i), an agreement or understanding arrived at between the employer and employee before the performance of the work; and

"(B) if the employee has not accrued compensatory time in excess of the limit applicable to the employee prescribed by paragraph (3).

In the case of employees described in clause (A)(ii) hired prior to April 15, 1986 the regular practice in effect on April 15, 1986, with respect to compensatory time off for such employees in lieu of the receipt of overtime compensation, shall constitute an agreement or understanding under such clause (A)(ii). Except as provided in the previous sentence, the provision of compensatory time off to such employees for hours worked after April 14, 1986, shall be in accordance with this subsection.

"(3)(A) If the work of an employee for which compensatory time may be provided included work in a public safety activity, an emergency response activity, or a seasonal activity, the employee engaged in such work may accrue not more than 480 hours of compensatory time for hours worked after April 15, 1986. If such work was any other work, the employee engaged in such work may accrue not more than 180 hours of compensatory time for hours worked after April 15, 1986. Any such employee who, after April 15, 1986, has accrued 480 or 180 hours, as the case may be, of compensatory time off shall, for additional overtime hours of work, be paid overtime compensation.

"(B) If compensation is paid to an employee for accrued compensatory time off, such compensation shall be paid at the regular rate earned by the employee at the time the employee receives such payment.

"(4) An employee who has accrued compensatory time off authorized to be provided under paragraph (1) shall, upon termination of employment, be paid for the unused compensatory time at a rate not less than the average regular rate received by such employee during the last 3 years of the employee's employment.

"(5) An employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency—

"(A) who has accrued compensatory time off authorized to be provided under paragraph (1), and

"(B) who has requested the use of such compensatory time, shall be permitted by the employee's employer to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the public agency.

"(6) For purposes of this subsection—

"(A) the term 'overtime compensation' means the compensation required by subsection (a), and

"(B) the terms 'compensatory time' and 'compensatory time off' means hours during which an employee is not working, which are not counted as hours worked during the applicable workweek or other work period for purposes of overtime compensation, and for which the employee is compensated at the employee's regular rate.".

(b) EXISTING COLLECTIVE BARGAINING AGREEMENTS.—A collective bargaining agreement which is in effect on April 15, 1986, and which permits compensatory time off in lieu of overtime compensation shall remain in effect until its expiration date unless otherwise modified, except that compensatory time shall be provided after April 14, 1986, in accordance with section 7(o) of the Fair Labor Standards Act of 1938 (as added by subsection (a)).

(c) LIABILITY AND DEFERRED PAYMENT.—(1) No State, political subdivision of a State, or interstate governmental agency shall be liable under section 16 of the Fair Labor Standards Act of 1938 for a violation of section 7 or 11(c) (as it relates to section 7) of such Act occurring before April 15, 1986, with respect to any employee of the State, political subdivision, or agency who would not have been covered by such Act under the Secretary of Labor's special enforcement policy on January 1, 1985, and published in sections 775.2 and 775.4 of title 29 of the Code of Federal Regulations.

(2) A State, political subdivision of a State, or interstate governmental agency may defer until August 1, 1986, the payment of monetary overtime compensation under section 7 of the Fair Labor Standards Act of 1938 for hours worked after April 14, 1986.

SPECIAL DETAILS, OCCASIONAL OR SPORADIC EMPLOYMENT, AND SUBSTITUTION

SEC. 3. (a) SPECIAL DETAIL WORK FOR FIRE PROTECTION AND LAW ENFORCEMENT EMPLOYEES.—Section 7 (29 U.S.C. 207) is amended by adding after subsection (o) (added by section 2) the following:

"(p)(1) If an individual who is employed by a State, political subdivision of a State, or an interstate governmental agency in fire protection or law enforcement activities (including activities of security personnel in correctional institutions) and who, solely at such individual's option, agrees to be employed on a special detail by a separate or independent employer in fire protection, law enforcement, or related activities, the hours such individual was employed by such separate and independent employer shall be excluded by the public agency employing such individual in the calculation of the hours for which the employee is entitled to overtime compensation under this section if the public agency—

"(A) requires that its employees engaged in fire protection, law enforcement, or security activities be hired by a separate and independent employer to perform the special detail,

"(B) facilitates the employment of such employees by a separate and independent employer, or

"(C) otherwise affects the condition of employment of such employees by a separate and independent employer.".

(b) OCCASIONAL OR SPORADIC EMPLOYMENT.—Section 7(p) (20 U.S.C. 207), as added by subsection (a), is amended by adding at the end the following:

"(2) If an employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency undertakes, on an occasional or sporadic basis and solely at the employee's option, part-time employment for the public agency which is in a different capacity from any capacity in which the employee is regularly employed with the public agency, the hours such employee was employed in performing the different employment shall be excluded by the public agency in the calculation of the hours for which the employee is entitled to overtime compensation under this section.".

(c) SUBSTITUTION.—(1) Section 7(p) (29 U.S.C. 207), as amended by subsection (b), is amended by adding at the end of following:

"(3) If an individual who—

"(A) is employed by a public agency which is a State, political subdivision of a State, or an interstate governmental agency, and

"(B) is employed in fire protection or law enforcement activities (including activities of security personnel in correctional institutions), agrees, with the approval of the public agency and solely at the option of such individual, to substitute during scheduled work hours for another individual who is employed by such agency in such activities, the hours such employee worked as a substitute shall be excluded by the public agency in the calculation of the hours for which the employee is entitled to overtime compensation under this section.".

(2) Section 11(c) (29 U.S.C. 211(c)) is amended by adding at the end the following: "The employer of an employee who performs substitute work described in section 7(p)(3) may not be required under this subsection to keep a record of the hours of the substitute work.".

VOLUNTEERS

SEC. 4. (a) DEFINITION.—Section 3(e) (29 U.S.C. 203(e)) is amended—

(1) by striking out "paragraphs (2) and (3)" in paragraph (1) and inserting in lieu thereof "paragraphs (2), (3), and (4)", and

(2) by adding at the end the following:

"(4)(A) The term 'employee' does not include any individual who volunteers to perform services for a public agency which is a State, a political subdivision of a State, or an interstate governmental agency, if—

"(i) the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered; and

"(ii) such services are not the same type of services which the individual is employed to perform for such public agency.

"(B) An employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency may volunteer to perform services for any other State, political subdivision, or interstate governmental agency, including a State, political subdivision or agency with which the employing State, political subdivision, or agency has a mutual aid agreement.".

(b) REGULATIONS.—Not later than March 15, 1986, the Secretary of Labor shall issue regulations to carry out paragraph (4) of section 3(e) (as amended by subsection (a) of this section).

(c) CURRENT PRACTICE.—If, before April 15, 1986, the practice of a public agency was to treat certain individuals as volunteers, such individuals shall until April 15, 1986, be considered, for purposes of the Fair Labor Standards Act of 1938, as volunteers and not as employees. No public agency which is a State, or political subdivision of a State, or an interstate governmental agency shall be liable for a violation of section 6 occurring before April 15, 1986, with respect to services deemed by that agency to have been performed for it by an individual on a voluntary basis.

STATE AND LOCAL LEGISLATIVE EMPLOYEES

SEC. 5. Clause (ii) of section 3(e)(2)(C) (29 U.S.C. 203(e)(2)(C)) is amended—

(1) by striking out "or" at the end of subclause (III),

(2) by striking out "who" in subclause (IV),

(3) by striking out the period at the end of subclause (IV) and inserting in lieu thereof ", or", and

(4) by adding after subclause (IV) the following:

"(V) is an employee in the legislative branch or legislative body of that State, political subdivision, or agency and is not employed by the legislative library of such State, political subdivision, or agency.".

EFFECTIVE DATE

SEC. 6. The amendment made by this Act shall take effect April 15, 1986. The Secretary of labor shall before such date promulgate such regulations as may be required to implement such amendments.

EFFECT OF AMENDMENTS

SEC. 7. The amendments made by this Act shall not affect whether a public agency which is a State, political subdivision of a State, or an interstate governmental agency is liable under section 16 of the Fair Labor Standards Act of 1938 for a violation of section 6, 7, or 11 of such Act occurring before April 15, 1986, with respect to any employee of such public agency who would have been covered by such Act under the Secretary of Labor's special enforcement policy on January 1, 1985, and published in section 775.3 of title 29 of the Code of Federal Regulations.

DISCRIMINATION

SEC. 8. A public agency which is a State, political subdivision of a State, or an interstate governmental agency and which discriminates or has discriminated against an employee with respect to the employee's wages or other terms or conditions of employment because on or after February 19, 1985, the employee asserted coverage under section 7 of the Fair Labor Standards Act of 1938 shall be held to have violated section 15(a)(3) of such Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. JEFFORDS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. MURPHY] will be recognized for 20 minutes and the gentleman from Vermont [Mr. JEFFORDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. MURPHY].

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

Mr. Speaker, since the Supreme Court's decision earlier this year in Garcia versus San Antonio Metropolitan Transit Authority, which held that the Congress had the authority in a 1974 act to extend the Fair Labor Standards Act to State and local government employees, there has been a great deal of concern, uncertainty, and confusion on this part of State and local government officials and their

employees as to how this act would affect their ability to provide essential services to the public.

Initial concerns focused mainly on the possible budgetary impact of compliance with the act and the potential loss of flexibility necessary to effectively deal with the various needs of the public. The Committee on Education and Labor, as well as many Members of the House, shared this concern, and our subcommittee sought to establish a clear understanding of the magnitude of the costs involved. We sought to ensure that those State and local officials understood the substance of the act and how much flexibility it allows in administering local government activities.

I would like to thank all of the members of the Committee on Education and Labor, and of the Subcommittee on Labor Standards, which I chair, for their involvement in reaching this compromise.

I want to thank the members of organized labor representing the municipal employees. I would like to thank the representatives of all the local government associations and the State legislative bodies for working and toiling so many hours among themselves, together with Members of Congress, to frame this compromise. I would also like to thank the many Members of this House who took such an active interest in this issue and greatly assisted the committee through the legislative suggestions that they made. This legislation is the result of all of the bills introduced in the wake of the Garcia decision, and I believe is the consensus of what those bills sought to achieve.

The members of the Subcommittee on Labor Standards became convinced that although the costs of compliance were unlikely to be as high as some of the early estimates, some increased costs were sure to occur. More importantly, the unique responsibilities of public agencies required special consideration. The measure before this House reflects that belief, and correctly addresses the concerns of the local officials while also ensuring that their public employees continue to enjoy the basic protections of the act.

In considering this issue, it was essential that the particular needs and circumstances of the States and their political subdivisions be carefully weighed and fairly accommodated. As the Supreme Court stated in Garcia, "the States occupy a special position in our constitutional system." The committee recognized that State and local governments, unlike other employers, have special responsibilities in promoting the public good. In reporting this bill, the committee has sought to discharge that responsibility and to further the principles of cooperative federalism.

This measure will permit State and local governments to continue to use what we refer to as comp-time as payment for overtime hours worked, but provides that comp-time must be awarded at time and one-half, in keeping with the act's requirements for cash overtime. This measure recognizes the joint employment and occasional employment situations which currently exist in many municipalities to the satisfaction of both the public agency and the employees, and permits them to continue within the framework of the act. Also, this measure clarifies the definition of volunteers under the act, and I believe greatly eliminates the concerns of many parties.

In addition, this measure will eliminate the liability which many municipalities have incurred since the Court's decision. The subcommittee recognized that the sudden change in employment requirements placed the municipalities in a difficult economic situation. The phase-in provision is consistent with previous congressional action that has expanded the act's coverage since 1938. Therefore, this measure would eliminate liability for violations of sections 7 and 11 of the act prior to April 15, 1986, next April.

I believe that this measure correctly responds to the concerns of the Members of the House, and the thousands of State and local government officials nationwide and their employees. I urge the Members of this House to support this measure ensuring that the protections of the act can be extended to municipal workers without unduly threatening municipal services.

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

□ 1250

Mr. JEFFORDS. Mr. Speaker, the bill before us is the product of cooperation and compromise; compromise on the part of the public employer and employee interests, and cooperation on the part of many Members who hold strong and sincere beliefs on how, and even whether, we should respond to the Supreme Court's Garcia decision. I hope this spirit of cooperation and compromise continues.

The provisions of this bill bring much needed flexibility to the application of the Fair Labor Standards Act to State and local employees and employers. In my State, as in many others, employers and employees have found many practices, notably the use of compensatory time, to be mutually beneficial. In fact, the Vermont State Employees Association elicited tremendous support for a petition seeking the continued availability of compensatory time in lieu of overtime wages.

At the same time, towns and taxpayers alike have been concerned that the Garcia decision will imposed substantial, unexpected labor costs on them. The provisions of this bill ensure that governments will be able both to gauge their overtime costs and budget for them. Fortunately, the April 1986 effective date of the bill will give Vermont's towns and communities across the State the opportunity to debate and decide these issues during their town meetings in March.

While large cities or States with extensive personnel departments may find it easy to administer the act—and I'm not sure even they will—the towns and cities in my State have had and continue to have difficulty in complying with its provisions. I hope this bill will make that task somewhat easier.

Under the legislation before us, employers and employees would be able to agree to use compensatory time, either in lieu of or in conjunction with the overtime pay now required by the Fair Labor Standards. Act. This agreement could be as formal as a collective bargaining agreement, or as informal as a past, unwritten practice of providing compensatory time. Where no mutual agreement exists, an employer could decide to offer compensatory time and would be required to notify employees prior to their performance of overtime work.

Accrued compensatory time would be limited, largely as a protection for employees. Unlike many current arrangements, compensatory time would not have to be cashed out on an annual or biannual basis, but would be in an ongoing bank. This bank would be subject to caps, of 480 and 180 hours, depending on the type of employee. Unlike H.R. 3530, the bill passed by the other body contains a single 480-hour cap. Overtime in excess of the caps would be permitted, but would have to be paid in cash rather than compensatory time. Within the limits set by the bill, employers and employees would be free to design or maintain their own compensatory time systems.

In this bill we have tried to accommodate the needs of local government, its citizens and its employees. We recognize and sanction voluntarism, which is obviously much more prevalent and vital to the public sector than the private. And we recognize special detail, occasional, and substitute employment—all common practices in the public sector.

At the same time, we have been careful to maintain the employee protections that are a fundamental part of the Fair Labor Standards Act. Compensatory time must be paid at a premium rate. Liability for violations affecting nontraditional employees, who have been covered by the Fair Labor Standards Act since the Supreme Court's National League of Cities against Usery decision, continues. And the status of some workers under that

decision, which is being litigated in our courts, remains unaffected.

The bill prohibits an employer from discriminating against an individual simply because an individual asserted coverage under the Fair Labor Standards Act in the wake of the Garcia decision. For example, if an employee or several employees stepped forward and asked for overtime pay, and their employer responded by demoting, discharging, or otherwise discriminating against them, and not their colleagues, the aggrieved individuals could seek relief. Although initially troubled by the language of section 8, it was with this understanding that the public employer representatives who were party to the negotiations leading to this legislation agreed to support the language. It was not intended, and must not be construed, as some sort of elliptical hold harmless formula for employees' wage rates.

It is my understanding that several public employers have chosen to reduce their employees' wages across the board in response to the Garcia decision. The reasons for such a choice may be several, but clearly one of them is economic. If a city or State is operating with limited resources and is suddenly faced with new, unexpected overtime costs and requirements, it may reasonably come to the conclusion that it must reduce its regular rate of pay so as to maintain the level of its payroll when overtime costs are added into that payroll. Obviously this is a drastic step. It is one that I would hope no employer would have to undertake. However, I do not believe that anything within this bill precludes this response to the Garcia decision. I would be happy to yield to any Member who has a different view.

Mr. Speaker, let me conclude by saying that this legislation represents Congress at just about its best. The basic rationale for overruling the National League of Cities against Usery decision was the fact that the distinction between traditional and nontraditional is unworkable and that limitations on the Congress' commerce power with respect to State and local governments lay not in the 10th amendment but in the workings of the Federal Government, and particularly the Congress. This latter aspect of the decision was not very comforting to those people who take a dim view of Congress. However, in this instance, at least, we may prove the doubters wrong. We have met a real problem with a real solution, and will do so in a timely fashion. We have listened to a broad range of interests, and have adopted the best suggestions of each.

On a personal note, I am very grateful to the dozens and dozens of State and local employees and officials from Vermont who have taken the time to give me their views on this issue. The same, of course, holds for their representatives, particularly the Vermont League of Cities and Towns, the Vermont State Employees Association, the State Officer of Personnel, and the American Federation of State, County and Municipal Employees.

I also want to thank Secretary of Labor Bill Brock who, with his staff, has greatly assisted us. Finally, I want to thank my colleagues. Although this bill differs from the dozen or so bills that were introduced in the House on ths subject, it owes its inception in large part to the efforts of those Members who have been actively working to solve this issue for the past 8 months. My colleagues on the Labor Standards Subcommittee, Mr. PETRI and Mr. BARTLETT, have likewise been vital to this process. Subcommittee Chairman MURPHY has shown solid leadership. And Chairman HAWKINS has shown solid leadership. And Chairman HAWKINS has been typically fair and thoughtful.

Mr. Speaker, I urge my colleagues to give this bill their resounding support.

Mr. MURPHY. Mr. Speaker, I yield 2 minutes to the chairman of the full Committee on Education and Labor, the gentleman from California [Mr. HAWKINS], who was extremely helpful in guiding the first major bill through my subcommittee since I became one of his subcommittee chairmen.

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

Mr. Speaker, today we bring to the House a bill which will remove a potential financial burden from States and localities, yet preserve labor standards protections for the employees of those entities. The bill, H.R. 3530, has the bipartisan support of the members of the Committee on Education and Labor, having been ordered reported by a unanimous voice vote. The legislation amends the Fair Labor Standards Act [FLSA] by modifying the overtime provisions of the act to give public employers, in agreement with their employees, a choice of either granting compensatory time or paying monetary compensation for overtime worked. The bill provides flexibility in other areas such as joint employment and the use of volunteer services. In addition, the bill removes potential retroactive liability for the payment of overtime compensation as required under existing provisions of the FLSA. This is most important to the fiscal concerns of States and localities.

H.R. 3530 is nearly identical to a measure approved in the other body by voice vote on Thursday, October 24. The close similarity of the bills is due to the bipartisan cooperation of Members in both Houses of the Congress. The Members who were involved in the legislative process, particularly those in leadership roles, deserve the thanks and appreciation of all the parties who will be affected by these amendments. I want to congratulate and commend the chairman of our Subcommittee on Labor Standards, Mr. MURPHY, for his leadership in proceeding expeditiously with this legislation. I want to express special appreciation to the ranking subcommittee member, Mr. PETRI, and the ranking member of the full committee, Mr. JEFFORDS, who, throughout consideration of this legislation, have been most helpful and supportive. Also, mention should be made of the assistance Mr. BARTLETT rendered in the negotiations which produced this excellent compromise.

The bill also has been endorsed by the National Association of Counties, the National Conference of State Legislators, the National League of Cities, and the U.S. Conference of Mayors. These associations have said that the bill "maintains the principles of the Fair Labor Standards Act and at the same time recognizes the special circumstances faced by public employers and public employees." The AFL-CIO supports the bill, saying that "it preserves the integrity of the Fair Labor Standards Act which is so vital to the interests of employees while addressing the concerns of public employers."

H.R. 3530 is a direct legislative response to the issues raised in the Supreme Court decision in Garcia versus San Antonio Metropolitan Transit Authority. Had the decision been implemented, State and local governments would have had to make drastic changes in employment policies and practices, as well as the utilization of volunteer services. In addition, many States and localities would have had to assume a retroactive financial liability, because they engaged in an employment practice—generally preferred by employees in certain highly stressful jobs—of granting compensatory time in lieu of monetary compensation for overtime hours worked. This certainly would have been the case in the Los Angeles area where, as my colleagues know, we have a somewhat unique situation of recurring seasonal disasters, such as fires, which take their toll on our emergency response personnel, not to mention the pocketbooks of our taxpayers.

Shortly after the Garcia decision, I received numerous calls and communications from civic leaders in Los Angeles seeking relief from the potential burden of FLSA overtime coverage, and asking for a legislative remedy which would recognize their special problems and customary employment practices.

I am pleased that today I can recommend to the House a measure which accommodates not only the particular circumstances in my home area, but the operations of States and localities throughout the Nation.

The bill accommodates States and localities by allowing the continuation of a widespread practice of granting compensatory time off for overtime hours worked, yet protects the preferences of employees regarding the utilization of the compensatory time. After the effective date of the amendments, employees may receive, in lieu of overtime compensation, compensatory time at the rate of not less than 1.5 hours of compensatory time for each hour of overtime worked. The offering of compensatory time must be governed by a collective bargaining agreement or some other agreement or understanding between the employer and the employees, or the employees' selected representative, before the performance of the overtime work, or with prior notice to the employees. No more than 480 hours of compensatory time may be accrued by employees engaged in public safety, emergency response, or seasonal work. For all other employees, the limit is 180 hours. An employee must be permitted to use requested compensatory time within a reasonable time after making a request unless use of the compensatory time would unduly disrupt the operations of the employer.

The bill also accommodates several customary employment practices which have proved beneficial to both employers and employees, and relieves employers from the overtime penalty that would otherwise be applicable. Among these are special detail work and other occasional or sporadic work by public employees.

Another matter which governmental entities wanted clarified and which the bill accommodates, is the widespread use of volunteers. The bill expands and codifies existing regulations by providing that even if an individual receives reasonable benefits or a nominal fee, or a combination of both, for services performed, the individual will still be considered a volunteer. Also, a public employee may provide volunteer services for a different public employer, or for the employee's own employing agency but in a different job capacity.

Finally, the bill removes a liability that could have been imposed pursuant to the Garcia decision because employers relied on a previous Supreme Court ruling—National League of Cities versus Usery—which exempted them from FLSA coverage. States and localities engaged in traditional governmental functions such as schools, hospitals, fire prevention, police protection, sanitation, public health, parks and recreation, libraries, museums, and so forth, are relieved of overtime liability until April 15, 1986. This gives those entities 5½ months to adjust to the requirements of the FLSA, as modified by this legislation, and to make any necessary management decisions as to future personnel allocations, particularly as they relate to police and fire personnel. Furthermore, actual payment of monetary overtime may be delayed until August 1, 1986, in recognition of the fact that the fiscal years of State and local governments are not uniform. Also, in recognition of pending litigation, the bill does not affect whether employees of State and local governments who are engaged in nontraditional functions, as defined by the Secretary of Labor, are covered prior to April 15, 1986.

Mr. Speaker, overall, this legislation represents a reasonable resolution to some difficult and complex employment problems that were raised by the Garcia decision. It will give States and localities the flexibility they need to operate, and provide public employees with meaningful FLSA protection. It also provides flexibility in other areas such as volunteer services and the ancillary activities and work of public employees. More importantly, it will prevent any undue hardships being placed upon State and local governments. Yet it will maintain wage and hour standards for the employees who perform the necessary, and often life-threatening, services for those jurisdictions. I wholeheartedly recommend this legislation to the House, and urge its unanimous adoption.

Mr. JEFFORDS. Mr. Speaker, I yield 8 minutes to the gentleman from Texas [Mr. BARTLETT].

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

Mr. BARTLETT. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Speaker, I want to compliment all the Members who have worked so hard on this particular piece of legislation on both sides of the aisle.

Ever since February 19 when the Supreme Court ruled in Garcia versus San Antonio Metropolitan Transit Authority, we have known action must be taken by Congress. It is our duty to act responsibly and quickly to ensure continued flexibility in State and local employment practices. I strongly support H.R. 3530, which would rectify the current situation.

This legislation is a fair compromise that recognizes the unique role of State and local governments in providing services and the need for flexibility in compensating employees. Congress has the opportunity today to take a meaningful stance, not just a symbolic gesture, to stop the encroachment of Federal regulations where they serve no useful purpose.

Without this legislation, the Department of Labor will shortly start enforcing compliance to the Supreme Court ruling. I have heard from a number of towns and cities throughout my district in Northeast Wisconsin. I strongly sympathize with their plight. As they try to balance their own budgets, the Federal Government, which can't even balance its budget, steps in and orders them to abrogate standing contracts in favor of more costly alternatives.

If I might quote from a recent letter I received from the village president of Black Creek, WI:

> It would greatly increase costs for Wisconsin's already tax-burdened urban communities. In Black Creek alone, population 1,097, this provision could amount to well over a $5,000-a-year increase in costs or a severe cutback in services.

This has become a pressing fiscal issue for subunits of government. State and local entities across the United States, big and small alike, will face an exorbitant increase in costs. Services will have to be cut. Taxpayers will suffer unnecessarily.

I represent a rural district and I am particularly concerned that the "redefinition" of volunteers will make them too costly to use. We would be forced to neglect a vital resource at a time when we need it most.

It comes down to Federal Government interference in a State and local matter. State and local governments long ago came up with a unique method to suit their peculiar needs and to fill the services required of them. We should allow them to continue this role unhindered. This legislation represents a commitment to federalism because it returns to State and local governments responsibilities which are rightfully theirs.

Congress must stand tall on this matter. I commend the members of the Education and Labor Committee for putting this bill on a fast track. I urge my colleagues to follow the bipartisan lead of the committee and support H.R. 3530.

Mr. BARTLETT. I thank the gentleman for his kind words, and perhaps we will start a new trend with this legislation in Congress for the rest of the session.

Mr. Speaker, I rise in strong support of H.R. 3530. Let me begin by commending the extraordinary efforts that have been made in a bipartisan way on this bill by members of the Committee on Education and Labor and, indeed, by a large number of Members of Congress on both sides of the aisle. In particular, the chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS] has been extraordinary in his fairness and his evenhandedness in his efforts to bring this bill to the floor, and the subcommittee chairman, the gentleman from Pennsylvania [Mr. MURPHY], for whom I have a great deal of respect, who was instrumental in the success of the passage of this legislation, together with the ranking Republican on the Committee on Education and Labor, the gentleman from Vermont [Mr. JEFFORDS], and the ranking Republican on

the subcommittee, the gentleman from Wisconsin [Mr. PETRI].

It has been through that good will we have arrived at a reasonable and equitable solution today that is equitable for all persons involved. There was potential on this issue all along for resulting in a great deal of disruption and a lack of agreement, and there was the potential always that Congress would choose to do nothing, and choosing to do nothing would have been very disruptive to the lives of public employees and taxpayers around this country.

It is to the credit of the gentleman on both sides of the aisle that Congress has chosen to take reasonable steps forward.

I also would take a minute to commend the various people who have been involved in this legislation from around the country and from Texas: The Texas Municipal League, the National League of Cities, various employee groups, both union and nonunion, around this country who have contributed to the action we take today.

It seems to me that today's bill in H.R. 3530 provides for the rights of two groups of people. No. 1, it provides for a restoration of the rights of public employees who have been accustomed to traditional rights as public employees that would have been denied to them by Garcia, and it also is combined with the rights of taxpayers to municipal services and to being able to set their own priorities.

Public employees have had the traditional rights of compensatory time, volunteer time, and trading shifts. I have heard, as every Member has, I think, from public employees from around this country, from police officers and firefighters, who would say, "We very much want to retain that right to be compensated with compensatory time off later in exchange for overtime work that we do today." I heard from State workers in a mental health hospital who have gotten accustomed to and who want to continue to provide volunteer work on the weekends for the benefit of their clients and the patients at that State hospital, and this bill provides for those rights to continue.

We also, I think, are all familiar with the rights of taxpayers. Had this bill not been passed, the taxpayers for State and municipal governments around this country would have been socked with bigger bills, with lowered services, and no one would have won. It is estimated that some $2 to $3 billion in budget adjustments would have been made total around this country. In the city of Dallas, alone, the tab would have been $1.6 million in additional costs, with no additional services; in fact, with reduced services. Some cities were required to institute layoffs and others are considering similar action.

Mr. Speaker, the city of Fort Worth estimated that their cost would be $980,000, and in Garland, TX, $200,000 to $400,000, in Irving, $746,000, in Amarillo, $790,000, and that is after a reduction of personnel hours.

So this bill provides for the rights both of public employees and of taxpayers who pay the tab.

Mr. Speaker, it might be helpful just to detail a few of the major provisions of this bill. First, it provides that compensatory in lieu of overtime wages for State and local employees would be permitted under the FLSA. That would be authorized either by collective bargaining agreement or by any sort of memorandum of understanding, including simply an employee notification at the time of hiring. It is provided at the rate of 1½ hours for each hour worked.

□ 1300

It provides for an effective date which would allow employers time to develop adequate procedures and realistic budgets so the liability would not begin until April 15, 1986.

The bill would specify that a public employer may not discriminate against an employee who has asserted the right to coverage under the Fair Labor Standards Act, but the bill does not address at all those actions taken to comply with Garcia which do not relate to discrimination, and I think that is an important point.

The bill provides for exemptions from overtime provisions under certain precise details for volunteers, whether it is within the same agency or in a different agency so long as the service is not the same as the regular work performed in their regular job.

It provides that law enforcement personnel and firefighters who voluntarily agree to special detail assignments, or who wish to trade shifts would be permitted to do that.

It provides that public employees who voluntarily agree to work in a different capacity from their regular jobs be permitted to do that.

This in so many ways adds to the rights of public employees.

Mr. Speaker, in conclusion, I would relate a story. There was a tragic airline accident in the city of Dallas at DFW Airport this summer right in the middle of the Garcia controversy in Dallas County. There were over 100 fatalities involved. The sheriff of Dallas County tells me he went out to the airline tragedy and found his deputies, who had at that point voluntarily arrived on the scene to help take care of some 34 seriously injured personnel, and to help with that tragedy. And he had the unfortunate job of telling his deputies, face to face, one to one, that they could not continue to help the people that needed help in this airline tragedy.

His deputies looked at the sheriff and said: "Sheriff, if the Garcia decision, whatever that is, if the Federal Government says that as a deputy sheriff, and as a human being, I cannot come to this airport and help people who need my help, then you can take my badge and my resignation right now." As one deputy put it, "People need help, and I am here to help them."

I took that mandate to heart, as I think many Members of Congress did. Public employees are in public service because they want to help people.

Congress, by the enactment of H.R. 3530, will allow that service to continue to happen.

I thank the gentleman for yielding.

Mr. MURPHY. Mr. Speaker, during the days of pressure in September and October when so many Congressmen from around the country were being pressured on this issue, we reached out to many Members of Congress, and the Appropriations Committee and its chairman were so helpful, we reached out to many other Members of Congress to ask us to preserve the jurisdiction of the Education and Labor Committee. This was our problem, we were wrestling with it.

We did come up with a solution, and I want to say that one of the gentlemen we reached out to, and he assisted us in his efforts with other members of the committee so that our committee could complete its work, was the gentleman from Oklahoma [Mr. JONES].

Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. Mr. Speaker, action today on H.R. 3530 marks an historic achievement by State and local governments, labor organizations, other non-Federal public agencies, and Congress.

The very fact that we have a bill before us today defies the wisdom of pundits who just a month ago saw insurmountable rifts between public agencies and their employees, between ideologues on the two extremes of the political spectrum, between the rights of the American taxpayer and the rights of the public employee.

Through the determined leadership of employee organizations and the State and local government associations, and through the laudable flexibility exhibited by Labor Secretary Bill Brock, who worked very closely with the States to reach today's result, the apparently insurmountable obstacles were overcome.

Finally, I want to thank the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. MURPHY] for all the assistance he afforded me

after I drafted the Oklahoma delegation's Garcia bill.

We introduced the bill on October 2, and within a week the chairman's staff had worked with the principal participants to come up with this approach. Because of his leadership, the anticipated congressional fight was resolved through patient negotiation. This is particularly important to my State of Oklahoma. Our State's economy is depressed and that has had a depressing effect on commerce all over Oklahoma. The Garcia decision would have been devastating to local government in Oklahoma.

Passage of this legislation provides security for State and local governments and American taxpayers, and fairness for their employees. I urge its adoption.

Mr. JEFFORDS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Speaker, I am glad that this body has so quickly and effectively addressed the problems caused by the Supreme Court's February 19 Garcia decision by bringing forth H.R. 3530, the Fair Labor Standards Amendments of 1985.

The Court's ruling, which rendered compensatory time off for State and local public employees nearly useless, has been nothing but a disaster in my home State of Nebraska.

Workers have been layed off, county and city budgets have been strained, and my constitutents have been staring at the prospects of higher local taxes or reduced public services.

I introduced legislation, H.R. 3237, to mitigate these harmful effects of Garcia, and many of my colleagues helped to force action in this Chamber by cosponsoring H.R. 3237.

The bill before us now reflects a good, workable, compromise solution to this problem. H.R. 3530 would give employers the option of granting employees time-and-a-half overtime pay or compensatory time off at this same rate. Seasonal, emergency, and public safety employees could bank up to 480 hours of "comp time" before cash overtime pay would be required, all other employees could bank up to 180 hours.

I don't like H.R. 3530 quite as much as a bill passed by the other Chamber last week which lets all workers bank up to 480 hours of "comp time," but all in all H.R. 3530 is a good bill and I urge its support.

Mr. MURPHY. Mr. Speaker, at this time I submit for the RECORD two letters in support of this compromise, one from the American Federation of Labor, which speaks for the labor delegates who met with the municipal bodies, and the other addressed from the various representatives of the League of Cities National Legislative Association.

OCTOBER 17, 1985.

Mr. AUSTIN J. MURPHY,
Chairman, Subcommittee on Labor Standards, Rayburn House Office Building, Washington, DC.

DEAR MR. MURPHY: The National Association of Counties, National Conference of State Legislators, National League of Cities and U.S. Conference of Mayors commend you for the leadership you have shown in resolving the difficulties faced by state and local governments across the nation as a result of the Supreme Court's decision in the Garcia v. the San Antonio Mass Transit Authority case.

The legislation you have introduced, H.R. 3530 provides a solution to the problems created by Garcia which is balanced and equitable for all parties. It maintains the principles of the Fair Labor Standards Act and at the same time recognizes the special circumstances faced by public employers and public employees.

Be assured that you have the strong support of all of our organizations for your bill and that we will provide whatever assistance is needed to achieve its passage in its current form.

Sincerely,

John J. Gunther, executive director, U.S. Conference of Mayors; Matt Coffey, executive director, National Association of Counties; Alan Beals, executive director, National League of Cities; Earl Mackey, executive director, National Conference of State Legislators.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, October 18, 1985.

DEAR REPRESENTATIVE: On behalf of the AFL-CIO, I urge your support for H.R. 3530, the Fair Labor Standards Amendments of 1985. The bill has received the bipartisan and unanimous support of the Labor Standards Subcommittee of the Committee on Education and Labor, and it is scheduled for markup in the full Committee next Wednesday, October 23. It is our hope that this legislation will now obtain the approval of the full committee, without substantive change. Floor action is anticipated before the end of the month.

In the AFL-CIO's judgment, H.R. 3530 reflects a carefully balanced approach that resolves the questions raised by the U.S. Supreme Court's decision in Garcia v. San Antonio Metropolitan Transit Authority. The bill preserves the integrity of the Fair Labor Standards Act which is so vital to the interests of employees while addressing the concerns of public employers.

The AFL-CIO, therefore, encourages you to cosponsor the bill and to suppport passage of the bill in its present form.

Sincerely,

RAY DENISON,
Director, Department of Legislation.

Mr. Speaker, with regard to the concern stated by the ranking member of the Education and Labor Committee to section 8, I agree that it does pose some bit of a problem. However, we felt that that section was rather necessary in that since the Garcia decision, until now, that we are relieving the municipalities of total responsibility for liability, financial responsibility up until next April, and we felt that if any employee happened to mention to his supervisor or someone else in the course of his daily employment inquiring about his rights, that no retaliatory action should be taken. And we think now with the delay in the effective date there would be plenty of time for municipalities to fully adjust.

I also in closing would like to mention that we appreciate the real efforts on behalf of the gentleman from Vermont [Mr. JEFFORDS], the gentleman from Wisconsin [Mr. PETRI], and the gentleman from Texas [Mr. BARTLETT], and the constant attention they showed to this problem over the past 3 months. And I thank Secretary Brock for meeting with us. The Members will recall that he relieved us of the pressure of the Department of Labor in forcing the particular aspects of the Garcia case until November 1 of this year.

I might say that today we officially asked the Secretary to give us a few more days. We may not be able to get the President to sign this bill by November 1, and if Secretary Brock will grant us another week or so, I am sure that we can send down to his Department a measure that he has certainly been helpful in passing.

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

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

Mr. Speaker, first I would agree with the statements made by the gentleman from Pennsylvania. But I would like to amplify to ensure that we understand each other with respect not to individuals, but as to a general application.

Mr. Speaker, as I mentioned in my statement, some jurisdictions have responded to the Garcia decision by reducing wage rates across the board. I inquired of the Solicitor of Labor as to whether this would constitute discrimination under section 8 of the bill before us.

The Solicitor responded, in pertinent part, and I will include the whole letter in the RECORD:

At some time after the effective date of the amendments effected by H.R. 3530, the employer decides to reduce its total cost of compensation for labor to an amount approximately equal to the amount which would have been expended had the employer never commenced making cash overtime payments. Under the circumstances of this employer's wage structure, it could achieve this objective by reducing the base wage rate of employees, while continuing to comply with the provisions of section 6 (relating to the minimum wage) and the provision of section 7 as that section existed prior to the currently contemplated amendments. The contemplated rate reduction would be made systematically in the wages of all employees, and would constitute a reduction for all purposes of the wage rate previously in effect. You question whether such a reduction would, under the provisions of section 8, be held to constitute a violation of section 15(a)(3) of the act.

Based on the facts set forth above, and in the absence of other significant facts, it is my opinion that the wage reduction described would not, in and of itself, involve the application of Section 8, and would thus not be held to constitute a violation of Section 15(a)(3) of the Act.

U.S. DEPARTMENT OF LABOR,
SOLICITOR OF LABOR,
Washington, DC, October 28, 1985.

Hon. JAMES M. JEFFORDS,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN JEFFORDS: I am writing in reply to your request for an opinion concerning the possible application of Section 8 of H.R. 3530, by which it is proposed to amend the Fair Labor Standards Act, to a particular factual situation more fully described below.

Section 8, relating to discrimination, provides:

"A public agency which is a State, political subdivision of a State, or an interstate governmental agency and which discriminates or has discriminated against an employee with respect to the employee's wages or other terms or conditions of employment because on or after February 19, 1985, the employee asserted coverage under section 7 of the Fair Labor Standards Act of 1938 shall be held to have violated section 15(a)(3) of such Act."

As I understand the situation which is of concern to you in this connection, the question arises with respect to a public employer to which, prior to February 19, 1985, the provisions of the Fair Labor Standards Act were inapplicable by virtue of the doctrine of *National League of Cities*, and which has, during some portion or all of the period since February 19, 1985, been paying overtime compensation, in cash, to employees, in compliance with the requirements of Section 7 of the Fair Labor Standards Act of 1938. The employer has done so without being bound by the terms of a collective bargaining agreement to do so, and without other legal compulsion beyond the requirements of the Act. At some time after the effective date of the amendments effected by H.R. 3530, the employer decides to reduce its total cost of compensation for labor to an amount approximately equal to the amount which would have been expended had the employer never commenced making cash overtime payments. Under the circumstances of this employer's wage structure, it could achieve this objective by reducing the base wage rate of employees, while continuing to comply with the provisions of Section 6 (relating to the minimum wage) and the provisions of Section 7 as that section existed prior to the currently contemplated amendments. The contemplated rate reduction would be made systematically in the wages of all employees, and would constitute a reduction for all purposes of the wage rate previously in effect. You question whether such a reduction would, under the provisions of Section 8, be held to constitute a violation of Section 15(a)(3) of the Act.

Based on the facts set forth above, and in the absence of other significant facts, it is my opinion that the wage reduction described would not, in and of itself, involve the application of Section 8, and would thus not be held to constitute a violation of Section 15(a)(3) of the Act.

I trust this is responsive to your inquiry. If I can be of further assistance, please feel free to call upon me.

Sincerely,

FRANCIS X. LILLY.

Again, I want to commend all of the people involved with this for bringing forth a speedy and equitable reconciliation of these very difficult problems.

Mr. DAUB. Mr. Speaker, I rise in support of H.R. 3530, a bill that will ease the effects of the Supreme Court's decision in Garcia versus San Antonio Metropolitan Transit Authority that requires State and local governments to comply with the overtime provisions of the Fair Labor Standards Act. I am a cosponsor of this important legislation and, in fact, introduced a similar measure on September 4, 1985.

The National League of Cities and the International Cities Managers Association have estimated that compliance with Garcia would cost $1 billion for the coming year. For fire protection service alone, the city of Omaha, NE, predicts the additional cost of overtime would be $370,000 for the coming year.

Without this legislation, flexible and innovative employment practices—many of which are negotiated between local governments and municipal workers' unions—will no longer be possible. Additionally, H.R. 3530 will resolve the problems that the Garcia decision created for individuals who volunteer their time to State and local governments.

I urge expedited action on H.R. 3530 and companion legislation in the other body (S. 1570) to resolve confusion that the Supreme Court's decision has created for State and local governments.

Mr. FRENZEL. Mr. Speaker, H.R. 3530 is a bill which must be promptly passed to negate some of the worst effects of the Garcia case.

The bill is not the best solution. The committee could have done a better job by adopting any one of several proposals to reverse the Garcia decision. H.R. 3530 gives only partial relief.

Nevertheless, the Garcia problem is so severe for our local governments that we must pass this partial solution. H.R. 3530 is the only relief the committee will give us. We have no choice but to accept it.

Perhaps the Senate will do better. I hope so. Our local governments deserve the maximum flexibility so that they can give maximum service for a minimum tax cost.

For now, we must pass H.R. 3530.

Mr. FUQUA. Mr. Speaker, I rise in support of H.R. 3530, the Fair Labor Standards Amendments, of which I am a cosponsor. This measure is of critical importance to the communities in the Second Congressional District of Florida, which I am privileged to represent.

The Garcia ruling may place a burden on New York and Los Angeles. For the cities and towns in my district, it is catastrophic in its implications. These communities simply cannot afford to pay time-and-a-half for overtime work, particularly for the police and fire personnel. It could lead to serious financial burdens and inadequate protection for the people.

H.R. 3530 gives communities a choice of either cash or compensatory time off. This is fair and equitable to all. Police officers and firefighters deserve recognition for the extra hours their particular jobs require. They should receive some form of compensation. It will now be up to each community to decide whether or not they can afford a cash outlay or permit these people additional time off.

I believe H.R. 3530 is good legislation and I commend the Education and Labor Committee for bringing the bill to the House floor in a timely manner. This legislation deserves our support and our vote today to end the confusion and disarray caused by Garcia. I urge my colleagues to join me in support of H.R. 3530.

Mr. MARTINEZ. Mr. Speaker, I rise in strong support of H.R. 3530, the Fair Labor Standards Amendments of 1985.

I would like to offer a perspective I am sure is shared by those of us who have served our communities on a local level, regarding the Garcia decision. Local governments have always been limited in their abilities to provide services to their communities. They are dependent upon both their tax base and their share of funds that come from State and local taxes, and these moneys collected directly determine the level of services provided to their communities. Local governments have to be very frugal in both their outlays for salaries and administrative costs and in the services they provide such as police and fire protection, street and sewer maintenance, recreation and parks, library services, and the many other services that make a community liveable. Often forgotten is the difference between companies engaged in private enterprise and local governments. Businesses can always add on the extra administrative costs incurred into the price of product and still maintain a profit margin, but cities don't have this luxury. They are always limited by the revenues collected, and are hard pressed to maintain adequate levels of service to their community in the best of times. When extra expenses are added on to their budgets, services are often cut, and, in the end, the community which the local government serves loses.

This necessity for local governments to be good money managers has restricted the amount of overtime that cities could pay its workers. Most employee groups, to their credit, have recognized the special circumstances which local governments face, and have agreed to take comp time in lieu of pay for extra hours worked in order to keep community services at an adequate level. In fact, many employees such as police and firefighters in my home State of California have actually come to prefer having comp time instead of overtime pay for those extra hours worked. To them, the extra time to spend on projects that benefit themselves, their homes, their future and their families, are more important than the cash they could earn.

These employee groups and local governments have negotiated comp time provisions into their contracts to the benefit of the employee, the local government, and ultimately, the community in general. These agreements for comp time have worked

well, and I am pleased to see that H.R. 3530 will allow this practice to continue.

Another related aspect which I am pleased to see included in H.R. 3530 is the allowed deferment until August 1, 1986 for local governments to pay employees for the overtime pay earned as a result of the Garcia decision after April 15, 1986. Again, local governments are limited in the amounts of revenue it can raise, and the overtime pay owed after April 15, the effective date of H.R. 3530, would saddle local governments with an extra burden in the middle of fiscal year. This delay will allow local governments to adequately figure in the extra costs of the Garcia decision into its 1987 budgets without unfairly having the extra cost placed on its 1986 budgets which have already been allocated and have little flexibility for new costs. This delay until August 1 will not allow local governments to back away from their obligations to employees, but rather ensure the local governments will continue to maintain those necessary city services, budgeted on July 1, 1985, throughout the 1986 fiscal year. Local governments make a commitment every year on July 1 to provide services at certain levels for 12 months, and I am glad to see, with this deferment, that local governments will be able to honor this commitment without an extra burden in the middle of the year.

In conclusion, I am pleased that the compromise between local governments and organized labor has been worked out, and I urge my colleagues to vote for H.R. 3530.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 3530, legislation that would change overtime benefits for State and local government employees. I commend the gentleman from Pennsylvania [Mr. MURPHY], for introducing this bill which will provide an equitable and reasonable solution to the problem of how best to comply with the recent Supreme Court decision, Garcia versus San Antonio Metropolitan Transit Authority (February 1985).

In the Garcia case, the Supreme Court ruled that overtime pay requirements of the Fair Labor Standards Act apply to State and local employees. Interpretations of previous decisions affirming State authority over functions not specifically reserved for Congress had exempted State and local public employers from the act's purview. State and local government officials estimate the compliance cost of the Garcia decision at over $1 billion.

H.R. 3530 would ease the impact of the Court ruling by deferring public employer liability for overtime and related paperwork violations of the Fair Labor Standards Act until April 15, 1986, for those public employees affected by the Garcia decision, and by permitting employees to substitute compensatory time for overtime payment at a rate of 1½ hours per hour worked. Certain limits shall be placed on accrued compensatory hours, with cash compensation for overtime after those limits are reached.

This bill is the result of negotiations conducted in September between labor unions representing public employees, and public employer organizations, including the U.S. Conference of Mayors, the National League of Cities, and the National Association of Counties. The Congressional Budget Office estimates that no costs would be associated with enactment of H.R. 3530. This bill enjoys wide bipartisan support, as well as the support of the administration. Indeed, the Labor Department had intended to start implementing the decision on October 15, but Labor Secretary William E. Brock III has postponed the enforcement date to November 1 to give us in Congress time to enact legislation which will comply with the Garcia decision.

I am confident that this bill will be mutually beneficial to the employees and employers affected, for it allows workers the freedom to receive deserved compensation in the manner they prefer while reducing the compliance cost of the Supreme Court ruling for public employers. Many of the hard-working people employed by our State and local governments value their private time more than the overtime pay they could earn. For example, I was recently contacted by a policewoman in my district who urged me to support H.R. 3530. She told me that she would much rather give back to her twin babies the time she spent away from them than to receive any extra pay. I believe that the countless other public workers who feel as this employee does should have the option of taking compensatory time, in lieu of overtime pay. Accordingly, I urge my colleagues to join me in supporting H.R. 3530, to allow public employees to substitute compensatory time for overtime pay and to defer public employer liability for overtime until April 15, 1986.

Mr. BONKER. Mr. Speaker, last February's Supreme Court decision in Garcia against San Antonio, while addressing a serious labor concern, created a potentially devastating financial situation for State and local governments around the country. The decision that employees of State and local governments were not only entitled to overtime wages, but were entitled to these wages effective the date of the court's decision, February 16, 1985, would have created a situation of serious economic distress for municipalities nationwide.

Congress has acted swiftly to develop a compromise solution to this problem that balances the economic concerns of the governments with the need for fairness and adequate compensation for our public employees. Congressman MURPHY's bill, H.R. 3530, which I strongly support, provides State and local governments with an alternative to strict cash compensation for overtime work. Up to a certain point, they may offer compensatory time at the rate of time-and-a-half for overtime hours worked. This will become effective April 15, 1986, to allow local government units to make necessary adjustments.

I believe all sides can be pleased by this compromise solution, which provides local public employees with the financial flexibility necessary to adequately provide the services unique to local governments. It also responds to the compensation needs of public employees like police and firemen whose jobs require demanding, unpredictable hours.

It is not often in Congress that we are able to reach a compromise that truly represents a good solution for all sides. This is one of those rare instances, and I commend all the members of the committee, affected labor groups, and local government units who worked so hard to make this compromise a reality.

Finally, I would like to commend the Department of Labor their willingness to postpone enforcement of the Supreme Court Garcia decision until Congress had an opportunity to develop a solution, and I urge the President to sign this legislation into law without delay.

Mr. ECKART of Ohio. Mr. Speaker, I support H.R. 3530, the Fair Labor Standards Amendments of 1985, and commend my colleagues on the Education and Labor Committee for their excellent work on this matter.

Following the Supreme Court's February decision in the Garcia versus Samta case, I received many calls and letters from municipal governments throughout the State of Ohio that this ruling would have an extremely adverse impact on their budgets. The Court's decision overruled its 1976 opinion that congressional inclusion of State and local employees under the requirements of the Fair Labor Standards Act was unconstitutional. In its February decision in Garcia, the Court found that the 1974 FSLA amendments passed by the Congress were indeed not unconstitutional and ruled that all State and local governments must pay their workers overtime for the extra hours of overtime they worked.

The Department of Labor, shortly following this decision, announced that it would begin enforcing the Court's decision by October 15th of this year and would determine these governments liable for overtime pay as far back as April 15th of this year. Given that the Court's decision was only handed down in February, this action by the administration was unduly harsh. Even in 1974, when Congress first brought State and local employees under the FSLA, it granted the governments 2½ years to come under compliance with the new law. This swift action by the Reagan administration, following the Garcia decision, only served to increase alarm among the municipal governments that their budgets would be severely damaged by this ruling.

But, thanks to the members of the Education and Labor Committee, who worked closely with our colleagues across the Hill, this impending crisis has been averted. H.R. 3530 properly addresses the concerns of these State and local governments while ensuring that their employees are properly compensated for the extra hours they put into their work. In addition, the legislation gives these governments sufficient time to reallocate their resources to comply with this new requirement.

I urge my colleagues to swiftly approve this legislation, which both protects the rights of our State and local workers while

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addressing the concern of these governments.

Mr. AUCOIN. Mr. Speaker, I rise in strong support of H.R. 3530, amending the Fair Labor Standards Act. I want to commend the members and staff of the House Labor Standards Subcommittee, and in particular my friends Congressman MURPHY, the subcommittee chairman, Congressman HAWKINS, chairman of the Education and Labor Committee, and Congressmen BARTLETT and JEFFORDS for their hard work and their willingness to listen to all sides in this complex issue.

I believe Congress has tackled a complex and controversial issue and come up with a workable compromise. That doesn't seem to happen often enough in Washington.

Mr. Speaker, last spring when the Supreme Court made its now famous Garcia ruling, the local government employees must be covered by the Fair Labor Standards Act, it was hailed by those who felt local government employees deserved the same rights and protections that both Federal workers and those in the private sector enjoy. However, local governments began assessing the costs of these new statutes, which denied the use of compensatory time for payment of overtime hours worked, and realized that they would either have to cut services or raise taxes in order to meet these new labor costs for which no money had been budgeted.

In Oregon this decision was met with almost universal opposition. Although most Oregonians agreed that local government employees throughout the country deserved the protections of the Fair Labor Standards Act, these protections were redundant and unnecessary in Oregon, which has very strict State labor laws. Local government employees in Oregon felt that this decision denied them the benefits which they had agreed to in collective bargaining negotiations, including the right to be "paid" in comp-time, rather than in cash, for overtime hours worked. This is an arrangement which can be very beneficial to some employees, and they wanted to continue to have this option available. Local governments agreed that because the pay and overtime contracts with employees had been agreed to under collective bargaining arrangements, there was no need for the Federal Government to intercede in these mutually agree upon contracts.

With the tremendous Federal deficit now crippling our economy, the Federal Government is being forced to cut back on programs that assist State and local governments. This is hard enough on local governments without the added expense which the Garcia decision created. It is no wonder that many of the cities and counties in my congressional district felt frustration over this situation. I heard from the mayors of Tigard, Newberg, Astoria, North Plains, Portland, Sherwood, Columbia City, and Hillsboro. I also heard from county commissioners in Yamhill, Clatsop, and Tillamook Counties. The Garcia decision also offended fire fighters, both paid and volunteers. I was informed of the adverse effects of this decision on fire departments by the Tualatin Rural Fire Protection District and the Washington County Fire District No. 1.

The Garcia decision denied workers in Oregon some of their collective bargaining rights, and substantially increased the cost to local governments.

Although this legislation before us does not rescind the Garcia decision, it does address the major concerns raised by these local government officials and their employees. The issue of "comp time" has been resolved, as has the controversial aspect of retroactive liability. The confusion over what constitutes a "volunteer" has also been cleared up. These were the major stumbling blocks which Chairmen MURPHY and HAWKINS had to contend with, and 6 months ago it looked as though a consensus would never be reached. However, it is a tribute to their hard work, and to the hard work of the representatives of both the local governments and the employee unions that we have before us a bill which both sides have unanimously endorsed. Although neither side is completely satisfied with this legislation, the fact that it is endorsed by the National League of Cities, the National Association of Counties, and the American Federation of State, County, and Municipal Employees of the AFL-CIO shows that it is a genuine compromise in the truest sense of the word.

It is now up to the Department of Labor to assist the local governments with the technical questions which will invariably arise once this legislation becomes law. It is essential that we avoid the confusion, delay, and uncertainty which arose over the Supreme Court's original decision last February. With the implementation of this legislation on April 15, 1986, the Department of Labor has a responsibility to see that local governments have all the necessary information available to them in order to carry out these new statutes. I know the local offices of Federal Wage and Hour are willing to assist local governments with their questions regarding the Fair Labor Standards Act, and am pleased that the Department of Labor has initiated a toll-free number to assist in this process. That number is 1-800-233-3572.

Mr. DASCHLE. Mr. Speaker, I rise today in strong support of H.R. 3530, legislation which would amend the Fair Labor Standards Act and applaud my colleagues on the committee for offering this compromise solution addressing the problems of the Supreme Court decision in the recent Garcia case.

The House of Representatives took an early initiative by approving an amendment on the 1986 Labor Department appropriations bill calling on the Department to suspend enforcement of the Garcia decision pending further congressional action. The Labor Department followed suit by voluntarily agreeing to delay implementation of these standards until we had the opportunity to consider a comprehensive legislative solution. The legislation before us today represents that solution.

H.R. 3530, of which I am pleased to cosponsor, allows for either monetary compensation or compensatory time off for public employees working overtime. It also gives State and local governments until April 15, 1986, to revise personnel practices and exempts volunteers from coverage.

Let me emphasize that this represents a major compromise effort. The bill is the culmination of the efforts of local governmental associations and representatives of public employee unions, among them the National League of Cities, the National Association of Governmental Employees, National Governors' Association, AFSCME, and the Amalgamated Transit Workers, and their willingness to reach an acceptable solution. Because all parties were able to resolve this issue through compromise, it clearly demonstrates the willingness of all sides to avoid what could have resulted in an unnecessary stalemate.

I would ask that a summary of the bill be printed in the RECORD.

I. COMPENSATORY TIME

Public safety, emergency service or seasonal workers may not accumulate more than 480 hours of compensatory time, while other state and local workers may not accumulate more than 180 hours. After these hours have been reached, employees must be paid overtime pay equivalent at least to time-and-a-half. Also, the bill provides for employees to be paid for accrued compensatory time at the time of termination, based on average pay over the past three year time period.

II. SPECIAL DETAIL, OCCASIONAL WORK AND SUBSTITUTION

Special detail, occasional and mutual aid employment for a second employer or in a second capacity will not be considered in calculating overtime pay.

In addition, public employees may substitute for one another without the substitution affecting overtime pay.

III. VOLUNTEER WORK

The bill exempts volunteers from coverage of the Fair Labor Standards Act. Also, it exempts public agencies from violations of minimum wage laws for services performed by volunteers before April 15, 1986.

IV. LEGISLATIVE EMPLOYEES EXEMPTIONS

State and local legislative employees, except library employees, are exempt from coverage.

OTHER PROVISIONS

The bill allows public employers to defer monetary overtime compensation for hours worked after April 15, 1986, until August 1, 1986.

It also bars discrimination against any employees who may have asserted coverage under the FLSA overtime provisions.

I would urge this body to approve this vitally important legislation and end the uncertainty which has resulted from the Garcia decision.

Mr. JEFFORDS. 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 Pennsylvania [Mr. Murphy] that the House suspend the rules and pass the bill, H.R. 3530, 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. MURPHY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1570) to amend the Fair Labor Standards Act of 1938 to provide rules for overtime compensatory time off for certain public agency employees, to clarify the application of that act to volunteers 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 Pennsylvania?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1570

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

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Fair Labor Standards Amendments of 1985".

(b) REFERENCE TO ACT.—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 Fair Labor Standards Act of 1938.

COMPENSATORY TIME

SEC. 2. (a) COMPENSATORY TIME.—Section 7 (29 U.S.C. 207) is amended by adding at the end the following:

"(o)(1) Employees of a public agency which is a State, a political subdivision of a State, or an interstate governmental agency may receive, in accordance with this subsection and in lieu of overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required by this section.

"(2) A public agency may provide compensatory time under paragraph (1) only—

"(A) pursuant to—

"(i) applicable provisions of a collective bargaining agreement, memorandum of understanding, or any other agreement between the public agency and representative of such employees; or

"(ii) in the case of employees not covered by subclause (i), an agreement or understanding arrived at between the employer and employee before the performance of the work; and

"(B) if the employee has not accrued compensatory time in excess of the limit applicable to the employee prescribed by paragraph (3).

In the case of employees described in clause (A)(ii) hired prior to April 15, 1986, the regular practice in effect on April 15, 1986, with respect to compensatory time off for such employees in lieu of the receipt of overtime compensation, shall constitute an agreement or understanding under such clause (A)(ii). Except as provided in the previous sentence, the provision of compensatory time off to such employees for hours worked after April 14, 1986, shall be in accordance with this subsection.

"(3)(A) No overtime compensation in the form of compensatory time off may be accrued by any employee of a public agency which is a State, a political subdivision of a State, or an interstate governmental agency, in excess of 480 hours for hours worked after April 15, 1986. Any such employee who, after April 15, 1986, has accrued 480 hours of compensatory time off shall, for additional overtime hours of work, be paid overtime compensation.

"(B) If compensation is paid to an employee for accrued compensatory time off, such compensation shall be paid at the regular rate of compensation earned by the employee at the time the employee receives such payment.

"(4) An employee who has accrued compensatory time off authorized to be provided under paragraph (1) shall, upon termination of employment, be paid for the unused compensatory time at the regular rate of compensation earned by the employee at the time the employee receives compensation for overtime.

"(5) An employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency—

"(A) who has accrued compensatory time off authorized to be provided under paragraph (1), and

"(B) who has requested the use of such compensatory time,

shall be permitted by the employee's employer to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the public agency.

"(6) For purposes of this subsection—

"(A) the term 'overtime compensation' means the compensation required by subsection (a), and

"(B) the term 'compensatory time' or 'compensatory time off' means hours during which an employee is not working and which are not counted as hours worked during the applicable workweek or other work period for purposes of overtime compensation, and for which the employee is compensated at the employee's regular rate.".

(b) EXISTING COLLECTIVE BARGAINING AGREEMENTS.—A collective bargaining agreement which is in effect on April 15, 1986, and which permits compensatory time off in lieu of overtime compensation shall remain in effect until its expiration date unless otherwise modified, except that compensatory time shall be provided after April 14, 1986, in accordance with section 7(o) of the Fair Labor Standards Act of 1938 (as added by subsection (a)).

(c) LIABILITY AND DEFERRED PAYMENT.—(1) No State, political subdivision of a State, or interstate governmental agency shall be liable under section 16 of the Fair Labor Standards Act of 1938 for a violation of section 7 or 11(c) (as it relates to section 7) of such Act occurring before April 15, 1986, with respect to any employee of the State, political subdivision, or agency who would not have been covered by such Act under the Secretary of Labor's special enforcement policy on January 1, 1985, and published in sections 775.2 and 775.4 of title 29 of the Code of Federal Regulations.

(2) A State, political subdivision of State, or interstate governmental agency may defer unti August 1, 1986, the payment of overtime compensation under section 7 of the Fair Labor Standards Act of 1938 for hours worked after April 14, 1986.

SPECIAL DETAILS, OCCASIONAL OR SPORADIC EMPLOYMENT, AND SUBSTITUTION

SEC. 3. (a) SPECIAL DETAIL WORK FOR FIRE PROTECTION AND LAW ENFORCEMENT EMPLOYEES.—Section 7 (29 U.S.C. 207) is amended by adding after subsection (o) (added by section 2) the following:

"(p)(1) If an individual who is employed by a State, political subdivision of a State, or an interstate governmental agency in fire protection or law enforcement activities (including activities of security personnel in correctional institutions) and who, solely at such individual's option, agrees to be employed on a special detail by a separate or independent employer in fire protection, law enforcement, or related activities, the hours such individual was employed by such separate and independent employer may be excluded by the public agency employing such individual in the calculation of the hours for which the employee is entitled to overtime compensation under this section if the public agency—

"(A) requires that its employees engaged in fire protection, law enforcement, or security activities be hired by a separate and independent employer to perform the special detail,

"(B) facilitates the employment of such employees by a separate and independent employer, or

"(C) otherwise affects the condition of employment of such employees by a separate and independent employer.".

(b) OCCASIONAL OR SPORADIC EMPLOYMENT.—Section 7(p) (29 U.S.C. 207), as added by subsection (a), is amended by adding at the end the following:

"(2) If an employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency undertakes, on an occasional or sporadic basis and solely at the employee's option, part-time employment for the public agency which is in a different capacity from any capacity in which the employee is regularly employed, the hours such employee was employed in performing the different employment may be excluded by the public agency in the calculation of the hours for which the employee is entitled to overtime compensation under this section.".

(c) SUBSTITUTION.—(1) Section 7(p) (29 U.S.C. 207), as amended by subsection (b), is amended by adding at the end the following:

"(3) If an individual who—

is employed by a public agency which is a State, political subdivision of a State, or an interstate governmental agency,

agrees, with the approval of the public agency and solely at the option of such individual, to substitute during scheduled work hours for another individual who is employed by such agency in the same activities, the hours such employee worked as a substitute may be excluded by the public agency in the calculation of the hours for which the employee is entitled to overtime compensation under this section.".

(2) Section 11(c) (29 U.S.C. 211(c)) is amended by adding at the end the following: "The employer of an employee who performs substitute work described in section 7(p)(4) may not be required under this subsection to keep a record of the hours of the substitute work.".

VOLUNTEERS

SEC. 4. (a) DEFINITION.—Section 3(e) (29 U.S.C. 203(e)) is amended—

(1) by striking out "paragraphs (2) and (3)" in paragraph (1) and inserting in lieu thereof "paragraphs (2), (3), and (4)", and

(2) by adding at the end the following:

"(4)(A) The term 'employee' does not include any individual who is a volunteer for a public agency which is a State, a political subdivision of a State, or an interstate governmental agency, if (i) the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and (ii) such services are not the same type of services which the individual is employed to perform for such public agency.

"(B) An employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency may volunteer to perform services for any other State, political subdivision, or interstate governmental agency, including a State, political subdivision or agency with which the employing State, political subdivision, or agency has a mutual aid agreement.".

(b) REGULATIONS.—Not later than March 15, 1986, the Secretary of Labor shall issue regulations to carry out paragraph (4) of section 3(e) (as added by subsection (a) of this section).

(c) CURRENT PRACTICE.—If before April 15, 1986, the practice of a public agency was to treat certain individuals as volunteers, such individuals shall until April 15, 1986, be considered, for purposes of the Fair Labor Standards Act of 1938, as volunteers and not as employees. No public agency which is a State, a political subdivision of a State, or an interstate governmental agency shall be liable for a violation of section 6 occurring before April 15, 1986, with respect to services deemed by that agency to have been performed for it by an individual on a voluntary basis.

STATE AND LOCAL LEGISLATIVE EMPLOYEES

SEC. 5. Clause (ii) of section 3(e)(2)(C) (29 U.S.C. 203(e)(2)(C)) is amended—

(1) by striking out "or" at the end of subclause (III),

(2) by striking out "who" in subclause (IV),

(3) by striking out the period at the end of subclause (IV) and inserting in lieu thereof ", or", and

(4) by adding after subclause (IV) the following:

(V) is an employee in the legislative branch or legislative body of that State, political subdivision, or agency and is not employed by the legislative library of such State, political subdivision, or agency.".

EFFECTIVE DATE

SEC. 6. The amendments made by this Act shall take effect April 15, 1986. The Secretary of Labor shall before such date promulgate such regulations as may be required to implement such amendments.

EFFECT OF AMENDMENTS

SEC. 7. The amendments made by this Act shall not affect whether a public agency which is a State, political subdivision of a State, or an interstate governmental agency is liable under section 16 of the Fair Labor Standards Act of 1938 for a violation of section 6, 7, or 11 of such Act occurring before April 15, 1986, with respect to any employee of such public agency who would have been covered by such Act under the Secretary of Labor's special enforcement policy on January 1, 1985, and published in section 775.3 of title 29 of the Code of Federal Regulations.

DISCRIMINATION

SEC. 8. An employee of a public agency who asserts coverage under the Fair Labor Standards Act of 1938 between February 19, 1985, and April 14, 1986, shall be accorded the same protection against discharge or discrimination as is available under section 15(a)(3) of the Fair Labor Standards Act of 1938.

MOTION OFFERED BY MR. MURPHY

Mr. MURPHY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY moves to strike all after the enacting clause of the Senate bill, S. 1570, and to insert in lieu thereof the text of the bill, H.R. 3530, 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 was amended so as to read: "a bill to amend the Fair Labor Standards Act of 1938 to authorize the provision of compensatory time in lieu of overtime compensation for employees of States, political subdivisions of States, and interstate governmental agencies, to clarify the application of the Act to volunteers, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3530) was laid on the table.

GENERAL LEAVE

Mr. MURPHY. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on H.R. 3530, the bill just passed.

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

There was no objection.

CLARIFYING APPLICATION OF SECTION 2406 OF TITLE 10, UNITED STATES CODE

Mr. ASPIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3606) to clarify the application of section 2406 of title 10, United States Code, relating to cost and price management, and to delay the effective date of such provision.

The Clerk read as follows:

H.R. 3606

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

SECTION 1. AMENDMENT TO SECTION 2406 OF TITLE 10, UNITED STATES CODE, RELATING TO COST AND PRICE MANAGEMENT

Section 2506(c) of title 10, United States Code, as added by section 917 of the Department of Defense Authorization Act of 1986, is amended by adding at the end thereof the following new paragraph:

"(3) Nothing in this section shall require a defense agency to record, in connection with any covered contract, any information referred to in this section if the contractor under such contract does not maintain such information on the effective date of this section.".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—Section 2406 of title 10, United States Code (as added by section 917 of the Department of Defense Authorization Act, 1986) and the amendment made by section 1 of this Act shall become effective 180 days after the date of enactment of the Department of Defense Authorization Act, 1986.

(b) CONTRACTS TO WHICH APPLICABLE.—Section 2406 of title 10, United States Code, shall be effective with respect to covered contracts (as defined in subsection (a)(1) of such section) entered into by a defense agency (as defined in subsection (a)(2) of such section) on or after the date of the enactment of such section and shall be effective with respect to covered contracts entered into by a defense agency before such date if such contracts have not been completed or otherwise terminated before such date.

The SPEAKER pro tempore. Is a second demanded?

Mr. DICKINSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. ASPIN] will be recognized for 20 minutes and the gentleman from Alabama [Mr. DICKINSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. ASPIN].

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Mr. ASPIN. Mr. Speaker, I would like to explain a little bit about this bill to my colleagues. The bill here before you is the bill to clarify something that will be in the authorization bill before the House tomorrow afternoon. This is a bill that is a freestanding piece of legislation, but what it does is deals with some ambiguities in the legislation which will be before the House tomorrow afternoon, the authorization bill.

That authorization bill contains a section having to do with labor costs. It is a way, to put it in the best language I can, it is getting information from companies to determine whether in fact defense contractors are as efficient as they should be.

The provision in the bill tomorrow afternoon is a provision which was dictated by action on the House and on the Senate floor. The exact same piece of language legislation passed both Houses. It was therefore not subject to any amendment in conference.

We, because of the constraints of the legislation, had to accept exactly the same language in the House; the same language passed the House that passed the Senate; we had to put that language into the conference.

It does contain a number of ambiguities as drawn. It does have a few things that are not exactly clear as to

what was intended. In the report of the managers on the bill, an interpretation was put in that said that this provision shall apply only to future contractors; that was not in the language of the bill; it was in the statement of managers.

The statement of managers' language was, from the point of view of a number of us on this side of the aisle, incorrect. That was not the intent, we thought, of the language as it passed the House; we don't know what happened in the Senate, but it was not the intent of the language.

So there was a statement in the language of the statement of managers which in fact does not correspond to what we thought the bill meant when it passed the House.

To clear up that particular misunderstanding and to clarify two or three other misunderstandings or ambiguities in the bill because we couldn't deal with it in conference in any substantive way, the bill before you is a bill that has come from the House Armed Services Committee, sponsored by me and the gentlewoman from California [Mrs. BOXER] to try and clarify the language in the authorization bill.

It does three things: First, it says that the information required in the authorization bill shall be required 6 months after the date of enactment of the authorization bill. So it establishes the exact date upon which this provision of the bill will take place.

Second, it says that as of that date, all information; existing contracts as well as prospective contracts, that that information is required under the language of the bill.

Third, it clarifies a point by saying, unambiguously, that this information is not required of any corporation doing business with Defense which does not already keep that information now in its records. That was the intention of the authors; it was not quite clear in the language that passed the House and the Senate in the authorization bill.

So it does clarify the language in the authorization bill on three very, very important matters. I, therefore, think it is an important piece of legislation; I think it clarifies the language in the House bill, the authorization bill; it is, I think, going to be beneficial to the people who want this information to have this information clarified.

Yet importantly, I think it is also important to the defense contractors to have this issue clarified. It clearly delineates now who is and who is not required to do what under this provision of the law. Without that, the authorization bill, which comes before the House tomorrow will not be clear on these issues.

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

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

Mr. DICKINSON. Mr. Speaker, as has been pointed out today, we are considering H.R. 3606, a bill to clarify an ambiguity in section 917 of the conference report, S. 1160, the Department of Defense authorization bill for fiscal year 1986.

This provision which relates to the imposition of standard labor hour reporting for defense contractors was one of the amendments offered to the authorization bill which had never been subject to hearings or committee review. I opposed it at the time for that reason, because we did not know what the effect was; we did not know who it would affect; we did not know when the effective date would be; and we were writing new legislation on the floor without really having a feel for the import.

Now, I think it is bad legislation, as I have referred to it before. Since the chairman is still here, let me see if I can clear up something else that is still an ambiguity even in the proposed legislation, and I would like to propound a question to him.

We wrote in the authorization language, after it passed, what I thought was common sense. That is, we are not going to pass legislation that is retroactive in effect, going back to say that over 100,000 contracts now in existence would automatically be subjected to this provision, and which, in effect, would say that each of the contracts would have to be renegotiated with the Defense Department.

This bill that we are considering today says that we are trying to clear this up. So, we are going to wait 6 months, 180 days, and that will be the effective date. Now, we have agreed that that is the impact and the purpose.

My question is, when that 6 months runs, and the effective date is triggered, what does that cover? Does that cover the contracts 6 months back of that time that were in effect when the authorization bill was passed, or does it take effect that date? I would like to establish this for legislative history.

Mr. ASPIN. If the gentleman will yield, my interpretation is that it would cover the contracts in effect as of the date that the provision passes.

Mr. DICKINSON. Six months hence.

Mr. ASPIN. Correct.

Mr. DICKINSON. And not go back 6 months and capture all of those contracts that might have since expired.

Well, I would hope that would be the case, because to do otherwise would certainly be unfair, to make it retroactive in nature; and that is the reason I oppose this.

I would also like to point out, Mr. Speaker, and register a complaint as to how this particular armed services bill, the defense authorization bill, is being handled; which as far as I know is unique. We are told that we have got to come in now and correct an oversight of an amendment that was offered during the floor debate of the authorization bill before we can bring the conference report back and even consider it; we have got to correct what should have been done, and if this does not pass, I gather that we cannot even get the conference report on the authorization bill up tomorrow.

Would the chairman clarify that point? If this should not pass, we will still have the conference report brought up tomorrow, anyway?

Mr. ASPIN. If the gentleman will yield, I believe the answer is "yes," we would have the authorization brought up before. It is important, though, that this matter be clarified before we vote on the authorization bill, because clearly the issues in the authorization bill need to be clarified before they are on the floor; and I think it would not be fair to the Congress to say, "Well, you pass the authorization bill and then we will clarify it in subsequent language." We ought to have the subsequent language and the clarification point out there so that everybody understands what they will be voting on tomorrow.

Mr. DICKINSON. I will say I think it is a very unusual procedure, and I think that the Committee on Armed Services has been the recipient in the last few years of several unique procedures that the other committees have not been subjected to.

I can recall one occasion when we had an authorization bill complete, asking for a rule; they put it on a sidetrack and brought out the appropriations bill to the floor and passed it while we were still waiting to bring our authorization to the floor. That was before the present chairman of the Rules Committee was the chairman.

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But we have been in a number of unusual situations here. For instance, I cannot think of any other committee of the Congress that has had more special conferees upon it to a conference than there were members of the Committee on Armed Services in that conference. We pass a bill, we go to conference with the Senate, and for the past 2 years we have had more, a total of more special conferees than there were members of our committee there. So I really think that we on the Committee on Armed Services have not been in recent times treated fairly in some instances. We certainly have been treated differently from other committees of the Congress.

I would like to see this come to a halt. I do not know how we are going to bring it about in the near future,

but I certainly will work toward that end.

I think the legislation before us should not have been here in the first place. I understand the need to clarify it. Because I opposed it on the floor initially, I do not think we should have fashioned it in the way that we did. This is playing catchup ball, trying to correct it.

Mr. Speaker, I am going to vote against it, but I recognize the fact that it is needed just to clarify what should have been done in the initial instance.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. ASPIN] that the House suspend the rules and pass the bill, H.R. 3606.

The question was taken.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ASPIN. 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, H.R. 3606.

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

There was no objection.

THE MISSISSIPPI TECHNOLOGY TRANSFER CENTER ACT OF 1985

Mr. FUQUA. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 3235, to authorize the Administrator of the National Aeronautics and Space Administration to accept title to the Mississippi Technology Transfer Center to be constructed by the State of Mississippi at the National Space Technologies Laboratories in Hancock County, MS; as amended.

The Clerk read as follows:

H.R. 3235

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

SECTION 1. AUTHORIZATION FOR ADMINISTRATOR OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TO ACCEPT TITLE TO MISSISSIPPI TECHNOLOGY TRANSFER CENTER.

The Administrator of the National Aeronautics and Space Administration—

(1) may accept title to the Mississippi Technology Transfer Center on behalf of the United States; and

(2) may, subject to the availability of appropriations therefor, enter into an agreement with the Governor of Mississippi with respect to the Center in accordance with the provisions of section 9 of Chapter 170 of the Mississippi General Laws of 1985 (as enacted on April 19, 1985).

SEC. 2 LIMITATION ON APPROPRIATIONS.

This Act does not authorize the enactment of new budget authority for a fiscal year before fiscal year 1987.

SEC. 3. DEFINITION OF MISSISSIPPI TECHNOLOGY TRANSFER CENTER.

For purposes of this Act, the term "Mississippi Technology Transfer Center" means any building and related facilities constructed by the State of Mississippi at the National Space Technologies Laboratories in Hancock County, Mississippi, under section 9 of chapter 170 of the Mississippi General Laws of 1985 (as enacted on April 19, 1985) and designated in accordance with such section as the Mississippi Technology Transfer Center.

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FUQUA] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FUQUA].

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3235, the bill under consideration.

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

There was no objection.

Mr. FUQUA. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of the bill H.R. 3235, to authorize the Administrator of the National Aeronautics and Space Administration to accept title to the Mississippi Technology Transfer Center to be constructed by the State of Mississippi at the National Space Technologies Laboratories in Hancock County, MS.

The bill, H.R. 3235, would authorize the Administrator of NASA to accept title to the Mississippi Technology Transfer Center which will be constructed by the State of Mississippi at the National Space Technology Laboratories in Mississippi.

The State of Mississippi has appropriated $4 million for the building at NSTL with the goal of enhancing economic development, improving the transfer of technology, and generating high technology jobs in the area.

There are no costs to NASA involved in either the construction or operation of the building, because the State has appropriated the funds for the construction and because rents from tenants will cover the expenses of operating and maintaining the building.

The bill was drafted in consultation with the NASA Office of General Counsel and NASA does not oppose it. They have suggested a minor amendment which the committee adopted and which I will discuss in a moment.

We need to pass this bill because there are conditions in the Mississippi appropriations bill, and under existing authority, NASA can only accept unconditional gifts. There is a need to move expeditiously in passing this legislation in order to start construction before the appropriated Mississippi funds expire.

The conditions in the Mississippi legislation pose no problem. They are:

First, NASA will be responsible for the building throughout its life.

Second, there will be space in the building for new agencies and contractors including the new Center for Commercialization of Space which will work in remote sensing, and for research projects conducted by institutions of higher learning.

Third, the facility will be named the "Mississippi Technology Transfer Center."

There is no negative impact on NASA programs and some positive impact because NASA researchers and State users of remote sensing data will be located together. In addition, NASA will benefit from the development of more high technology activities in the area, because this will provide a better base of suppliers and employees on which NASA can draw.

NASA has given us assurance that there are no agreements which would force NASA programs to support tenants of the building. That is, there are no hidden rent subsidies.

The committee adopted one small amendment which would protect the Federal Government from various contingencies by making it clear that in agreeing with the Governor of Mississippi to accept and to operate this building, NASA cannot do anything that would obligate us to spend additional money. I believe that this amendment will further improve the bill and protect the Federal Government's interest.

I believe that the bill is worthwhile and I urge all Members to support it.

Mr. LUJAN. Mr. Speaker, I yield 3 minutes to the sponsor of the legislation, the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. First, Mr. Speaker, I would like to thank the distinguished chairman of the Committee on Science and Technology, the gentleman from Florida [Mr. FUQUA], and the distinguished ranking member of the committee, the gentleman from New Mexico [Mr. LUJAN].

As a matter of fact, there was cooperation of all the members of the committee.

There was a need for this legislation to be handled expeditiously because the State of Mississippi had appropriated and authorized the $4 million in funds to make the Mississippi Technology Transfer Center possible. And of course, at the end of the fiscal year or the beginning of the new legislative session, there could be some questions about whether or not those funds would still be available.

So the committee did cooperate, and we really appreciate that cooperation.

This is an innovative and unique opportunity we have. I am very proud of my State of Mississippi, that our State legislature and the Governor took this action to provide this facility so that the State of Mississippi could cooperate with and transfer information and technology with the various Federal agencies we have there at the National Space Technology Laboratory in Hancock County.

This is not just a facility for NASA, even though NASA is the parent organization that maintains the NSTL. But we have a number of other Federal agencies and programs there that are really very forward looking in what they do and that make use of the information and the technology that we get from NASA. The State of Mississippi wanted to be a part of that effort and be on the center.

There are no hidden rents, there is no obligation on the part of the Federal Government. The State just wanted to have a presence and make sure that they can communicate what is being received from NASA and the other Federal agencies so that the State can make suggestions and work with them.

So it is innovative, it is forward looking, and I think it provides a great opportunity for our State of Mississippi and for the Federal agencies that are there at the NSTL. So I thank the gentleman again at the committee level for making this possible. I am convinced it will be a very good program for the State and also for the Federal agencies we have there at NSTL.

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

Mr. LUJAN. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in support of H.R. 3235, "the Mississippi Techonology Transfer Act of 1985."

Passage of this legislation is necessary to permit the Administrator of NASA to accept this gift of a $4 million building from the State of Mississippi. Passage of this bill is also a good deal for the taxpayers of our Nation.

This bill does not authorize a single Federal dollar for construction of the center. The entire $4 million has already been appropriated by the State of Mississippi. What the taxpayers get, then, is a $4 million facility for NASA at no cost. In return, NASA will manage and operate the center, allocating a relatively small amount of space to the State of Mississippi for its space-related activities. The rents and fees NASA will collect from the tenants in the building will offset the costs of operating and maintaining the building.

Mr. Speaker, when our Nation is facing one of the worst deficit crises in recorded history, this is exactly the way we should be doing business—at no additional cost to the Federal Government. In fact, in the months and years ahead, we should try to come up with more ways of using unusual and mutually beneficial mechanisms like this one to reduce our Federal deficit.

I urge my colleagues to suport passage of this simple, yet important legislation.

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

Mr. LUJAN. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I want to join with the gentleman in congratulating the gentleman from Mississippi who first offered the bill. I was pleased to cosponsor the bill when it arrived at our committee. It is innovative; it is a cooperative approach that can serve as a model for other movements into the high-technology area in the future. I am pleased that we got it to the floor.

Mr. Speaker, I urge the House to pass the bill.

Mr. LUJAN. I thank the gentleman for his comments.

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

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

Mr. MONTGOMERY. Mr. Speaker, I rise in support of H.R. 3235, legislation introduced by my colleague, Congressman LOTT, which authorizes the National Aeronautics and Space Administration to accept title to a building to be constructed at NASA laboratories in Hancock County, MS, with funds appropriated by the State. The Mississippi Technology Transfer Center will provide space for the expansion of the operations of the National Space Technologies Laboratories, State university research projects, and a center of excellence for remote sensing operated by Mississippi Institute for Technology Development.

This legislation is simple and noncontroversial. It would permit NASA to accept the gift of a facility constructed and furnished entirely by the State of Mississippi. In return, NASA would oversee the maintenance of the building and set aside 20 percent of office space for free occupancy by the State. Since the costs of operating the center would be largely offset by lease payments from the tenants, there is no cost whatsoever to the Federal Government.

The enactment of this agreement between NASA and the State of Mississippi would have long-term, widespread benefits. Construction of the center would boost economic development and generate jobs, while promoting high-technology industry in Mississippi. The building would allow the location of more onsite support contractors and add to the local specialized services and personnel resources available to the NASA laboratories in Hancock County. Additionally, the facility will house newly funded NASA operations in remote sensing from space, which will be conveniently brought together with an ongoing research and development program at the Hancock County laboratories.

The Mississippi Technology Transfer Center represents a significant contribution to NASA's technology transfer program—which is doing work that impacts the entire country. I hope my colleagues will join me in supporting the donation of this property—the proposal holds enormous potential for the State of Mississippi and has been enthusiastically welcomed by NASA.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FUQUA] that the House suspend the rules and pass the bill, H.R. 3235, 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.

CONGRESSIONAL AWARD AMENDMENTS OF 1985

Mr. WILLIAMS. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 3447, to amend and contend the Congressional Award Act, as amended.

The Clerk read as follows:

H.R. 3447

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Award Amendments of 1985".

SEC. 2. MEMBERSHIP OF THE BOARD.

Section 4 of the Congressional Award Act (2 U.S.C. 803), hereafter in this Act referred to as "the Act", is amended—

(1) in subsection (a)(2), by adding at the end thereof the following: "One of the members appointed under each of subparagraphs (A) through (d) of paragraph (1) shall be a member of the Congress.";

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Appointed members of the Board shall continue to serve at the pleasure of the officer by whom they are appointed, but (unless reappointed) shall not serve for more than four years."; and

(3) by striking out paragraph (2) of subsection (c) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 3. EXTENSION OF AUTHORITY.

Section 9 of the Act (2 U.S.C. 808) is amended by striking out "six years after the date of the enactment of this Act" and inserting in lieu thereof "on November 16, 1988".

SEC. 4. ADMINISTRATIVE PROVISIONS.

(a) SALARY LIMITATION.—Section 3(b) of the Act (2 U.S.C. 802(b)) is amended by adding at the end thereof the following new sentence:

"No salary established by the Board under paragraph (3) shall exceed $75,000 per annum, exept that for calendar years after 1986, such limit shall be increased in proportion to increases in the Consumer Price Index.".

(b) SCHOLARSHIPS.—Section 3(d) is amended by striking out "Gold Medal" and inserting in lieu thereof "Gold, Silver, and Bronze Medals".

(c) REPORT OF ADMINISTRATIVE EXPENDITURES.—Section 3(e)(4) of the Act is amended by inserting before the period at the end thereof the following: "for each member, officer, employee, and consutant of the Board (or of the Corporation established pursuant to section 7(g)(1))".

(d) ANNUAL MEETINGS.—Section 4(f) of the Act is amended by striking out "meet annually at the call of the Chairman" and inserting in lieu thereof "meet at least twice a year at the call of the Chairman (with at least one meeting in the District of Columbia)".

(e) BYLAWS.—Section 4(i) of the Act is amended by adding at the end thereof the following: "Such bylaws and other regulations shall include provisions to prevent any conflict of interest, or the appearance of any conflict of interest, in the procurement and employment actions taken by the Board or by any officer or employee of the Board. Such bylaws shall include appropriate fiscal control, funds accountability, and operating principles to ensure compliance with the provisions of section 7 of this Act. A copy of such bylaws shall be transmitted to each House of Congress not later than 90 days after the date of enactment of the Congressional Award Amendments of 1985 and not later than 10 days after any subsequent amendment or revision of such bylaws.".

(f) RESTRICTION OF SPONSORSHIP ADVERTISING.—Section 7(c) of the Act (2 U.S.C. 806(c)) is amended by adding at the end thereof the following:

"The Board may permit donors to use the name of the Board or the name 'Congressional Award Program' in advertising.".

(g) POWERS AND RESTRICTIONS.—Section 7(a)(1) of the Act (2 U.S.C. 806(a)(1)) is amended by striking out "from sources other than the Federal Government".

(h) EVALUATION BY GAO.—Section 8 of the Act (2 U.S.C. 807) is amended—

(1) by inserting "AND EVALUATION" after "AUDITS" in the heading of such section;

(2) by inserting "(a)" after "SEC. 8"; and

(3) by striking "may be audited" and inserting in lieu thereof "shall be audited at least biennially";

(4) by striking out "at such times as the Comptroller General may determine to be appropriate";

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

"(b) The audit performed pursuant to subsection (a) shall at a minimum—

"(1) assess the adequacy of fiscal control and funds accountability procedures of the Board and such corporation; and

"(2) assess the reasonableness of expenses allowed to the Director and other employees of the Board and such corporation.

"(c) In the report of the first audit performed under subsection (a) after the date of enactment of this subsection, the Comptroller General shall include an evaluation of the programs and activities under this Act. Such evaluation shall include an examination of—

"(1) the extent to which the Congressional Award Program and activities under this Act are achieving the purposes stated in section 3(a);

"(2) the adequacy and appropriateness of the standards of achievement and procedures for verifying that individuals satisfy such standards established by the Board;

"(3) the efficacy and adequacy of the Board's fundraising efforts under this Act;

"(4) the organizational structure of the Board, particularly the use of Regional Directors; and

"(5) such additional areas as the Comptroller General determines deserve or require evaluation.

"(d) The report on the second audit performed under subsection (a) after the date of enactment of this subsection shall be submitted on or before May 15, 1988.".

SEC. 5. CONFORMING AMENDMENT.

Section 2 of Public Law 98-33 (2 U.S.C. 803, note) is repealed.

The SPEAKER pro tempore. Is a second demanded?

Mr. BARTLETT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Montana [Mr. WILLIAMS] will be recognized for 20 minutes and the gentleman from Texas [Mr. BARTLETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

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

Mr. Speaker, today I bring before the House H.R. 3447, the Congressional Award Amendments of 1985.

This bill was considered by the House Committee on Education and Labor and approved, as amended, on October 23.

On November 16, 1979, the Congressional Awards Act was signed into law. The act establishes the Congressional Award Program under which young people, those between the ages of 14 and 23, become eligible for a bronze, silver, or gold congressional medal after successfully completing requirements in such areas as public service, physical development, personal development, or demonstrated fitness at expeditions.

The program is established and administered by a Congressional Award Board. The board is not an agency or instrumentality of the Federal Government. No Federal funds are appropriated to the board under the act for administering the program.

The goal of the program is to encourage in young people a sense of voluntarism, citizenship, and leadership by giving of themselves to help their community and to reinforce development of their personal and work skills.

The positive qualities that stem from physical fitness or expedition activity are fully recognized.

This legislation before us extends the Congressional Award Program for 3 additional years. The act is due to expire on November 16, 1985.

The act before us improves the management and administration of the program and increases congressional oversight over the program.

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

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

Mr. BARTLETT. Mr. Speaker, I rise in support of H.R. 3447, the Congressional Award Amendments of 1985.

The Congressional Award Amendments of 1985 represents a solid piece of legislation for a well-intended program that has experienced what most observers consider to be serious management problems in recent years. The Congressional Award Program seeks to encourage young people who provide services to their community and exhibit a dedication to the merits of personal development and physical fitness. The program is financed solely through funds raised in the private sector with Congress allowing its two nationally recognized symbols of government—the American eagle and the Capitol dome to be used on the award and in select publications and advertisements.

The young people who have received bronze, silver, or gold Congressional Awards have exhibited personal qualities that we can all be proud of. Allowing the limited use of the congressional imprimatur toward their recognition is worthwhile.

The bill we are considering, H.R. 3447, improves the Congressional Award Program in a number of key areas. In the course of the Select Education Subcommittee's hearings on the program, it became evident that the program's management practices were seriously wanting. H.R. 3447 addresses these deficiencies directly: It requires that the bylaws and other regulations of the Board contain language to prevent a conflict of interest or the appearance of such conflict by employees or board members and requires that the bylaws include appropriate fiscal control, fund accountability, and operating principles to ensure that the prohibitions against deficit spending in the act are satisfied. The need for this latter provision stems from the fact that at the end of the calendar

years 1983 and 1984, the program, in violation of the act, was operating at budget deficits of approximately $236,000 and $114,000 respectively.

A program that serves the useful purpose of the Congressional Award Program should be protected from the risk associated with deficit spending.

I am confident that the amendments made to the Congressional Award Program will improve its management practices significantly and contribute to its very worthwhile purpose. Those in the private sector who contribute to the program deserve a commitment to proper fiscal accountability by those who administer it.

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

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

Mr. Speaker, I appreciate the assistance in this legislation from the gentleman from Texas, the ranking minority member of our Select Education Subcommittee. I want to recognize his statement that the Congressional Award Program has had some management difficulties in the past, and I want to tell my colleagues that this legislation increases congressional oversight of the Congressional Award Program. It does it in three primary ways. It adds four Members of Congress to the executive board of the program; it requires at least one meeting annually here in the District of Columbia; and it requires two General Accounting Office studies during this authorization period of the activities of the Congressional Award Program.

We do not expect that there will be any illegal activities, nor have we found any in the past; but inasmuch as this program bears the name of the public's body, the House of Representatives, we simply want to be sure that the management of the program is conducted in the highest capacity.

I also want to remind my colleague, the gentleman from Texas, that the act authorizes the board to permit donors to use only the name of the board or the name "Congressional Award Program" in advertising. It does not permit the Congressional Award Program to use the congressional symbol or seal in advertising by the donors.

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

Mr. BARTLETT. Mr. Speaker, I yield such time as he may consume to the ranking minority member of the Committee on Education and Labor, the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, the Congressional Award Program represents a partnership between the private sector and Congress toward the goal of recognizing young Americans who exhibit qualities of leadership, community service, and a dedication to physical fitness. Funded solely by privately raised funds, the program awards medals to young people between the ages of 14 and 23 in those congressional districts which have operating awards councils. Currently these councils exist in select districts in California, Florida, Illinois, Minnesota, Missouri, New Jersey, Ohio, Texas, Virginia, West Virginia, and Wyoming.

First authorized in 1979, the program presented a total of 255 awards in 1984 and 261 medals have been approved for 1985. The young people who have received these awards have demonstrated a commitment to their community which exemplifies qualities that we all can be proud of. I am certain that many of these award winners will go on to become tomorrow's local, State, and National leaders.

H.R. 3447 supports and improves the Congressional Award Program. It has the bipartisan support of the Education and Labor Committee and deservedly so. I congratulate the chairman and ranking member of the Subcommittee on Select Education for this fine piece of legislation.

Mr. BARTLETT. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Speaker, I rise in support of H.R. 3447, which extends the Congressional Awards Program through 1988.

The Congressional Awards Council, which my 12th Congressional District initiated in February, held final ceremonies earlier this month.

I was pleased that my district had the most award winners of any first-time congressional award district in the Nation.

Of the 44 medal winners of my area, two were gold medal winners. In addition, each of the nine counties in my district had representatives on the Congressional Awards Council.

Each of these business and community leaders worked diligently to ensure both the success and vitality of this program, which is essential in reinforcing young people for positive deeds.

I thank the gentleman from Montana for bringing this legislation to the floor, I urge its adoption, and I thank the gentleman for yielding to me to express my viewpoint on this great program.

I think it is time that we started showing the positive aspects of our youth rather than the negative. There are more positive aspects out there than there are negative. I certainly hope that we can continue this program throughout and that it broadens throughout this great country, because these young people should be recognized for their services to the community.

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

Mr. Speaker, I rise to further commend the leadership of the chairman of the subcommittee, the gentleman from Montana [Mr. WILLIAMS], in ensuring that this legislation and these Congressional Award Act amendments would provide for adequate oversight by the Congress in strict accountability of the funds that are used in this program entitled the "Congressional Award Amendments of 1985." It is true that neither the eagle nor the dome can be used in advertising, but nevertheless the eagle and the dome are included in the logo of the Congressional Award Act, and therefore there is at least the imprimatur.

Mr. Speaker, I would note that what the subcommittee has done under the very able leadership of the subcommittee chairman is to focus on correcting the accountability and the management deficiencies of the congressional award management, while at the same time continuing the real purpose of the act, which is to encourage and increase voluntarism among our young people by rewarding and recognizing that voluntarism. This is what makes this generation of Americans I think one of the most exciting generations of Americans ever.

It seems to me that those words were summed up for me in a letter I received, which I have quoted on the House floor before, from two young people who recently became Americans. They are Vietnamese-Americans. They came to my office and we had a little ceremony when they received their citizenship. These two young Americans live in Dallas, in my district, and they received their citizenship almost 5 years to the day after they arrived. They had been in Vietnam long enough to see the Communist takeover and see the other side, and upon arriving here they immediately began working for their citizenship.

One of the young men, a 14-year-old Vietnamese American, and proud of being both, sat down and wrote a letter on what his citizenship meant to him, and in doing so he talked a good bit about volunteerism and service to his country. Maybe he reminded some of us older people, some of us who are older and who have lived in America all our lives, of what we too often take for granted.

This young man wrote the words:

> United States citizens are fortunate to be allowed to express their opinions freely. This is a privilege few nations have. Americans also have the freedom of movement. They can go wherever they want, inside or outside the country. Fair treatment is something that not many nations enforce. America's legal system ensures justice. This country has a democratic government which allows—

I stop on that word "allows," and I will come back to it, because he did—which allows every citizen to take part in controlling the government. America is truly a government of the people, by the people and for the people.

Mr. Speaker, I would come back to the word "allows" us to participate in the Government because this young Vietnamese American captured the essence of youthful volunteerism of this generation when he modified his word "allows" in his postscript. He said:

P.S. Congressman, I will do everything I can for my country.

The Congressional Award Act is one of those organizations through which we have the ability to recognize young people who will do and are doing everything they can for their country.

Mr. KINDNESS. I urge my colleagues' support for H.R. 3447, the Congressional Award Amendments, to reauthorize a program which has been important in recognizing the hard work, dedication, and achievement of young Americans.

Perhaps I could best summarize that importance by quoting the letter I received from a parent of one of the first awardees in my home State of Ohio. He wrote, following the ceremony, that those "who stood to be honored were not just your ordinary teenagers. These young men and women are the doers in their communities, the ones who put others before themselves, the leaders in their schools and the ones who exemplify all the things that are good about our youth."

These young people are not "ordinary" because by their action they have become something more. One of the greatest values of the problem is that it recognizes not just those youth who always are out front and who always will "shine" because of their talents and circumstances. The Congressional Award Program offers opportunities for those quiet, behind the scenes, hard-working young people to be acknowledged and commended for their contributions.

As an example of this latter group, we experienced in our Ohio awards program this year the presentation of a silver award to a young lady who was the first person in her family ever to complete high school. This probably was the only visible outside recognition this young lady ever received. The looks of pride on the faces of her family were incredible.

Our awards council has done an outstanding job. The members represent a variety of backgrounds, interests, and activities, but when they sit down to consider the direction of the program or the application of a young person their differences vanish as they pull together for one purpose—recognition of the accomplishments of an individual.

Our State officials in Ohio have been very supportive of the program, as well. Our awards ceremony was held in the State senate chamber in Columbus, at which each awardee was presented an additional certificate of commendation from each house of the State legislature.

Each of us involved in this program has experienced a tremendous sense of accomplishment and pride in what these fine young people have done. They have made themselves, their peers, their adult leaders and their communities proud of the individual's capacity to face and meet with success the challenges before us. And they inspire each of us to follow their example. That is why this program is such a success.

Mr. MOLLOHAN. Mr. Speaker, it is with great pleasure that I lend my support to H.R. 3447, the Congressional Award Act, which would reauthorize the Congressional Award Program which I sponsor in the First Congressional District of West Virginia.

I commend Mr. WILLIAMS, the distinguished chairman of the House Education and Labor Subcommittee on Select Education, for his guidance in extending this positive program for 3 additional years and for his timely action in bringing this measure to the House floor for consideration today.

Since my involvement with the Congressional Award Program, I have had the extreme pleasure to recognize 44 young people in West Virginia for their voluntary public service, personal development and physical fitness/expeditions achievements. In all, I have presented 20 bronze, 16 silver and 8 gold medals to deserving youth. There are many other young people now working toward their medal requirements and, with the enactment of H.R. 3447, I will have the opportunity to work with these and other young people on their goals and reward them for their accomplishments.

There are few programs that bring together a Congressman and his constituents in a bipartisan atmosphere for such a worthy cause. Through the Congressional Award Program in my district, I have had the opportunity to establish relationships with the members of the First District, West Virginia, Congressional Award Council, county coodinators in each of my 13 counties, county committee members, as well as young people and their parents who choose to participate in the Congressional Award Program. This program brings together young and old from all walks of life for a common positive theme: volunteering.

I encourage my colleagues to support H.R. 3447 and to become familiar with the Congressional Award Program so that you may sponsor it in your district, if you are not already a sponsor.

Mr. HOWARD. Mr. Speaker, I rise in support of the Congressional Awards Act amendments which reauthorize and make some changes in the Congressional Award Act which I sponsored in 1979.

Many of us with Congressional Award Programs operating in our districts have had the opportunity over the last few years to observe the program in action. There is no doubt in my mind that the Congressional Award has had great success in meeting the goals Congress set for it. Thousands of young people around the country have gained immeasurably from their association with the program. And we as a nation will be better off for having recognized and encouraged achievement and voluntary service among our younger generation.

The idea for the Congressional Award was first brought to me in the late 1960's by a constituent, Dr. Frank Arlinghaus of Rumson, NJ. As a Columbia University student at that time, Dr. Arlinghaus was very concerned that young people were becoming increasingly alienated from their government. He felt that this was due in part to the failure of Government and adult society to pay attention to the concerns of young Americans and to properly recognize their unique contributions.

It took a number of years for us to generate the kind of national support for the program necessary to secure its enactment, but in 1979, our bill was signed into law by President Carter.

The first Congressional Award Program on a congressional district level was established in my district in 1983. Since then, I am proud to say, we have held four award ceremonies honoring some 116 young people who have earned bronze, silver, and gold medals.

To truly appreciate the program, it is necessary to attend one of these award ceremonies. It is an inspiring and oftentimes emotional experience to see these outstanding young people honored for their personal achievements and for their volunteer work with the poor, elderly, or handicapped. Occasionally, the medal recipients are handicapped themselves and the program has provided them with the kind of incentive necessary to accomplish extraordinary tasks. Always, recognition is bestowed during these ceremonies that would have been overlooked if the Congressional Award Program were not in existence.

The Congressional Award has been an outstanding success in my district even though we have had to operate on a very small budget. Our success is due in large part to the enthusiasm of a core group of adult volunteers who give generously of their time to operate the program, raise money and reach out to young people in our local schools and in youth organizations. The community and the news media have also greeted the Congressional Award with great enthusiasm and, most important, young people are participating in the program in large numbers and spreading the word to their peers.

Still, we have recognized in the implementation of this new program the need for some changes in the original authorizing legislation. I support the changes recommended by the Subcommittee on Select Education of the Education and Labor Committee. I believe the amendments will result in an even closer relationship between the Congressional Award and the Congress and will encourage further expansion of the program.

I also want to congratulate the subcommittee chairman, the gentleman from Montana [Mr. WILLIAMS] for the fine job he has done with this legislation. Under his leadership, the Congressional Award promises to reach its fullest potential as a bridge between young people and their government.

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

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill under consideration.

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

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Montana [Mr. WILLIAMS] that the House suspend the rules and pass the bill, H.R. 3447, 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.

TENTH ANNIVERSARY COMMEMORATION OF EDUCATION FOR ALL HANDICAPPED CHILDREN ACT

Mr. WILLIAMS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 201) to commemorate the accomplishments of Public Law 94-142, the Education for All Handicapped Children Act, on the 10th anniversary of its enactment, as amended.

The Clerk read as follows:

H. CON. RES. 201

Whereas part B of the Education of the Handicapped Act, commonly known as Public Law 94-142 (the Education for All Handicapped Children Act), was signed into law 10 years ago on November 29, 1975;

Whereas Public Law 94-142 established as policy for the United States of America the principle that all children, regardless of disabling condition, have the right to a free, appropriate public education in the least restrictive setting;

Whereas Public Law 94-142 currently serves over 4,000,000 handicapped children;

Whereas Public Law 94-142 ensures the full partnership between parents of children with disabilities and education professionals in design and implementation of the educational services to be provided handicapped children;

Whereas Public Law 94-142 has greatly enriched the classrooms of the Nation by allowing the potential of children with disabilities to be developed, together with the potential of nondisabled youngsters;

Whereas Public Law 94-142 has greatly enriched America's society as a whole by providing the means for disabled youngsters to contribute to the social and economic progress of the United States; and

Whereas Public Law 94-142 has succeeded even beyond the expectations of congressional supporters in marshaling the resources of the Nation to fulfill the promise of participation in society of disabled youngsters: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes the 10th anniversary of enactment of Public Law 94-142 and the successful implementation of that law;

(2) acknowledges the many and varied contributions by disabled youngsters, parents, teachers, and administrators; and

(3) reaffirms its support for Public Law 94-142 and the primary goal of Public Law 94-142 that all children, regardless of disabling condition, have the right to a free, appropriate public education in the least restrictive setting.

The SPEAKER pro tempore. Is a second demanded?

Mr. BARTLETT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Montana [Mr. WILLIAMS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. BARTLETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

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

Mr. Speaker, this House Concurrent Resolution 201 commemorates the accomplishments of Public Law 94-142, the Education for All Handicapped Children Act, on this, the 10th anniversary of the enactment of that vital piece of legislation.

On November 29, 1975, with the signing into law of Public Law 94-142, the guarantee of a free appropriate education for all handicapped children in the least restrictive setting became the law of the land.

Public Law 94-142 is a landmark piece of legislation. It ensures that all handicapped children, regardless of the nature of severity of their handicapping condition, must be appropriately educated.

The determination of what a child's special education needs are and what services will be provided must be based on the individual needs of that child and not on the services then available in the school district.

Furthermore, it ensures the full partnership between parents of children with disabilities and education professionals in the design and implementation of the education services to be provided for the child. That partnership idea now firmly established is working well.

□ 1355

The impact of this legislation is impressive. Since the 1976-77 school year, there has been an increase of 18 percent in the number of children served. During the 1983-84 school year, more than 4.3 million handicapped children were served under the program. There has also been a 19 percent increase in the number of preschool programs for handicapped children.

We are currently doing a better job of identifying and serving students. Eleven percent of all school-aged students in the 1983-84 school year were diagnosed as being handicapped compared to only 8 percent in 1977-78, the first year Public Law 94-142 became effective. There has also been an increased emphasis on serving the more severely disabled students in the school system.

Growth in serving handicapped children has been accompanied by an even greater increase in the total number of teachers and staff providing that education. There has been a 34-percent increase in the number of teachers and a 48-percent increase in the number of other school staff.

Equally impressive is the impact of this legislation on attitudes. Handicapped children are learning self-respect and working to the maximum of their potential. Parent's expectations have expanded. Administrators and teachers are treating handicapped children as individuals with unique strengths, weaknesses, and needs. Handicapped children are befriending nonhandicapped peers.

We can all be proud of what has been accomplished over the past 10 years. It is now time to reaffirm our commitment to this program and to its goals.

At the same time, we must continue our efforts to meet the challenges that lie ahead. One of these challenges is the implementation of the mandate in the legislation that handicapped children be educated in the least restrictive environment. Last week, a witness testifying before the Subcommittee on Select Education, which I chair, expressed the challenge this way:

> Ten years after the passage of Public Law 94-142, school systems still construct numerous segregated special education facilities—fine new buildings where only students with severe disabilities may be found. A decade after Public Law 94-142, school systems continue to locate teenagers with disabilities in separate wings of elementary schools. Ten years after the law was passed excellent vocational/technical schools exclude students with disabilities from participating in the vocational programs. Today, the least restrictive environment is still far from being a reality for many disabled students.

I urge my colleagues to support House Concurrent Resolution 201 commemorating the 10th anniversary of the enactment of Public Law 94-142, the Education for All Handicapped Children Act.

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

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

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO FILE REPORT ON H.R. 2817, SUPERFUND AMENDMENTS OF 1985

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means have until midnight tonight to file the report on H.R. 2817, the Superfund Amendments of 1985.

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

There was no objection.

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

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

Mr. BARTLETT. Mr. Speaker, I am particularly pleased to voice my support of House Concurrent Resolution 201 commemorating the 10th anniversary of Public Law 94-142, the Education for All Handicapped Children Act. For the past 3 years I have served as the ranking Republican member of the Subcommittee on Select Education with jurisdiction over the act. In that time I have reviewed first hand the workings of the program that has turned night into day for millions of American handicapped students and their families. Prior to 1975, handicapped students could never make the primary assumption that nonhandicapped students have made, namely, that the public school system would provide them with free and appropriate education. Today, due to the existence of Public Law 94-142, handicapped students are entitled to a free and appropriate education. To the maximum extent possible, these handicapped students are schooled alongside their nonhandicapped peers.

Fortunately, it seems like another era when handicapped children were routinely denied educational services or segregated into substantial facilities. It also seems long ago that our education curriculums for persons with handicaps focused on nonfunctional, repetitive tasks intended to fill time and occupy the handicapped student rather than provide them with skills leading to independence and dignity. Today, handicapped and nonhandicapped students are educated together and not only learn from classroom instruction, but also from each other. In many ways, the most profound impact of Public Law 94-142 may well be the education that nonhandicapped students and staff learn about handicapped individuals and the challenges that they face. These nonhandicapped individuals are learning about the range of human conditions and the attitudes they manifest.

Public Law 94-142 is essentially a process for determining what constitutes an appropriate education for a handicapped student. The innovation that Public Law 94-142 brings to our educational system rests on two characteristics of that process: First, educational services are delivered to a handicapped student on an individualized basis so that every educational program provided to a student with handicaps is tailored specifically to that student's unique educational needs; and second, parents of handicapped students participate in the education decisionmaking process as full partners along with other members of a multidisciplinary educational team. The benefits of this increased decisionmaking authority on the part of parents has meant that skills taught at school are more likely to relate directly to a handicapped student's total environment.

Public Law 94-142's 10 years have been years of partnership between parents, educators, and administrators. As in all innovative endeavors, the program has not been without controversy, but that should not surprise anyone who is even the least bit familiar with the complexities of providing an appropriate education to a student with handicaps.

Public Law 94-142 has meant greater independence and opportunity for students whose handicaps range from severe to mild. It has, in the process, broadened our definition of education. We have been taught to appreciate the fact that all persons, regardless of their physical condition or mental capacities, are educable, that is capable of experiencing the change in behavior that we commonly call learning. Because of Public Law 94-142 we understand that learning to feed oneself, learning a complex vocational assembly, or learning to master a word processing system are essentially similar tasks. Each of these skills require instruction and the opportunity to learn in order to be mastered. Public Law 94-142 has given handicapped students that opportunity and thousands of dedicated special educators have provided the appropriate instruction.

I think it is only fitting at this time to recognize the Members of Congress who were instrumental in the development passage of Public Law 94-142. Public Law 94-142 has continuously generated bipartisan support which is reflected in its legislative origins. In 1975 when this act was passed, key members of the Subcommittee on Select Education as well as members of the Education and Labor Committee who played critical roles included: John Brademus and Albert Quie, the chairman and ranking member of the subcommittee, Representatives JAMES JEFFORDS, GEORGE MILLER, LARRY PRESSLER, Frank Thompson, BILL FORD, Phil Burton, PAUL SIMON, Edward Beard, and the late chairman of the Education and Labor Committee, Carl Perkins. On a day when the House is commemorating Public Law 94-142, these Members deserve special mention.

Mr. Speaker, Public Law 94-142 is truly a landmark for millions of persons with handicaps and their families. We should all be proud of its accomplishments and its promise.

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

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

Mr. BARTLETT. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont [Mr. JEFFORDS].

□ 1405

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am particularly pleased to note my support for House Concurrent Resolution 201 commemorating Public Law 94-142, the Education of All Handicapped Children Act. I was fortunate enough, as a member of the Education and Labor Committee, to have participated in the consideration of the original legislation which was to become Public Law 94-142. Our efforts were to assure that handicapped children would receive a free, appropriate education in our public school systems.

Today over 4 million handicapped students receive a special education designed to meet their unique educational needs. In Vermont, State funding for special education increased by 100 percent following the enactment of Public Law 94-142. Vermont now receives $1,928,334 in Federal support for its 7,400 special education students. The unique service delivery system which has been developed in Vermont has been replicated in other small rural States to the benefit of handicapped students and their families.

Public Law 94-142 has led to increased preschool services and a recognition that handicapped adults, given the proper training in the public school system, are capable of being competitively employed. We have developed a pool of special educators whose dedication and technical expertise is unmatched.

Public Law 94-142 has transformed the educational services that we provide to students with handicaps. It has accomplished what this body hopes all of its initiatives can accomplish—it has significantly improved the lives of millions of American children and their families. There is no greater testimony to a statute than this.

In my 10 years in this body I have not been involved in any legislation which has given more self-satisfaction nor, in my mind, benefited more people than this.

Mr. DYMALLY. Mr. Speaker, on November 29, 1985, a landmark piece of social legislation was signed into law. Public Law 94-142, known as the Education for All Handicapped Children Act, has had a significant, beneficial impact on the way our Nation's schools educate the handicapped. Public Law 94-142 laid out fundamental principles that have since guided educational programs for the handicapped.

The law now requires that children with handicaps be assessed as to the nature of their handicaps and that special educational services be provided that would allow each such child to be educated in a nonsegregated, free, and appropriate manner. A key feature of the law is that determination of the handicapped child's needs must be based on the actual needs of the child and not on the availability of services in the school at the time the evaluation is made.

There is no doubt that the legislation caused a sometimes difficult reorientation in focus within schools across our Nation. That is, the law caused school officials to focus on the child's needs rather than on current institutional services availability. Difficult as that refocusing may have been in certain instances, it was a necessary refocusing. It was the right refocusing.

The most tangible indication of the good this law has worked is the fact that during the 1983-84 school year, 4.3 million handicapped children were able to receive a free and appropriate public education. The children were obvious winners here. But the whole of our society is a winner as well. The revolution in educational philosophy engendered by Public Law 94-142 has meant that millions of students have been afforded the opportunity to become productive members of our society. These are people who without this act would have been shunted to the back roads of education.

Moreover, I believe Public Law 94-142 has helped to bring about a fundamental change in public attitudes toward the handicapped. The positive public attitude that has occurred in part because of the act has shown us how debilitating had been the old isolationist attitudes toward the handicapped. We know in retrospect that in some cases public attitude was more of an obstacle to full participation of the handicapped in our society than was the physical handicap itself. The gradual removal of that obstacle has been a boon to the handicapped, certainly, but it has been an even greater blessing to the country.

Today, we are considering House Concurrent Resolution 201 to commemorate the 10th anniversary of Public Law 94-142. I wholeheartedly support the law and the resolution commemorating its passage. Public Law 94-142 is one of the most enlightened laws, the Congress has ever brought to enactment. It is richly deserving of our commemoration.

Mr. MARTINEZ. Mr. Speaker, I rise today in support of House Concurrent Resolution 201, and I would like to take this opportunity to commend my colleagues on the Education and Labor Committee, especially the gentleman from Montana, not only for their desire to commemorate the 10th anniversary of Public Law 94-142, but also for their hard work and complete dedication to the education of all handicapped children.

It is indeed an honor to be a part of the proceeding before this body today. Ten years ago, on November 29, 1975, this law was signed by President Ford. It established policy calling for a free and appropriate education for all children regardless of their disability. Today, this law serves 4 million children across this Nation and provides $1 billion in Federal aid to assist States in their efforts to comply.

Over these many years our society has come a long way in our efforts to make all levels of education available to the handicapped in the most integrated and least restrictive way possible. Studies show that the number of handicapped students on college campuses has grown from 2.7 percent in 1978 to 7.3 percent in 1984. Presently, 23 States have mandated legislation for the provision of educational services to handicapped children under the age of 5. These are but a few statistics that are indicative of our Nations continued and growing commitment to handicapped education.

Mr. Speaker, thank you for this time and again I applaud my colleagues for their efforts and interest on behalf of handicapped students.

Mr. ECKART of Ohio. Mr. Speaker, this week we are commemorating the 10th anniversary of the Education of the Handicapped Act, more commonly known as Public Law 94-142. The enactment of this important legislation has afforded millions of handicapped children in this country the chance to receive an education appropriate to their needs and abilities. Today this law, which serves 4 million disabled children, has proven extremely successful as many of them can contribute to our society rather than rely on the Government for their well-being.

The foundation of this Nation, and its laws, has been built on the belief that each man and woman should be allowed freedom and independence. Public Law 94-142 provides these to a significant segment of our population who, prior to the law's enactment a mere decade ago, found it difficult to receive a proper education. It is this education which allows these citizens to gain the confidence and knowledge to become active participants in our society.

This law, by requiring that the local education agencies, schools, parents, and children all work together to develop an individualized education program, ensures that the unique needs of each particular student will be met. In addition, the law, through mainstreaming, allows each handicapped child to receive an education in the least restrictive environment. This measure provides the child with a far greater chance to become part of our society than if they were educated in the confines of an institution.

Public Law 94-142 confirmed Congress' recognition that children who have special needs can become active members of our society if their needs are properly addressed during their school years. In a study released by the Select Committee on Children, Youth, and Families, the chairman and ranking minority member singled out Public Law 94-142 as one of the eight most effective children's programs passed by the Congress. As part of its findings, the study evaluated a survey, conducted by the Colorado Department of Education, which indicated that of the high school graduates who participated in special education programs, nearly 70 percent were working at least part time and making a significant contribution to their own support. It is findings like these which should spur both Congress and the administration into greater action to support and fund these programs.

The education of our children has been of tremendous importance to the Congress. In light of the deficit crisis, when we are all looking to programs which must be cut, I sincerely hope that programs such as providing education for the handicapped will be preserved. I firmly believe that each child, no matter what the individual needs may be, deserves the chance to participate in our society. It is laws such as Public Law 94-142 which provide them with such an opportunity and for that reason, I am pleased to lend my wholehearted support to this law.

Mr. MILLER of California. Mr. Speaker, I rise in strong support of this resolution honoring the 10th anniversary of Public Law 94-142, the Education for All Handicapped Children's Act.

I am proud to be an original cosponsor of this commemorative resolution, as I was proud to coauthor the original bill in 1975. In fact, this was one of the very first bills which I helped write when I entered Congress a decade ago.

The district which I am honored to represent has been in the vanguard of providing educational and other services to handicapped youngsters. For me, there is a very personal association, because my father, George Miller, Jr., was a vigorous proponent for the disabled during his years in the California State Legislature. In fact, there are two schools for the disabled in my district which are named after my father because of his years of commitment.

The parents of disabled youngsters in my district have long been extremely committed to the education of their children. While I cannot name them all, I want to give special recognition to several who have been most active, including: Pam Steneberg, Diane Lipton, and Jeanne King of Parents Advocates for Special Education; Madelyn Sitrin and Sunny Grammont of the Developmental Disabilities Council; Beverly Casebeer, Jean Styris of Crunch; Karen Baker of the Mount Diablo schools; Joanna Cooper of Pase and George Miller, West; La Verne Bell; Betty Hodge of Mount Diablo schools; and Judy Miller of the Harmon Parent Group.

I also want to acknowledge the outstanding contributions of some of our local school administrators, including: Pete

Gonos, the director of the special education local plan committee; Joe Ovick, the director of special education for the county office of education; Ken Butler, the director of special education for the Mount Diablo Unified School District; and Steve Cedarborg, the director of special education for the Richmond USD. These individuals, together with parents and teachers of the handicapped, have made enormous contributions to these programs, and educated me about the need for even better programs for the disabled.

It is also a special honor, on this 10th anniversary of Public Law 94-142, that a devoted educator from Contra Costa County, Michael Grimes, currently serves as president of the Council for Exceptional Children.

When we wrote this landmark law 10 years ago, we believed that all children deserve to be educated in an appropriate setting, according to their special needs, regardless of their handicap or disability.

We believed then, as we now know, that this approach is more cost-effective and more conducive to family stability than excluding children from school, consigning them to institutions, or misclassifying them as retarded.

We believed then, as we now know that parental participation in the education of disabled children is absolutely essential and that every child has a right to have their particular needs evaluated and addressed by their school.

The Select Committee on Children, Youth and Families, which I am honored to Chair, has heard testimony on the enormous impact of this outstanding program. Families have repeatedly testified that "but for this law," they would have no way to bring the fruits of education, and the possibility of participation in mainstream American life, to their children.

So today, we can say the Education for All Handicapped Act is a success. It is now a right. But we have still failed to meet one of the key mandates of the law. The title promises education to all handicapped children.

And yet, we in Congress have failed repeatedly to provide adequate support so that more disabled youngsters can enjoy an appropriate education. Today, 10 years after the commitment was made, we are still shutting the schoolhouse doors to millions of handicapped youngsters throughout this Nation who are not seeking charity or pity, but the basic right to an education.

Instead of just commemorative speeches on this anniversary of the passage of Public Law 94-142, I hope Members of this House will commit themselves to more than making a commemorative speech. I hope they will commit themselves to the law which we are honoring.

I would hope that parents and handicapped youngsters, administrators and teachers, throughout this country, will ask Members of Congress not whether they voted for the commemorative resolution honoring Public Law 94-142, but whether they voted for the legislation providing adequate support for this law so that the barriers are broken and all handicapped children have the rights this law guaranteed them a decade ago.

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

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the concurrent resolution presently under consideration.

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

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Montana [Mr. WILLIAMS] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 201, as amended.

The question was taken.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERSONAL EXPLANATION

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

Mr. NELSON of Florida. Mr. Speaker, due to official business, I was unable to be present and voting for rollcall vote No. 371 on October 24. Had I been present, I would have voted "nay" on the Fazio amendment to the Omnibus Budget Reconciliation Act.

SUPPORT LEGISLATION TO ALLOW YOUTH EMPLOYMENT OPPORTUNITY WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I am cosponsoring legislation introduced by my fellow colleague from Mississippi, Representative TRENT LOTT, which would allow an employer to pay a youth employment opportunity wages during the summer months. The time has come for action on this type of legislation. Although we have experienced sustained economic growth in the last few years, the unemployment rate among the youth of this Nation remains high. This legislation would allow employers to provide employment opportunities for youth during the summer, give the youth of this Nation a chance to earn some money, and allow our young people a chance to gain experience and skills for future work.

The legislation has broad-based support among a large number of organizations and interest groups—the U.S. Chamber of Commerce, the American G.I. Forum, the Business Roundtable, the National Conference of Black Mayors, the National Federation of Independent Businesses, and the list goes on and on.

Provisions in the legislation address the main concerns raised over allowing a subminimum wage for youths. The bill provides safeguards disallowing the displacement of adult workers by youth. First, the proposal is limited to the summertime; and second, the proposal contains an explicit prohibition against discharging, demoting, or transferring current employees.

Studies have shown that enactment of this proposal would create about 400,000 new summer jobs at the Federal level for youth, and this figure could increase to 640,000 jobs if those States with minimum wage laws adopt the proposal.

The time has come to see some action on this legislation which can help improve the futures of our Nation's young people. I hope all my colleagues will consider the merits of this proposal and join me in supporting this much-needed legislation.

MY ADVICE TO THE PRIVILEGED ORDERS

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

Mr. GONZALEZ. Mr. Speaker, there is a pattern of activity throughout the country that has aroused my outrage and anger. It seems that in more than one instance during the last year, groups of junior high school and high school girls in Texas and other places were strip-searched because a sum of money or some article—in this case, $1.85—was reported missing somewhere.

Now, this action is in reaction to the Reagan administration's victory at the Supreme Court level where it was decided that students are second-class citizens when it comes to fourth amendment rights regarding search and seizure. Last January, the administration argued before the Supreme Court that in order to fight crime and drug abuse in the schools, teachers and administrators should be allowed to search students and their lockers. The Supreme Court agreed and ruled that the schools were proper places for search, although in other circumstances and conditions, it has not so ruled up until now. The Court ruled that the schools' needs were enough to justify search of students, more than anyone else.

The dissenting Justices in this case warned that this lessened the standard of justice for students, and that it

would make it just as easy for school officials to search for violations of a school dress code as to search for contraband such as drugs and guns. How right the dissenting Justices have turned out to be.

What is particularly horrifying to me is that the misapplication of this newly established Supreme Court-approved procedure in Texas is not the first such misapplication. Last March a similar event occurred in Ohio, where 20 seventh-grade girls were strip-searched while a schoolmate's watch was reported as having been lost or stolen. In neither case were the missing funds or items recovered.

School officials have been given a right to search if there are reasonable grounds for believing a wrong has been committed. But what about the reasonableness of the search itself? It might make sense to search lockers and purses for missing items, but is it reasonable to make junior high school girls strip to their bare skin? Surely this is not what the Supreme Court and the Reagan administration intended by their efforts to lessen the constitutional rights of students. But for as long as the Supreme Court has been deciding cases on search and seizure, they were very careful to make sure that no matter how noble the intent, such a thing would not happen as a direct result of their interpretation or misinterpretation in a given case.

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Certainly these are foreseeable events. Any dictator, and we have in America reached a point where with the acquiescence of the American people ostensibly, we have eroded the basic things that we take for granted in the way of personal freedom, freedom from unreasonable search and seizure.

We have at the present moment three so-called intelligence agencies of our country spying through electronic surveillance and other means on American citizens domestically in the United States, contrary to the very purposes for which these intended jurisdictional aspects that these agencies were given at the time that Congress set them up.

The National Security Agency, NSA, we hear a lot about the CIA, we hear a lot about the FBI, but very little of the NSA, and yet it is the most vastly complicated—beyond any kind of oversight by President or Congress—agency of any government on Earth or the globe, including the Communist regimes of Russia and others.

We cry about authoritarian governments, but we have done it to ourselves in this case and we continue to do so, all with the best of intentions.

Of course, we want to catch those dastardly spies, but when they turn out to be actually long-time politically conservative American citizens who pay their taxes, who go to work every day, who do not have any foreign-sounding ethnic names or surnames, and all of a sudden the headlines blaze that they are spies.

Of course, we want to avoid that kind of activity, but in doing so is it necessary that an open society, the only reasonable last remaining bulwark of freedom in the world, should imitate those that it is the last bulwark from? I do not think so, but I think the matter has gone so far that Congress has for so many years looked the other way, it has created out of its legislative laboratory these legal Frankensteins and refuses to look them over.

I can assure you that today, right now, while I am speaking, the National Security Agency is monitoring every single international phone call that comes in to American citizens.

Is this legal? Is this supposed to be done?

Well, it depends on who you ask and who is answering. If you ask the members of the Intelligence Committee of either the House or the Senate, they will tell you they are not supposed to be doing that, but that is not the issue.

The issue is that they are, and they have and they have been doing so illicitly and in fundamental violaton of those things we have taken for granted for so long.

True, we live in an era that has forgotten the more halcyon epoch, when if we went to the airport we did not have to go through a checking point, but we take that for granted, or if you come to the Halls of Congress and you are a visitor and you want to go up to the visitors gallery, you go through the same proceeding.

Our public buildings are teeming with guards, concrete pillars, bunkers, and everything else.

Everybody has forgotten when we were not enured to that kind of existence. It is just that imperceptibly we are getting used to giving away our basic freedoms of a great heritage never before enjoyed in any land, in any clime, or under the sky on this globe, but we are almost imperceptibly taking for granted that we should condone such procedures that I am reporting, perpetrated against our young girls.

What are we to say? Are we to say that we have reached the point where without a murmur, without even a whimper, we lose these precious constitutional rights?

We live in that day and time, though, in which national leaders themselves are foisting a near hysteria and advocating remedies of this moment, but which collapse.

We have seen this happen among the issues that as legislators we have confronted through the years of a more sanguine nature, such as taxation, such as interest rates, and we have reached the point where I think, with sadness, we might ask, have we not for a mess of pottage given up our birthright?

Mr. Speaker, at this point I would like to place into the RECORD a copy of an Associated Press dispatch, dated October 28, concerning the search of junior high school girls at the Cedar Hill, TX, school, and an article by Nat Hentoff in the Washington Post of May 9, 1985.

The material is as follows:

PARENTS OF STRIP-SEARCHED GIRLS WANT TEACHERS FIRED

CEDAR HILL, TX.—The father of a junior high girl who was among 15 students strip searched for a missing $1.85 says the faculty members responsible for the search stole the children's dignity and should be fired.

"What they really did was told our children their pride and dignity wasn't worth $2. It's only worth $1.85," said Bobby Hufstetler.

Some of the parents of the Cedar Hill Middle School girls who were strip searched are enraged by the action and say they plan to ask the school board at its Monday night meeting to fire the physical education teacher and assistant principal involved.

The students were ordered to remove their clothing Thursday when a girl in a seventh-grade physical education class reported $1.85 missing.

"This is a violation of basic human rights," said Hufstetler "I feel like the school owes the girls something besides 'I'm sorry.' She (his daughter) was completely devastated," he said.

But other parents say they still support physical education teacher Janice Ellis and Jeanne Cothran, the assistant principal who authorized the search.

Mrs. Ellis acted out of frustration after several thefts occurred during the year, the parents said, and added that they plan to show support for the teacher at Monday's meeting.

On Friday, Ms. Cothran said the decision to search the students was made in haste and frustration.

"She (Mrs. Ellis) was very frustrated. It was the third day in a row that money was stolen," Ms. Cothran said. "In the back of my mind, I thought it might not be the right thing to do."

At least one girl was asked to strip completely while others were asked to strip down to their undergarments, parents said. Still others were asked to remove their bras. The missing money was not found.

Karen Kershaw, a friend of Mrs. Ellis, said the parents have overracted.

"Naturally to them the girls have been embarrassed, but someone is guilty of theft," Ms. Kershaw said. "She was doing what she though was right. In my feelings, she (Mrs. Ellis) has been treated unfairly and tried and convicted," Kershaw said.

The search was conducted in Mrs. Ellis' office, which has a window looking out into the locker room.

Last week Mrs. Ellis said the parents were "blowing it out of proportion."

"Not one of the parents asked for my story," she said. "They came up here ready for blood."

UP AGAINST THE WALL, SEVENTH GRADERS

(By Nat Hentoff)

Scholastic Action is a magazine that tries to awaken the interest of half a million junior high school students around the country in current events. Teachers have reported that its March 22 issue was particularly successful. One section began:

"Up against the wall."

"Joey stretched his arms and put both hands on the cold, gray lockers. The man felt along Joey's sleeves. Then he felt down his chest and inside the pockets of his jacket.

"Joey is not a criminal. The man frisking him is not a cop. Joey is a high school student. The man who searched him is his history teacher."

It was then explained to the students that they were reading a hypothetical, as they say in the law schools. But, they were told, this kind of classroom search could not happen as a result of a new Supreme Court decision. Said Scholastic Action: "If any school official has good reason to believe you are breaking a school rule, he or she can search your locker, your desk or you."

The section went on with a series of conflicting reactions to the court decision from various parts of the country. The kids reading the magazine were then asked what they thought.

The historic case, New Jersey v. T.L.O., had come down on Jan. 15. A majority of the court decided that students can be searched by school personnel according to a lower standard than adults. Instead of the searchers needing "probable cause" to believe that a search will reveal evidence of wrongdoing, all that is required to search a student in school is "reasonable grounds" to go through his locker or him.

At the time, a former U.S. commissioner of education, Dr. Harold Howe, did not share the general jubilation of teachers and administrators at this cut-rate constitutional standard for school kids. The justices, he said, "have asked school authorities to be reasonable in making searches and have given them a hunting license to decide what is reasonable."

Ten days after the T.L.O. decision, 20 girls, all seventh graders, all under the age of 14, felt the palpable impact of the new Supreme Court ruling. Their lesson in the Constitution as a living document took place after a first-period gym class at Westwood Junior High School, Elyria, Ohio. When the seventh graders came back to their locker room, the physcial education teacher told them a watch and ring belonging to a student were missing. First, the girls' lockers and purses were searched. The missing property was not found.

The assistant principal joined the gathering and informed the seventh graders that their persons were now going to be searched. He warned that if they did not allow female school officials to do the job, the sheriff and his men would be called in.

In the course of the strip-search of the seventh graders, they were commanded to drop their jeans to the floor and turn around as the physical education teacher, the guidance counselor and a clerk-typist visually inspected their entire bodies. A 12-year-old described this lesson in civics: "We had to take off our shirt and then we had to take off our shoes. And then they looked down our bra to see if we had it or not."

No one did have the watch or the ring—anywhere.

On Feb. 8, after due deliberation, Calvin Leader, the Elyria superintendent of schools, issued a formal statement: "The search was conducted in an orderly manner . . . it is my belief that the staff involved made the decision to conduct search activities after reasonable deliberation of the critical issues."

That's what the Supreme Court said was needed in these situations—reasonableness.

With the help of the American Civil Liberties Union of Ohio, 13 of the students are suing Leader, five members of the board of education, the principal, the assistant principal and the three women who conducted the strip search. They want an end to strip-searching of students. Also, each seventh grader is asking for $38,000 in compensatory damages and another $38,000 in punitive damages.

It is the ACLU's contention that whatever the Supreme Court meant by reasonableness in school searches, no reasonable adult would interpret that word to mean a dragnet strip search of seventh graders. After all, the majority of the justices did say that the form of the search cannot be "excessively intrusive in light of the age and sex of the student and the nature of the infraction."

However, the words "excessively" and "intrusive" may mean quite different things to eminently reasonable school officials and judges. During his dissent in *T.L.O.*, Justice William Brennan predicted that these "amorphous" new standards for searching school kids would create increased litigation as well as uncertainty among teachers and administrators. The latter, Brennan said, are going to be "hopelessly adrift" in knowing when to search and how far to go.

The kids will be adrift too. There they are, the future guarantors of freedom in the world—but standing now, legs spread, up against the wall.

ABM TREATY

(Mr. BERMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BERMAN. Mr. Speaker, I would like to take this opportunity to call to the attention of my colleagues the administration's dangerous reinterpretation of the ABM Treaty. The Foreign Affairs Subcommittee on Arms Control, International Security, and Science held hearings on this subject last week on October 24. From among a number of witnesses that day, the most interesting testimony came from two gentleman who were participants in the original negotiations that culminated in the Anti-Ballistic Missile Treaty: Ambassador Gerard Smith and Mr. John Rhinelander.

Their testimony makes clear the danger of this foolhardy reinterpretation. If the United States continues to treat this broader interpretation as the legally binding version, we will have invited the Soviets to start up a program of development and testing of advanced or "exotic" ABM technologies.

The President maintains that the administration will conduct its SDI program within the bounds of the stricter interpretation of the ABM Treaty. But if the administration continues to support the broader interpretation as the only legally binding one, what incentive is there for the Soviets to refrain from conducting their version of SDI under the broader interpretation?

There is no justification for a reinterpretation after 13 years of mutual understanding and adherence to the ABM Treaty. In those 13 years, we have had four separate American and Soviet administrations and neither side has ever suggested that advanced technologies were not clearly banned by the treaty.

All of the original ABM Treaty negotiators, including Ambassador Paul Nitze, have consistently made clear that their understanding of the treaty was that it banned the development and testing of future ABM technologies. Of course, as a loyal member of this administration, Ambassador Nitze has toed the line on accepting the new interpretation. But only a few months ago, Ambassador Nitze said, in a speech before the National Press Club, that the ABM Treaty "prohibits the deployment of ABM systems in space or on the Earth, except for precisely limited, fixed, land-based systems." In addition, he went on to say that "all systems—whether nuclear or otherwise—which have a capability to counter strategic ballistic missiles or their warheads at any point in their trajectory, are subject to the ABM Treaty."

I think my colleagues will find the testimony of two of the original participants of the ABM Treaty especially illuminating on this issue. I commend to my colleagues the statements, before the Arms Control Subcommittee, of Mr. John Rhinelander, former legal adviser to the ABM Treaty Negotiations, responsible for the drafting of the treaty language, and Ambassador Gerard Smith, former Chief of the U.S. Delegation to the ABM Treaty negotiations. Both of these gentleman gave statements before the Arms Control Subcommittee which make clear how very detrimental this new interpretation will be to our national security. In addition, their statements show how the administration's new treaty interpretation resoundingly fails to base its findings on the text and history of the treaty and the understandings of its negotiators.

I especially recommend sections III, IV, and V of Mr. Rhinelander's testimony for a clear explanation of the circumstances surrounding the drafting and signing of the treaty. These sections in particular reveal how misguided the administration's new interpretation is. I have also included a copy of the ABM Treaty and pertinent articles from the Washington Post and the New York Times.

If the Congress has anything to say about this—and it does—then we cannot let this haphazard reinterpretation of the treaty concocted in a matter of weeks overturn a treaty that has made a vital contribution to our national security for over 13 years.

STATEMENT OF GERARD C. SMITH

Mr. Chairman and Members of the Subcommittee: The Administration has adopted a new version of the ABM Treaty—a version which will permit the United States and the Soviet Union to engage in much more extensive work on space based defenses than

would have been permitted under the earlier version which pertained from 1972 to 1985. In fact, the new version would permit any development and testing activities short of final deployment of a full space-defense system.

I would like to consider the impact that this new version may have on Soviet-American relations, on America's relations with its allies, and on the SDI itself, I will leave to my colleague, John Rhinelander, the analysis of the thrust of the ABM Treaty on this score as it was negotiated.

The Administration now claims that for time being the new Treaty version is not intended to alter SDI programs. But it is also clear that the Administration feels free under the new version to alter the SDI program any time that would appear advantageous. So we have two possible criteria to guide the SDI. The so-called restricted policy and the new version. Although treaties are intended to produce some degree of predictibility in international relations, we have introduced a new element of uncertainty in future relations.

Although this issue is of special concern to the Senate, which consented to ratification of the ABM Treaty by a vote of 88 to 2 in its earlier version, I think the House would also have a special interest in the legal basis for programs which it is being asked to fund. The revised version of the Treaty alters it radically, and the threat of the revised version being applied at any time must have a bearing on Congress' responsibility for the defense of the United States—a responsibility which now involved large elements of arms control.

I should think the Congress would want to have firm assurances that funds appropriated for SDI work will not be spent for any new purposes permitted under the new version of the ABM Treaty as well as a clearer understanding of exactly what the so called restrictive policy encompasses. The confused and shifting status of the SDI reinforces the recent call by the Congressional Office of Technology Assessment for unusually strict congressional oversight of these programs.

The question may fairly be asked: Is this new Treaty version intended as a warning to the Soviet Union that if it does not improve its behavior, the United States will switch from a restrictive to a permissive treaty-authorized SDI program. I take it that the Administration's answer to this would be that it wouldn't mind if that was the effect.

Why did the Administration decide to float this new Treaty version just six weeks before a summit at which the ABM Treaty was expected to be an important part? Was it an exercise in playing hard ball? A gesture of machismo? Such an explanation would be consistent with the views of some officials who openly express contempt for this part of the supreme law of the land. Or was it a bargaining ploy looking to a summit accommodation somewhere between the Soviet pre-summit position of no research at all and the Reagan new version of no limits on strategic defense development?

What should be done? I trust that the Administration will take this opportunity at the summit to try to find out whether the Soviet Union accepts the previous interpretation of the Treaty—a proposition that the negotiators of the agreement believe and the Administration seems to doubt. I would think that Mr. Gorbachev would reassure the President on this point, since the Soviet Union has been pressing for a substantially more restricted position on space-based systems, rather than the less restricted position that the Administration previously advocated. I hope this committee will urge the President to do just that.

The surprising results of the recent legal research of a new generation of SALT experts may in the end prove significant if they trigger a summit clarification of the allowable limits of research looking to space-based ballistic missile defenses. But these actions could backfire. The arms control relation between the superpowers is in a fragile state. The United States has refused to ratify the last three arms control treaties, which it has negotiated with the Soviet Union. On top of this, the United States has now unilaterally revised the last arms control treaty which it has ratified—and done so in a radical fashion which goes to the heart of the bargain.

No reason has been given for the Presidential decision to hold for the time being to the traditional version of the Treaty in spite of the new legal license to operate in fundamental violation of its provisions. If our Secretary of Defense's emotional claim that SDI is our only hope for the future is true, why this self-restraint? If the President's claim is valid that SDI leads us to arms controls and total elimination of nuclear weapons, why would we want to put off that happy day by proceeding at a more leisurely pace than permitted by the new version of the Treaty?

It seems most unusual for a nation which holds itself to be a decade behind in its strategic defense preparations to favor a new version of the ABM Treaty that will free the Soviet Union to make much greater efforts to hold or even increase its alleged lead. But this outcome, according to one U.S. official, is a "realistic" view of our new Treaty revision.

The Administration bases its case on alleged ambiguities in the negotiating record. Unfortunately, under the time honored rules of diplomatic privacy, the evidence is not available. It would be a unique episode in international negotiations to have a completely unambiguous record—especially in a bargaining process requiring 2½ years. But be that as it may, the 13-year record for the parties holding to the original version should carry far greater weight than some statements reportedly inconsistent with the final language of the Treaty.

The ABM Treaty was a great policy accomplishment of President Nixon's first term. It would be of interest to ascertain if he believed that the Soviet Union has not accepted his understanding of the Treaty's ban on the development and testing of space-based systems.

Only two weeks before the White House announcement of the new Treaty version, six former Secretaries of Defense (Harold Brown, Clark Clifford, Melvin Laird, Robert McNamara, Elliot Richardson, and James Schlesinger) urged the President not to take any steps to further erode the ABM Treaty. Unfortunately, the experienced advice was quickly rejected.

The Geneva communique of last January called for negotiations to stop the erosion of the ABM Treaty. The U.S. adoption of new and radically permissive verison of the Treaty hardly reflects a deep commitment to preventing its further erosion. This development comes at a time when the Soviet Union is calling for a less permissive Treaty interpretation—one that would permit research, but no development work outside a laboratory. The Administration's justification for its complete reversal of its position appears to be that the Soviet Union did not agree to the tighter legal standard that we had accepted. This seems a very strange rationale coming at a time when the Soviet Union is pressing for a much more restrictive interpretation of the Treaty than ours.

The SDI has also become a source of considerable difficulty for important allies. They seem to be less clear than the Administration that SDI is the key to arms control which for them is perhaps more important than the United States in terms of domestic politics. It is reported that allies concerns generated by the revised version of the Treaty were a major factor in Secretary of State Shultz's efforts to blunt the impact of National Security Advisor MacFarlane's formulation of the new legal revision of the ABM Treaty. I wonder if the NATO members will be satisfied with the confusing partial withdrawal of last week's MacFarlane doctrine. The NATO allies are now on notice that the restrictive policy for the SDI program can be reversed at any time by the stroke of the pen of the Chief Executive.

For my own part I think the SDI at present is, if anything, too ambitious a program which raises serious questions under the previous restrictive version of the ABM Treaty. I do however favor a robust program of research as an insurance policy against a future Soviet breakout from the Treaty and as an aid to permit us better to understand what the Soviet Union may be up to.

In conclusion, I commend this Committee for its interests in this important issue and will urge them to seek a clarification on the true impact of the revised verison of the ABM Treaty on the SDI program.

STATEMENT OF JOHN B. RHINELANDER

Mr. Chairman and Members of the Subcommittee: My name is John B. Rhinelander. I am currently a partner in the law firm of Shaw, Pittman, Potts & Trowbridge in Washington, D.C. I am also a member of the Board of Directors of the Arms Control Association, a member of the National Advisory Board of the Lawyers Alliance for Nuclear Arms Control, and a member of the ABA's Standing Committee on Law and National Security. Previously, I have served as a law clerk to Justice John Marshall Harlan and in five departments in the Executive.

I appear today in my individual capacity. My views do not necessarily represent those of any of the organizations with which I am presently affiliated. My statement represents my best recollection, after discussions with former colleagues on the SALT I delegation who are now out of government and a review of some of the available literature, on the evolution of the ABM Treaty in 1971-72 and its meaning. The SALT I negotiating record is massive and classified. I have not had access to it since 1972 and have never seen the official ACDA history of SALT I which is also classified. I served as the legal adviser to the US SALT I delegation from 1971-72.

The primary issue before the Subcommittee today is whether Article V(1) of the ABM Treaty prohibits the development and testing of space-based and other mobile-type "exotic systems" (e.g., space-based lasers). The secondary issue is whether any of the Treaty's substantive constraints on "ABM systems or components" in Articles I(2), IV, V and IX apply to space-based "exotic systems". The answers are four-fold: (1) the prohibitions are clear from the text of the Treaty, particularly Article V(1) which

states, "Each Party undertakes not to develop, test or deploy ABM systems or components which are sea-based, air-based, space-based or mobile land-based"; (2) the negotiating history, as interpreted in 1972 by the SALT I delegation and the backstopping representatives in Washington, supports the broad ban on space-based "exotic systems" as the only permissible interpretation; (3) this has been the interpretation of the Executive, accepted and relied upon by Congress, since 1972; and (4) any other result is patently absurd and would frustrate the stated premise of this Treaty of indefinite duration—to prohibit the deployment of nationwide ABM systems or a "base" for such a system.

The Soviets accepted this interpretation during the negotiations, reflected it in their ratification proceedings, and have taken no actions and have not made any official statements inconsistent with this interpretation. This is the only conclusion one can draw from their public statements which sometimes deal with the issue implicitly and elliptically rather than explicitly. The Gorbachev interview with Time editors includes a specific statement, but without mentioning Article V, before the U.S. "reinterpretation" became known. The TASS statement of October 9, responding to the U.S. "reinterpretation", removes any ambiguity from the Soviet public position. Marshall Akhromeyev's lengthy comments on October 19, 1985, should lay to rest the Soviet public position.

The U.S. delegation in Geneva, and Members of Congress who are advisors, should know whether the Soviets have made their position explicit, and specifically tied to Article V(1), in the Geneva negotiations since 1972, since the President's Star Wars speech in March 1983, and since October 6, 1985.

I.

Based on National Security Advisor McFarlane's comments October 6 on NBC's Meet the Press, subsequent commentary on CBS, the article in the Washington Post on October 9 (attached as Exhibit A) and my telephone conversation that day with Deputy Secretary Taft at the Pentagon, the Administration had concluded that the Soviets never agreed to the U.S. position at SALT I, the Soviets cannot be held to abide to it today and, therefore, the U.S. is not legally bound. Deputy Secretary Taft told me that the General Counsel of DOD, the Legal Adviser at State, and the Department of Justice had, therefore, concluded that because the U.S. cannot legally hold the Soviets to the historic U.S. interpretation, the U.S. may take the position that the development and testing of sea-based, air-based, space-based and mobile land-based "exotic systems and components" may be developed and tested, but not deployed, consistent with the ABM Treaty.

On October 13, the President decided that he agreed "in principle, but not in practice" with this "reinterpretation". Based on a Presidential directive, Secretary Shultz announced on October 14 in a speech before the thirty-first annual meeting of the North Atlantic Assembly that "a broader interpretation of our authority is fully justified", but SDI "will be conducted in accordance with a restrictive interpretation of the treaty's obligations."

This leaves the U.S. legally free to return to the "reinterpretation" whenever the President's advisors deem advantageous and the President agrees. The story on October 17 in the Washington Post (see Exhibit B) makes this clear. DOD officials do not admit that they have yet lost the argument and stress Secretary Shultz did not state how long the Administration would continue to abide by the new "restrictive interpretation," which represents presidential policy rather than a matter of law.

The legal rationale for the "reinterpretation" revolves around Agreed Statement D. The argument is (1) that Article V(1) constrains only "traditional" ABM technology (ABM missiles, ABM launchers and ABM radars), and (2) therefore permits development, testing and deployment of "exotic systems and components", but (3) Agreed Statement D implicitly amends Article V(1) to prohibit deployment only of "exotic" systems and components.

This rationals is absurd as a matter of policy, intent and interpretation. If the Administration sticks with it as the best legal interpretation of the Treaty, then the Administration has effectively repudiated the ABM Treaty as a legal instrument. If the truncated Treaty remains in effect, then both the U.S. and Soviets can develop and test, without quantitative or geographic limits, any sea-based, air-based, space-based or mobile land-based ABM system or component provided they are based on "exotic systems and components".

But the result could be even more far reaching. Because the Administration's new interpretation is that Article V(1) and other Articles of the Treaty do not apply to "exotic systems" and Agreed Statement D blocks only their deployment, then the necessary consequences are that the limits on "ABM systems or components" throughout the Treaty do not include "exotic systems". This results in:

(1) the deployment bans on a nation-wide ABM defense, a base for such a defense, and a regional ABM defense (except as permitted by Article III) in Article I(2), which were fundamental statements of the Treaty's scope, are all limited to "traditional" ABM technology, (i.e., ABM launchers, ABM missiles and ABM radars) and do not apply to "exotic systems";

(2) the words "currently consisting of" in Article II(1), intended to make clear that the Treaty applied to all ABM technologies and not just "traditional" ones, are rendered devoid of meaning;

(3) because Article IV dealing with ABM test ranges explictly refers back to Article III (which authorizes limited deployments of fixed, land-based ABM launchers, ABM missiles and ABM radars), the geographic, quantitative and implicit qualitative limits in Article IV on ABM tests do not apply to tests of any type of mobile or space-based "exotic systems";

(4) Article V does not apply to all or almost all SDI programs, and the Homing Overlay Experiment (HOE) which was a kinetic energy test with a single intercept mechanism) could have been tested in a MIRVed configuration; and

(5) the prohibitions in Article IX against transfers of ABM systems or their components to other States, and deployment outside national territories, apply only to "traditional" technology and not to "exotic systems".

The consequences of this "reinterpretation" are dramatic when one considers that the principal U.S. concern has historically been with Soviet "breakout" capability based on "traditional" or "low tech" systems. These remain tightly constrained notwithstanding the "reinterpretation". On the other hand, most of SDI is now "legally" unconstrained by the Treaty.

With particular respect to the Soviets and their emphasis on "traditional" systems: (a) ABM deployment is limited to the one area surrounding Moscow; (b) ABM tests must be limited to their two ABM test ranges; (c) the development, testing and deployment of land-mobile "traditional" ABM systems and components is prohibited; and (d) the ban on the "upgrade" of surface-to-air (SAM) systems remains in full force. However, under the "reinterpretation" the Soviets now legally could place in the field an unlimited number of mobile land-based lasers (the Soviets have an active laser program) across the Soviet Union provided they were labeled for "test" purposes.

With particular respect to the U.S., it is now free to exploit its own, and Western technology, in the full pursuit of Star Wars. A full-scale, operational orbiting systems, with accompanying ground stations and including as many as 100 to 400 killer satellites and related sensors, could now be "legally" put in place as an extensive "test program" to prove out the new technology in a BMD system configuration. U.S. allies would be free of any Treaty restraints to participate in two-way transfers of most SDI technology, with the only "legal" constraints on "west-west" SDI technology those under the Munitions Control and Export Administration Acts.

This result is absurd. Unbeknownst to the U.S. SALT I delegation, the SALT I backstopping apparatus in Washington, the Nixon Administration and each of its successors, and Congress, the U.S. would now be in the most one-sided Treaty relationship imaginable. Ambassador Smith should be given a retrospective decoration by the Reagan Administration for one of the great feats in American diplomatic history!

Of course, it could not last for a minute. Arms control agreements are viable only as long as they are in the net interests of each party. Secretary Shultz has spoken of the need to "prevent the erosion of the ABM Treaty," but Defense Secretary Weinberger, Under Secretary Ikle, and Assistant Secretary Perle have repeatedly stated that they have no use for the ABM Treaty and the sooner the U.S. is without it the better. They momentarily prevailed in a brazen exercise well described in a New York Times editorial by Anthony Lewis (see Exhibit C). Unless the President or Congress repudiate this self-defeating legal "reinterpretation", or the U.S. and Soviets agree on specific Agreed Statements to put it to rest, DOD officials could move the issue again when the moment seems right to them.

The timing of the announcement of the initial "reinterpretation" remains obscure. DOD has known, of course, that under the historic interpretation the evolution of SDI research into development and testing would have to be stopped somewhere between 1988 (as I believe) and 1990 (as even DOD officials had privately conceded) unless either the Soviets agree to amand the Treaty or the U.S. formally withdraws. From a policy and political point of view, six weeks before the Summit, the "reinterpretation" by the U.S. with respect to a legally binding treaty could have been a disaster. The first concrete U.S. response to the Soviet proposal (admittedly lopsided) to cut offensive forces by 50% was to repudiate the ABM Treaty which, both had agreed last January, is interrelated to any offensive limitations.

One of the political reasons for the Administration's initial "reinterpretation" at this time may have been DOD's attempt to

encourage more Allies to support SDI by participating in cooperative SDI "research". (The negotiations with the U.K. on a government-to-government agreement may be completed before the Summit and an agreement with the FRG shortly thereafter). Foreign corporations, particularly in the United Kingdom and West Germany, might be encouraged by the "reinterpretation" because cooperation might be extended from ABM "research", which is all that is permitted under the historic U.S. interpretation, to include now "development and testing" with full sharing and two-way transfers.

The actual effect on U.S. Allies was the reverse because the political fallout of this full sharing in SDI technology directly associated with ABM systems or components would have been the implicit or explicit ratification by Allied governments of the repudiation of the ABM Treaty. That is a role that none is prepared to accept or condone, including the United Kingdom. Margaret Thatcher earlier had achieved at Camp David the President's agreement to four basic principles relating to SDI. Compliance with the ABM Treaty was one of them. The political cost in West Germany and the Netherlands (particularly since the latter must make its decision on cruise missile deployments by November 1) might be much higher for their governments and NATO as a whole.

The remainder of my statement sets forth my views on the negotiation and meaning of the ABM Treaty.

II

In April 1971, while I was serving in Washington as a Deputy Legal Adviser at the Department of State, Ambassador Gerard Smith asked me to come to the fourth negotiating session of SALT I in Vienna and prepare drafts of an ABM Treaty and an Interim Offensive Agreement. In March, the Soviet delegation had tabled a draft ABM Treaty. The U.S. delegation believed it was appropriate to begin to prepare formal texts of agreements on defensive and offensive strategic weapons limitations. I spent most of that session reviewing the record of the negotiations (plenary statements, memoranda of conversations, reporting cables, etc.), familiarizing myself with U.S. position papers and the technical characteristics of the weapons, and in discussions with members of the U.S. delegation. I also prepared rough first drafts of texts. The negotiating session ended in May 1971, shortly after the "May 20 understanding" between the US and Soviets was announced.

During the remainder of May and in June in Washington, I prepared successive drafts of an ABM Treaty and an Interim Agreement after input from others. I recollect that the Soviet draft of Article III was permissive—it stated both sides may deploy a single, fixed land-based ABM system with 100 ABM launchers and no limits on ABM radars within the deployment areas. This text was vague, imprecise and, among other things, an invitation to pursue and deploy both stand-alone components, such as long lead-time ABM radars, and ABM systems based on "exotic" technologies. In my drafts, I turned Article III around into the form eventually agreed upon and also tightened it.

Article III, as drafted, prohibited deployment of any ABM system or components except those in the deployment areas and as limited quantitatively, qualitatively and geographically. The text of Article III, standing alone, prohibited the deployment of fixed land-based "exotic" ABM systems and components because only systems utilizing ABM launchers, ABM missile and ABM radars could be deployed. This raised the "exotic system" question directly for inter-agency consideration.

The other substantive Articles always referred to "ABM systems" and to "components" to make clear the U.S. position that components were limited and not just entire systems.

The Soviet draft of March 1971 contained prohibitions on testing and deployment of "space-based" in what is now Article V(1), as did my drafts of May-June 1971 which, I believe, added "develop." The gist of this article was derived from the August 4, 1970 proposal by the U.S. for bans on production, testing and deployment of all mobile-type ABM systems.

The drafts of May-June 1971 were reviewed by members of the SALT delegation while in Washington. Some of them had sharply differing views on "exotic systems" and other questions.

III

The fifth negotiating session began in Helsinki in early July 1971. After taking into account the President's written instructions, the delegation revised my drafts, cabled texts of an ABM Treaty and an in trim Agreement to Washington, and sought authorization to table them in a plenary session. On the "exotic systems" questions, the delegation was split. Gerard Smith wrote in Doubletalk: The Story of SALT I (Doubleday, 1980), that he and Harold Brown supported a broad ban; Paul Nitze concurred except for sensors; but General Allison and Ambassador Parsons favored no restraints at all on "exotic systems" (pp. 263-65).

The delegation was subsequently authorized to table the text of both agreements, which it did on July 27, but with the article in the ABM Treaty covering space-based systems omitted. The Verification Panel in Washington was still analyzing the "exotic systems" question. Eventually, the President rejected an ABM ban which Ambassador Smith had urged, but about the same time he approved a White House staff compromise to the basic Smith-Brown position on "exotic systems" which would prohibit (1) the deployment of fixed land-based and (2) the development, testing and deployment of all other basing modes. The Joint Chiefs of Staffs were particularly interested in preserving the option to develop and test fixed-land-based lasers. The President's decision preserved this option, as does the ABM Treaty itself. See John Newhouse, Cold Dawn: The Story of SALT (Holt, Reinhart, 1973), pp. 230-31, 237; Raymond L. Garthoff, Detente and Confrontation: American-Soviet Relations from Nixon to Reagan (Brookings Institution, 1985) ch. 5.

The U.S. delegation filled in the blank Article in its ABM Treaty in mid-August 1971. The Soviets initially balked at discussing, let alone agreeing to any limitations on, "exotic systems". They were probably without any instructions on this issue and may have felt the U.S. was on an intelligence-fishing expedition. Progress was soon made nevertheless. Various working groups and a drafting group were set up to seek agreement issue by issue. Joint Draft Texts of the Soviet and U.S. drafts of the Treaty were prepared with disagreed language, which at first was extensive, in brackets.

The Graybeal-Karpov Working Group focused on Article V. (Sid Graybeal was later the US Commissioner to the Standing Consultative Commission. Victor Karpov is currently the head of the Soviet delegation in Geneva.) Before the conclusion of the fifth negotiating session in September 1971, the Graybeal-Karpov working group agreed, ad referendum to the two delegations, that current Article V(1) covered "current" as well as "exotic" technologies. The U.S. delegates agreed that the Americans on this working group (which included Albert Carnesale, now at the Kennedy School at Harvard) had carried out the President's instructions. The brackets around "develop" in that paragraph in Article V in the Joint Draft Text were subsequently removed in the drafting group during the sixth negotiating session after both delegations had noted their approval. The Administration now contends that either the Soviets never agreed with the U.S. interpretation or that the Soviets later modified their agreement or changed their interpretation during negotiations over Agreed Statement D. The U.S. members on this Working Group would sharply differ with this view.

The major sticking point then, and through late into the sixth negotiating session, was on fixed land-based systems. U.S. instructions were to preserve the right to develop and test, but not to deploy, fixed land-based lasers. Accordingly, the U.S. delegation insisted that Article II should authorize deployment of only ABM systems and components which are based on "current" technology. Further, development and testing, whatever the technology, of fixed land-based systems and components could be carried out only at ABM test ranges. The Soviets resisted any limitations on fixed land-based "exotic systems". As John Newhouse, who many believe was given at least some access to NSC files, wrote (Cold Dawn, p. 237):

"Back in the summer, Moscow's attitude, as reflected by its delegation, had been sympathetic. Then, in the autumn, it hardened, probably under pressure from the military bureaucracy. Washington was accused of injecting an entirely new issue. Moscow would not agree to a ban on future defensive systems, except for those that might be space-based, sea-based, air-based, or mobile land-based. The U.S. delegation persisted and was rewarded. Land-based exotics would also be banned. The front channel had produced an achievement of incalculable value."

IV

The Article III issue was not resolved until late in the sixth (Vienna in November 1971-February 1972) negotiating session. It was handled principally in the Garthoff and Kishilov or Grinevsky working group and also in the Garthoff-Parsons-Kishilov/Grinevsky group (Ray Garthoff and Nicolai Kishilov were the executive secretaries of the respective delegations.) The U.S. proposed the "currently consisting of" phrase which was agreed upon for Article II to make clear that the Treaty was not limited to "traditional" technology. The U.S. proposal for the "except that" formulation for Article III was accepted which made clear that fixed land-based "exotic" systems could not be deployed. The ban against a nationwide defense or "base" for such a defense in Article I(2), which was a Soviet initiative intended in part to deal with "exotic systems", was agreed. In each case, agreement was ad referendum to the delegations. Together, these textual provisions completed all the key words in the Treaty relating to "exotic systems".

An agreed interpretation tied to Articles I and III was first proposed by Garthoff in

mid-December 1971. I distinctly recollect advising that no supplementary interpretation was technically necessary. The U.S. effort, therefore, was to reinforce the clear meaning of the specific Article III and the more general Article I(2).

The U.S. had originally proposed a paragraph for the Treaty in August 1971. It stated: "Each party undertakes not to deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers or ABM radars to perform the functions of these components". Doubletalk, pp. 265, 343-44. The Soviets balked at any Treaty language and, subsequently, the initial U.S. proposal for an agreed interpretation. Eventually the Soviets proposed a counter draft. This was modified several times at U.S. insistence (including the insertion of the opening phrase "In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty * * *"). The reference to Article XIV in Agreed Statement D indicated that the Treaty would have to be amended before a fixed land-based "exotic," such as a laser, could be deployed. The final compromise language was proposed by Garthoff to the Soviets in late January 1972 and early in February Kishilov informed Garthoff of Soviet agreement. This was eventually noted in an US plenary statement. Agreed Statement D and the other Agreed Statements were initialed on May 26, 1972 by Ambassadors Smith and Semenov.

Agreed Statement D refers to, and interprets, Article III only, although the reference to "other physical principles" and "components capable of substituting for" are equally applicable to Article V(1). While the language is admittedly opaque, the U.S. has always understood that Agreed Statement D reinforced Articles I(2) and III and reinforced the prohibition on deployment of fixed land-based "exotic systems" unless and until the Treaty is amended. Finally, and most importantly, Agreed Statement D certainly does not diminish or amend Article V(1) and the other substantive Articles such as I(2), IV, V(2) and IX.

V

During the seventh negotiating session, I prepared detailed memoranda on both the ABM Treaty and the Interim Agreement intended to serve four distinct purposes: (1) inform the delegation on what was agreed with the Soviets and what was not; (2) suggest whether the U.S. should consider seeking one or more Agreed Statements to provide more specific interpretations; (3) indicate what types of weapons programs, current and future, were prohibited and permitted; and (4) serve as the basis for the eventual transmittal documents to Congress and background for the Congressional hearings.

Successive drafts of my memoranda were shared within the delegation. Where there was any doubt that a matter was agreed, the proposition was enclosed in brackets. The brackets were removed only after I, and others on the U.S. delegation, were satisfied. I constantly revised the drafts as issues were reviewed. The draft memoranda were never made "final."

In certain cases the U.S. delegation sought and achieved Agreed Statements. In others it did not seek them. Some matters were judged agreed, while others were not. To the best of my recollection, the U.S. delegation never sought an Agreed Statement confirming that Article V(1) covered "exotic systems." We probably felt that seeking further specific agreement was unnecessary and would not be productive. In any event, I am absolutely certain that my contemporaneous advice to the U.S. delegation on the scope of Articles III and V(1) with respect to "exotic" systems was clear and that none of the delegates nor their advisors (State, ACDA, JCS and OSD) disagreed with that advice. I recall no indication that the Soviets thought otherwise.

During SALT I the US delegation, and particularly Washington, did not insist on the kind of precision reached in the SALT II Treaty with its 98 Agreed Statements and Common Understandings. The Soviets stubbornly resisted the level of textual detail the US had initially sought at SALT I. Neither the President nor Henry Kissinger cared much for detail. During the final three negotiating sessions, the US delegation made ad hoc decisions on how the Presidential instructions should be sought and recorded on many issues, how hard to push for additional clarity, and what sufficed, but constantly reported to Washington.

In one instance relating to the ABM Treaty ("current" Soviet ABM test ranges), the U.S. delegation identified the two US ABM test ranges and the Soviet test range at Sary Shagan. The Soviet response noted national technical means permitted the identification of test ranges. (The U.S. and Soviet statements are set forth in Common Understanding B.) The U.S. delegation noted immediately that the Soviets did not respond to the U.S. identification of Sary Shagan as their ABM test range, but the delegation believed the Soviet response reflected extreme Soviet sensitivity to any discussion of their test range. However, in the mid-1970s the Soviets claimed a second "current" ABM test range at Kamchatka based on the presence of an old rader. Paul Nitze has referred to this negotiating technique as unworthy of bazaar traders. I agree. The U.S. eventually accepted the Soviet claim in 1978 because there was a factual basis for it, but learned from this example, and particularly from the Moscow Summit negotiations on the Interim Agreement, that explicit agreement and written precision is important. The SALT II documentation reflects this learning.

SALT I, however, did not have this benefit of later-day hindsight indicating the need for precision and detailed Agreed Statements and Common Understandings reflected in the SALT II Treaty. Some of the SALT I underlying understandings are reflected in formal plenary statements, others in the less formal mini-plenary statements and some in working documents, memoranda of conversations ("memcons") and reporting cables. Agreement was reached ad referendum in one or more working groups, approved by the two delegations, referred to the drafting group, to the interpreters, etc. On many points there will not be simple, clear documentation. In addition, the U.S. government (but not the Soviets) has lost most of its SALT I historical memory.

Some interpretation matters were in 1972, and remain today, ambiguous and need clarification. The dividing line between permitted "research" and prohibited "develop" and "test" is not clear, nor is the related meaning of "component," in the broad prohibitory context of banning "exotic systems" under Article V(1). There is no Agreed Statement on either issue. The former was discussed in a formal statement delivered by Harold Brown and a general understanding, although not a fully documented record, was reached. I do not recall any discussion of the latter with the Soviets.

VII

The SALT delegation remained in Helsinki until agreement on open points, primarily the Interim Agreement, was reached at the Moscow Summit. When the delegation returned to Washington, and the transmittal documents and Congressional statements were being prepared under White House control, Henry Kissinger directed that all "understandings" be culled from the negotiating record and made public to refute criticism of secret agreements. This was the derivation of the SALT I Common Understandings. The search of the files for Common Understandings limited. It did not cover all the myriad of agreed understandings reached in less formal ways during the negotiations.

The hearings before the Senate Foreign Relations Committee, and particularly the Senate Armed Services Committee, led to a much fuller public record on many of the nuances. Some of the initial testimony of officials was not clear, but the record was frequently supplemented. This includes the statement for the record of the Senate Armed Services Committee, prepared after inter-agency review of reporting cables, on the difference between research and development for purposes of Article V. It includes explicit confirmations submitted by Secretary of Defense Melvin Laird, Under Secretary for DDR&E John Foster, and Acting Chief of Staff of the Army General Palmer, all to Senator Jackson, that development and testing, as well as deployment, of space-based "exotic systems" were prohibited. Senator Jackson (D, Wash.), who was a sharp critic of SALT I but voted in favor of the ABM Treaty, understood this point clearly. He was probably the most knowledgeable Senator on the impact of SALT I on weapons programs. Finally, Senator James Buckley (R, NY) stated on the Senate floor on August 3, 1972 that he opposed the ABM Treaty and would vote *against* it largely because of this prohibition. He said:

"Thus the agreement goes so far as to prohibit the development, test or deployment of sea, air or space based ballistic missile defense systems. This clause, in article V of the ABM treaty, would have the effect, for example, of prohibiting the development and testing of a laser type system based in space which could at least in principle provide an extremely reliable and effective system of defense against ballistic missiles. The technological possibility has been formally excluded by this agreement."

The vote in favor of advice and consent to ratification was 88-2.

VIII

I resigned from government in June 1972 after the transmittal documents had been sent to Congress and before the hearings. While I later served at HEW as General Counsel and at HUD as Under Secretary between 1973 and 1977, I have had no official role in the SALT process since June 1972. I left behind at ACDA two complete file cabinets of all my working papers which I have not seen since 1972. I understand they were later sent to a warehouse by ACDA and the files cannot now be located although copies of some documents, including at least the last two drafts of my memoranda analyzing the ABM Treaty, were preserved by the JCS and perhaps in some other files.

In 1972-73 while in private practice, I coedited a book on SALT and wrote chapter 5 on "The SALT I Agreements." I have attached to this statement the pages from

that chapter (Willrich and Rhinelander (editors), SALT: The Moscow Agreements and Beyond (Free Press, 1974)) on the ABM Treaty (Exhibit D). Pages 128-29 and 134 are directly on point with respect to "exotic systems." They summarize my immediate recollection of the advice I gave to the U.S. delegation which was the basis for the Executive position before, during and after the ratification process. Prior to publication of the book, I informally cleared my chapter with government officials to ensure both accuracy and non-disclosure of sensitive information.

Over the past eight years, I have been informally queried on various issues by officials at the JCS, OSD, State, ACDA and the CIA. One question in the late 1970s was whether there were any deployment limits on fixed land-based "exotic systems." This question had been reopened in OSD, sharply debated with JCS supporting the traditional U.S. position, and then correctly resolved. This question also involved Agreed Statement D, but in this case the OSD argument was that there were no deployment limits under Article III on fixed land-based "exotic systems" and only an obligation to discuss. This is almost the exact reverse of the Reagan Administration's "reinterpretation" which now claims the deployment limits in Agreed Statement D prohibits only deployment of systems referred to in Articles III and V(1).

To the best of my knowledge, the challenge to Article V(1) within the Executive arose only recently although the Heritage Foundation circulated a Backgrounder dated April 4, 1985 rejecting the traditional interpretation. A footnote stated it was authored by an unnamed government official.

This past spring I co-authored with Tom Longstreth and John Pike a booklet on The Impact of U.S. and Soviet Ballistic Missile Defense Programs on the ABM Treaty, National Campaign to Save the ABM Treaty (March 1985). In April, I testified before this Subcommittee and excerpts from my formal statement were reprinted in Arms Control Today (May 1985). In July I presented a paper at a SIPRI conference which sets forth my most recent analyses and recommendations. A copy of the latter, as revised in August, is attached as Exhibit E. These documents reflect my views on the correct interpretations of the ABM Treaty and basic issues raised by current U.S. and Soviet BMD programs.

In my judgment, the FY85 Arms Control Impact Statement prepared by the Reagan Administration correctly states the agreement reached with the Soviets in 1971-72 on the meaning of Article V(1). It provides (pp. 251-52):

"The ABM Treaty bans the development, teasting and deployment of *all* ABM systems and components that are sea-based, air-based, space-based or mobile land-based. . . . The ABM Treaty prohibition on development, testing and deployment of space-based ABM systems, or components for such systems, *applies to directed energy technology (or any other technology used for this purpose.)* Thus, when such directed energy programs enter the field testing phase they become constrained by these ABM Treaty obligations." [Emphasis added.]

The SDI Report to Congress (April 1985), especially Appendix B, is consistent with this statement.

IX

In the Soviet parliamentary ratification deliberations, the First Deputy Minister of Foreign Affairs, Vasily V. Kuznetsov, "on behalf of the Soviet Government," gave the Presidium of the Supreme Soviet the official Soviet position on the ABM Treaty. He said that, "The sides pledge themselves not to create or develop ABM systems or components emplaced in the sea, the air or space or of a mobile ground type. * * *" He presented this as a clear obligation of the Treaty as a whole. (See Pravda, September 30, 1972, as translated in FBIS, Oct. 3, 1972).

Based on my review of available documents, the Soviets had not explicitly tied this interpretation to "exotic systems" in public until recently although their statements implicitly supported this as the only interpretation of the entire Treaty, including Article V(1). However, general Secretary Gorbachev's written response to *TIME* states, "In our view, it [SDI] is the first stage of the project to *develop a new ABM system prohibited under the Treaty of 1972.* See *TIME* (Sept. 9, 1985), p. 24. [Emphasis added.] (See also Soviet documents printed in *Ballistic Missile Defense Technologies* (OTA, 1985) pp. 312-15.)

Specific Soviet responses to the US "reinterpretation" which was made first on television and then repeated in the press are contained in FBIS on October 9 and 10. They include the translation of a TASS commentary and an English-language TASS article. The former, as translated by FBIS, includes:

"According to the CBS television company, one of the latest administration reports contains the 'conclusion' that the antimissile defense treaty, which strictly restricts the development [sozdaniye] of antimissiles, allegedly does not restrict the development [razrabotka] and testing of "exotic" types of weapons—Laser and beam weapons—at all. It is quite clear which way such "interpreters" are taking the matter. Having just the other day tested land-based laser installations, the United States is now planning to site a laser weapon on board a space-craft and test it directly in space.

"It would evidentally not be inappropriate to remind some people in Washington yet again that the antimissile defense treaty (Article 5) prohibits both the development [sozadaniey] and testing of space-based antimissile defense systems or components. The treaty provisions relate to any systems designed, as defined by Article 2, for fighting against strategic ballistic missiles or their elements on flight trajectories. Since the antimissile defense components being created within the "star wars" program are designed for precisely this purpose, that is are intended to replace the antimissiles mentioned in the treaty (or to act together with antimissiles), all provisions of the treaty relate to these, regardless of the degree of 'exoticness' of their principles of operation. It is high time the irresponsible "interpreters" [tolkovaterli] from Washington gave up their useless and dangerous occupation, listened to the voice of the world public, which they are trying to delude, and directed their efforts to positive goals. And they do have something to think over: The set of Soviet initiatives offers broad scope for constructivism."

Finally, Marshal Sergei Akhormeyev, the Chief of the Soviet General Staff, made lengthy comments in an article in Pravda. He said the ABM Treaty "unambiguously bans" the development, testing and deployment of space-based ABM systems. See New York Times, October 19, 1985 (Exhibit F). Marshall Akhromeyev explictly confirms the historic U.S. position of the ban on space-based "exotic systems." The Subcommittee should obtain the full FBIS translation of these comments as soon as they are available and include them in the record of these hearings.

The Administration's justification for its "reinterpretation" is that the Soviets cannot be held to comply with the historic U.S. position. Instead of reinterpretating the clear text of the 1972 Treaty based on a selective review of the classified U.S. negotiating records, the better approach would have been to ask the Soviet negotiators in private in Geneva (and specifically Ambassador Karpov who had a crucial role on this issue at SALT I) whether or not the Soviet Union agrees that Article V(1) bans the developments, testing and deployment of "exotic systems." If the private Soviet response had been "no," then the Administration's "reinterpretation" would have been justified.

If the private Soviet response in Geneva were "yes," as one would expect from their public statements since 1972, then the October 6 "reinterpretation" and the October 13 recanting by the Administration would have been unnecessary. Agreed Statements on the basic points could have been quickly negotiated if deemed necessary for clarity.

If a private but positive Soviet response in Geneva were now rejected by the U.S. as "too late" because the U.S. wanted to keep open the option of reasserting its "reinterpretation," then the OSD motive behind the initial change in U.S. position—to erode immediately and eventually destroy the ABM Treaty—would be clear.

X

As I have testified, written and spoken in various forums in the past two years, the challenge now is to strengthen the ABM Treaty through specific, mutual and verifiable Agreed Statements and Common Understandings. Six former Secretaries of Defense endorsed the importance of the Treaty and the need to strengthen it before this controversy broke (see Exhibit G).

Of course the Soviets must become responsive on the Krasnoyarsk radar which appears to be a clear violation. The booklet I co-authored this spring contains a series of specific recommendations (see Exhibit H) which were intended to start a constructive process consistent with Secretary Shultz's stated goal of reversing the erosion of the ABM Treaty.

In conclusion, let me suggest approaches for three Agreed Statements based upon, and entirely consistent with, my recollection of the SALT I negotiating record which would clarify the overall scope of the ABM Treaty, particularly Article V(1):

(1) First Agreed Statement to Article II(1). As used in this Treaty, "AMB systems." "ABM systems or components," "ABM systems and components" and "ABM systems or their components" include ABM interceptor missiles, ABM launchers, and ABM radars as defined in Article II(1) and any devices based on other physical principles which are capable of substituting for or performing the functions of ABM interceptor missiles, ABM launchers, or ABM radars.

(2) First Agreed Statement to Article V(1). Article V(1) applies to ABM components and any devices based on other physical principles which are capable of substituting for or performing the functions of ABM components, any of which are sea-based, air-based, space-based or mobile land-based.

(3) Second Agreed Statement to Article V(1). As used in Article V(1), "develop"

refers to that stage of the research and development cycle at which field testing, observable by national technical means, is initiated on ABM components or on any devices which are capable of substituting for or performing the functions of ABM components.

The third suggestion is obviously incomplete. It points out the compelling need to begin the difficult process of resolving some of the ambiguities inherent in the ABM Treaty. The Standing Consultative Commission (SCC) was established with this as one of its assigned tasks. The SCC has been underutilized. The SCC could easily, and quickly, also review and revise Agreed Statement D to make its intended meaning clearer. A starter in replacing Agreed Statement D could be:

First Agreed Statement to Article III. Article III prohibits the deployment of fixed land-based devices based on other physical principles which are capable of substituting for or performing the functions of fixed land-based ABM systems or components as defined in Article II(1).

First Agreed Statement to Article IV. Fixed land-based devices based on other physical principles which are capable of substituting for or performing the functions of ABM components as defined in Article II(1) may be developed and tested at ABM test ranges described in Article IV.

First Agreed Statement to Article XIV(1). Any obligation in this Treaty may be discussed in accordance with Article XIII and an amendment adopted in accordance with Article XIV.

The six suggested Agreed Statements do not even touch on the question of distinguishing a "component," or device capable of substituting for or performing the function of a component, from a "subcomponent," assembly, adjunct, etc., or the equally difficult question of distinguishing ABM-related space-based sensors from space-based sensors for early warning or for other purposes. Counting rules, presumptions, and ad hoc approaches will all be necessary. These challenges will be truly difficult even with the best of intents.

Before constructive steps can start, however, and assuming the Soviets are prepared to negotiate and not just posture, the President should publicly repudiate the legal advice he has recently received from his advisors on a narrow scope of Article V(1) and other critical Articles of the ABM Treaty. Congress could contribute to this result by approving an amendment to the pending DOD appropriations bill which limits fund expenditures to the legal standard in the FY85 Arms Control Impact Statement. This would be a positive step as negotiations continue with the Soviets prior to the Summit.

This whole sorry business could lead to a constructive ending if the U.S. and Soviets were to agree privately in Geneva, before, at or after the Summit, on Agreed Statements along the lines that I have suggested. These should be only the first of many steps needed to avoid further erosion of the ABM Treaty of 1972.

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE LIMITATION OF ANTI-BALLISTIC MISSILE SYSTEMS

Signed at Moscow May 26, 1972
Ratification advised by U.S. Senate August 3, 1972
Ratified by U.S. President September 30, 1972
Proclaimed by U.S. President October 3, 1972
Instruments of ratification exchanged October 3, 1972
Entered into force October 3, 1972

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties,

Proceeding from the premise that nuclear war would have devastating consequences for all mankind,

Considering that effective measures to limit anti-ballistic missile systems would be a substantial factor in curbing the race in strategic offensive arms and would lead to a decrease in the risk of outbreak of war involving nuclear weapons,

Proceeding from the premise that the limitation of anti-ballistic missiles systems, as well as certain agreed measures with respect to the limitation of strategic offensive arms, would contribute to the creation of more favorable conditions for further negotiations on limiting strategic arms,

Mindful of their obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to take effective measures toward reductions in strategic arms, nuclear disarmament, and general and complete disarmament,

Desiring to contribute to the relaxation of international tension and the strengthening of trust between States,

Have agreed as follows:

ARTICLE I

1. Each party undertakes to limit anti-ballistic missile (ABM) systems and to adopt other measures in accordance with the provisions of this Treaty.

2. Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region except as provided for in Article III of this Treaty.

ARTICLE II

1. For the purpose of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of:

(a) ABM interceptor missiles, which are interceptor missiles constructed and deployed for an ABM role, or of a type tested in an ABM mode;

(b) ABM launchers, which are launchers constructed and deployed for launching ABM interceptor missiles; and

(c) ABM radars, which are radars constructed and deployed for an ABM role, or of a type tested in an ABM mode.

2. The ABM system components listed in paragraph 1 of this Article include those which are:

(a) operational;

(b) under construction;

(c) undergoing testing;

(d) undergoing overhaul, repair or conversion; or

(e) mothballed.

ARTICLE III

Each Party undertakes not to deploy ABM systems or their components except that:

(a) within one ABM system deployment area having a radius of one hundred and fifty kilometers and centered on the Party's national capital, a party may deploy: (1) no more than one hundred ABM launchers and no more than one hundred ABM interceptor missiles at launch sites, and (2) ABM radars within no more than six ABM radar complexes, the area of each complex being circular and having a diameter of no more than three kilometers; and

(b) within one ABM system deployment area having a radius of one hundred and fifty kilometers and containing ICBM silo launchers, a Party may deploy: (1) no more than one hundred ABM launchers and no more than one hundred ABM interceptor missiles at launch sites, (2) two large phased-array ABM radars comparable in potential to corresponding ABM radars operational or under construction on the date of signature of the Treaty in an ABM system deployment area containing ICBM silo launchers, and (3) no more than eighteen ABM radars each having a potential less than the potential of the smaller of the above-mentioned two large phased-array ABM radars.

ARTICLE IV

The limitations provided for in Article III shall not apply to ABM systems or their components used for development or testing, and located within current or additionally agreed test ranges. Each Party may have no more than a total of fifteen ABM launchers at test ranges.

ARTICLE V

1. Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based.

2. Each Party undertakes not to develop, test, or deploy ABM launchers for launching more than one ABM interceptor missile at a time from each launcher, not to modify deployed launchers to provide them with such a capability, not to develop, test, or deploy automatic or semi-automatic or other similar systems for rapid reload of ABM launchers.

ARTICLE VI

To enhance assurance of the effectiveness of the limitations on ABM systems and their components provided by the Treaty, each Party undertakes:

(a) not to give missiles, launchers, or radars, other than ABM interceptor missiles, ABM launchers, or ABM radars, capabilities to counter strategic ballistic missiles or their elements in flight trajectory, and not to test them in an ABM mode, and

(b) not to deploy in the future radars for early warning of strategic ballistic missile attack except at locations along the periphery of its national territory and oriented outward.

ARTICLE VII

Subject to the provisions of this Treaty, modernization and replacement of ABM systems or their components may be carried out.

ARTICLE VIII

ABM systems or their components in excess of the numbers or outside the areas specified in this Treaty, as well as ABM systems or their components prohibited by this Treaty, shall be destroyed or dismantled under agreed procedures within the shortest possible agreed period of time.

ARTICLE IX

To assure the viability and effectiveness of this Treaty, each Party undertakes not to transfer to other States, and not to deploy outside its national territory, ABM systems or their components limited by this Treaty.

ARTICLE X

Each Party undertakes not to assume any international obligations which would conflict with this Treaty.

ARTICLE XI

The Parties undertake to continue active negotiations for limitations on strategic offensive arms.

ARTICLE XII

1. For the purpose of providing assurance of compliance with the provisions of this Treaty, each Party shall use national technical means of vertification at its disposal in a manner consistent with generally recognized principles of international law.

2. Each Party undertakes not to interfere with the national technical means of verification of the other Party operating in accordance with paragraph 1 of this Article.

3. Each Party undertakes not to use deliberate concealment measures which impede verification by national technical means of compliance with the provisions of this Treaty. This obligation shall not require changes in current construction, assembly, conversion, or overhaul practices.

ARTICLE XIII

1. To promote the objectives and implementation of the provisions of this Treaty, the Parties shall establish promptly a Standing Consultative Commission, within the framework of which they will:

(a) consider questions concerning compliance with the obligations assumed and related situations which may be considered ambiguous;

(b) provide on a voluntary basis such information as either Party considers necessary to assure confidence in compliance with the obligations assumed;

(c) consider questions involving unintended interference with national technical means of verification;

(d) consider possible changes in the strategic situation which have a bearing on the provisions of this Treaty;

(e) agree upon procedures and dates for destruction or dismantling of ABM systems or their components in cases provided for by the provisions of this Treaty;

(f) consider, as appropriate, possible proposals for further increasing the viability of this Treaty; including proposals for amendments in accordance with the provisions of this Treaty;

(g) consider, as appropriate, proposals for further measures aimed at limiting strategic arms.

2. The Parties through consultation shall establish, and may amend as appropriate, Regulations for the Standing Consultative Commission governing procedures, composition and other relevant matters.

ARTICLE XIV

1. Each Party may propose amendments to this Treaty. Agreed amendments shall enter into force in accordance with the procedures governing the entry into force of this Treaty.

2. Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.

ARTICLE XV

1. This Treaty shall be of unlimited duration.

2. Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to the other Party six months prior to withdrawal from the Treaty. Such notice shall include a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests.

ARTICLE XVI

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of each Party. The Treaty shall enter into force on the day of the exchange of instruments of ratification.

2. This Treaty shall be registered pursuant to Article 102 of the Charter of the United Nations.

Done at Moscow on May 26, 1972, in two copies, each in the English and Russian languages, both texts being equally authentic.

For the United States of America: RICHARD NIXON, *President of the United States of America.*

For the Union of Soviet Socialist Republics: L.I. BREZHNEV, *General Secretary of the Central Committee of the CPSU.*

AGREED STATEMENTS, COMMON UNDERSTANDINGS, AND UNILATERAL STATEMENTS REGARDING THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE LIMITATION OF ANTI-BALLISTIC MISSILES

1. AGREED STATEMENTS

The document set forth below was agreed upon and initiated by the Heads of the Delegations on May 26, 1972 (letter designations added):

AGREED STATEMENTS REGARDING THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE LIMITATION OF ANTI-BALLISTIC MISSILE SYSTEMS

[A]

The Parties understand that, in addition to the ABM radars which may be deployed in accordance with subparagraph (a) of Article III of the Treaty, those non-phased-array ABM radars operational on the date of signature of the Treaty within the ABM system deployment area for defense of the national capital may be retained.

[B]

The Parties understand that the potential (the product of mean emitted power in watts and antenna area in square meters) of the smaller of the two large phased-array ABM radars referred to in subparagraph (b) of Article III of the Treaty is considered for purposes of the Treaty to three million.

[C]

The Parties understand that the center of the ABM system deployment area centered on the national capital and the center of the ABM system deployment area containing ICBM silo launchers for each Party shall be separated by no less than thirteen hundred kilometers.

[D]

In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles. ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

[E]

The Parties understand that Article V of the Treaty includes obligations not to develop, test or deploy ABM interceptor missiles for the delivery by each ABM interceptor missile of more than one independently guided warhead.

[F]

The Parties agree not to deploy phased-array radars having potential (the product of mean emitted power in watts and antenna area in square meters) exceeding three million, except as provided for in Articles III, IV and VI of the Treaty, or except for the purposes of tracking objects in outer space or for use as national technical means of verification.

[G]

The Parties understand that Article IX of the Treaty includes the obligation of the US and the USSR not to provide to other States technical descriptions or blue prints specially worked out for the construction of ABM systems and their components limited by the Treaty.

2. COMMON UNDERSTANDINGS

Common understanding of the Parties on the following matters was reached during the negotiations:

A. Location of ICBM defenses

The U.S. Delegation made the following statement on May 26, 1972:

Article III of the ABM Treaty provides for each side one ABM system deployment area centered on its national capital and one ABM system deployment area containing ICBM silo launchers. The two sides have registered agreement on the following statement: "The Parties understand that the center of the ABM system deployment area centered on the national capital and the center of the ABM system deployment area containing ICBM silo launchers for each Party shall be separated by no less than thirteen hundred kilometers." In this connection, the U.S. side notes that its ABM system deployment area for defense of ICBM silo launchers, located west of the Mississippi River, will be centered in the Grand Forks ICBM silo launcher deployment area. (See Agreed Statement [C].)

B. ABM test ranges

The U.S. Delegation made the following statement on April 26, 1972:

Article IV of the ABM Treaty provides that "the limitations provided for in Article III shall not apply to ABM systems or their components used for development or testing, and located within current or additionally agreed test ranges." We believe it would be useful to assure that there is no misunderstanding as to current ABM test ranges. It is our understanding that ABM test ranges encompass the area within which ABM components are located for test purposes. The current U.S. ABM test ranges are at White Sands, New Mexico, and at Kwajalein Atoll, and the current Soviet ABM test range is near Sary Shagan in Kazakhstan. We consider that non-phased array radars of types used for range safety or instrumentation purposes may be located outside of ABM test ranges. We interpret the reference in Article IV to "additionally agreed test ranges" to mean that ABM components will not be located at any other test ranges without prior agreement between our Governments that there will be such additional ABM test ranges.

On May 5, 1972, the Soviet Delegation stated that there was a common under-

standing on what ABM test ranges were, that the use of the types of non-ABM radars for range safety or instrumentation was not limited under the Treaty, that the reference in Article IV to "additionally agreed" test ranges was sufficiently clear, and that national means permitted identifying current test ranges.

C. Mobile ABM systems

On January 29, 1972, the U.S. Delegation made the following statement:

Article V(1) of the Joint Draft Text of the ABM Treaty includes an undertaking not to develop, test, or deploy mobile land-based ABM systems and their components. On May 5, 1971, the U.S. side indicated that, in its view, a prohibition on deployment of mobile ABM systems and components would rule out the deployment of ABM launchers and radars which were not permanent fixed types. At that time, we asked for the Soviet view of this interpretation. Does the Soviet side agree with the U.S. side's interpretation put forward on May 5, 1971?

On April 13, 1972, The Soviet Delegation said there is a general common understanding on this matter.

D. Standing consultative commission

Ambassador Smith made the following statement on May 22, 1972:

The United States proposes that the sides agree that, with regard to initial implementation of the ABM Treaty's Article XIII on the Standing Consultative Commission (SCC) and of the consultation Articles to the Interim Agreement on offensive arms and the Accidents Agreement,[1] agreement establishing the SCC will be worked out early in the follow-on SALT negotiations; until that is completed, the following arrangements will prevail; when SALT is in session, any consultation desired by either side under these Articles can be carried out by the two SALT Delegations; when SALT is not in session, *ad hoc* arrangements for any desired consultations under these Articles may be made through diplomatic channels.

Minister Semenov replied that, on an *ad referendum* basis, he could agree that the U.S. statement corresponded to the Soviet understanding.

E. Standstill

On May 6, 1972, Minister Semenov made the following statement:

In an effort to accommodate the wishes of the U.S. side, the Soviet Delegation is prepared to proceed on the basis that the two sides will in fact observe the obligations of both the Interim Agreement and the ABM Treaty beginning from the date of signature of these two documents.

In reply, the U.S. Delegation made the following statement on May 20, 1972:

The U.S. agrees in principle with the Soviet statement made on May 6 concerning observance of obligations beginning from date of signature but we would like to make clear our understanding that this means that, pending ratification and acceptance, neither side would take any action prohibited by the agreements after they had entered into force. This understanding would continue to apply in the absence of notification by either signatory of its intention not to proceed with ratification or approval.

The Soviet Delegation indicated agreement with the U.S. statement.

[1] See Article 7 of Agreement to Reduce the Risk of Outbreak of Nuclear War Between the United States of America and the Union of Soviet Socialist Republics, signed Sept. 30, 1971.

3. UNILATERAL STATEMENTS

The following noteworthy unilateral statements were made during the negotiations by the United States Delegation:

A. Withdrawal from the ABM Treaty

On May 9, 1972, Ambassador Smith made the following statement:

The U.S. Delegation has stressed the importance U.S. Government attaches to achieving agreement on more complete limitations on Strategic offensive arms, following agreement on an ABM Treaty and on an Interim Agreement on certain measures with respect to the limitation of strategic offensive arms. The U.S. Delegation believes that an objective of the follow-on negotiations should be to constrain and reduce on a long-term basis threats to the survivability of our respective strategic retaliatory forces. The USSR Delegation has also indicated that the objectives of SALT would remain unfulfilled without the achievement of an agreement providing for more complete limitations on strategic offensive arms. Both sides recognize that the initial agreement would be steps toward the achievement of more complete limitations on strategic arms. If an agreement providing for more complete strategic offensive arms limitations were not achieved within five years, U.S. supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal for the ABM Treaty. The U.S. does not wish to see such a situation occur, nor do we believe that the USSR does. It is because we wish to prevent such a situation that we emphasize the importance the U.S. Government attaches to achievement of more complete limitations on strategic offensive arms. The U.S. Executive will inform the Congress, in connection with Congressional consideration of the ABM Treaty and the Interim Agreement, of this statement of the U.S. position.

B. Tested in ABM mode

On April 7, 1972, the U.S. Delegation made the following statement:

Article II of the Joint Text Draft uses the term "tested in an ABM mode," in defining ABM components, and Article VI includes certain obligations concerning such testing. We believe that the sides should have a common understanding of this phase. First, we would note that the testing provisions of the ABM Treaty are intended to apply to testing which occurs after the date of signature of the Treaty, and not to any testing which may have occurred in the past. Next, we would amplify the remarks we have made on this subject during the previous Helsinki phase by setting forth the objectives which govern the U.S. view on the subject, namely, while prohibiting testing of non-ABM components for ABM purposes: not to prevent testing of ABM components, and not to prevent testing of non-ABM components for non-ABM purposes. To clarify our interpretation of "tested in an ABM mode," we note that we would consider a launcher, missile or radar to be "tested in an ABM mode" if, for example, any of the following events occur: (1) a launcher is used to launch an ABM interceptor missile, (2) an interceptor missile is flight tested against a target vehicle which has a flight trajectory with characteristics of a strategic ballistic missile flight trajectory, or is flight tested in conjunction with the test of an ABM interceptor missile or an ABM radar at the same test range, or is flight tested to an altitude inconsistent with interception of targets against which air defenses are deployed, (3) a radar makes measurements on a cooperative target vehicle of the kind referred to in item (2) above during the reentry portion of its trajectory or makes measurements in conjunction with the test of an ABM interceptor missile or an ABM radar at the same test range. Radars used for purposes such as range safety or instrumentation would be exempt from application of these criteria.

C. No-transfer article of ABM Treaty

On April 18, 1972, the U.S. Delegation made the following statement:

In regard to this Article [IX], I have a brief and I believe self-explanatory statement to make. The U.S. side wishes to make clear that the provisions of this Article do not set a precedent for whatever provision may be considered for a Treaty on Limiting Strategic Offensive Arms. The question of transfer of strategic offensive arms is a far more complex issue, which may require a different solution.

D. No increase in defense of early warning radars

On July 28, 1970, the U.S. Delegation made the following statement:

Since Hen House radars [Soviet Ballistic missile early warning radars] can detect and track ballistic missile warheads at great distances, they have a significant ABM potential. Accordingly, the U.S. would regard any increase in the defenses of such radars by surface-to-air missiles as inconsistent with an agreement.

WHITE HOUSE REVISES INTERPRETATION OF ABM TREATY

(By Don Oberdorfer)

The Reagan administration, reversing the legal interpretation of previous administrations and some of its own past statements, has denied that testing and development except antiballistic missile systems such as these in the "Star Wars" program are permitted under the 1972 ABM treaty.

The administration's new interpretation of the treaty was confirmed yesterday by a senior White House official who briefed reporters on U.S. objections to the recent Soviet offer of a 50 percent cut in certain offensive missiles in return for a ban on Reagan's Strategic Defense Initiative, or Star Wars. The Soviet offer was described in the briefing as "a place to start" but in its present form one-sided and threatening to U.S. security.

White House national security affairs adviser Robert C. McFarlane volunteered a new interpretation of the 13-year-old Antiballistic Missile treaty in a television program Sunday. Yesterday the senior White House official, who cannot be identified under the ground rules of the news briefing, confirmed that McFarlane's televised remarks reflected what is now the fixed policy of the administration.

Retired ambassador Gerard Smith, chief U.S. negotiator of the ABM treaty, said the administration's interpretation "makes a dead letter" of the treaty. Smith said he believes it would make possible almost unlimited testing and development under Star Wars, and probably also actual "building" of the space-based antimissile system "as long as you did not deploy."

Administration sources said a new interpretation of the treaty had been under discussion and, at times, intense debate since last summer within the administration's Senior Arms Control Group, or SAC-G.

The administration was moving in the direction indicated by McFarlane in recent

weeks—though not to the point of claiming the treaty "authorized and approved" the testing, which were the words McFarlane used Sunday. In administration discussions, sources said, the issue was whether the treaty could be interpreted as permitting such activities. A final decision was "not completely clear" even after McFarlane made his remarks on "Meet the Press," an official said.

One official said the still-secret negotiating record of the ABM treaty is "ambiguous" on the point in question and subject to "a well justified disagreement" within the government. However, this view is disputed by Smith and John Rhinelander, legal counsel to the U.S. delegation that negotiated the ABM treaty.

The nub of the issue is whether an "agreed statement D" between the U.S. and Soviet delegations at the time of the treaty signing on May 26, 1972, gives a broad exemption from the restrictions of the treaty for future types of ABM systems "based on other physical principles" such as lasers and directed-energy weapons. Many elements of the administration's Star Wars research program are based on such exotic technology.

The purpose of agreed statement D, it said, was "to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the treaty," which originally allowed both countries to maintain two conventional ABM systems, based on antimissile missiles.

The agreed statement said that if new ABM systems "based on other physical principles" are created in the future, "specific limitations on such systems and their components would be subject to discussion . . . and agreement in accordance with Article XIV of the treaty"—the article explaining how the treaty could be formally amended.

Until the administration's recent change of mind, that had been interpreted to mean that testing and development of exotic technologies were not legal, except possibly for new versions of fixed, land-based systems that the treaty allowed. Article V of the treaty formally precluded any testing or deployment of "ABM systems or components which are sea-based, air-based, space-based or mobile land-based."

Previously the administration's plans for tests of elements of Star Wars have been justified as complying with the ABM treaty on completely different grounds: that these projects were of such low quality, power or reliability that they did not qualify as "components" of an ABM system, or that they could be modified so as not to appear to be part of an illegal system.

Smith and Rhinelander said it was wrong to interpret the "agreed statement" as sanctioning testing of ABM systems or components that are flatly ruled out elsewhere in the treaty. "It is just impossible that an agreed statement supersedes a provision of the treaty," Smith said.

The administration's 1983, 1984 and 1985 Arms Control Impact Statements submitted to Congress by the Arms Control and Disarmament Agency took the position that the ABM treaty does put restrictions on ABM programs based on "directed energy technology" or other exotic technology "when such DE programs enter the field testing stage." The 1986 Arms Control Impact Statement, submitted this April, omitted that statement. The senior official who confirmed the administration's current position said the Soviet Union had never accepted an interpretation of the treaty that banned "research, testing, development of systems based on other physical principles."

The official said there had been "unilateral statements" made that the treaty ought to limit such exotic systems but he added that "never have the Soviets bought that."

The proposed cutbacks in the new Soviet arms control offer are "inappropriately linked" to the demand that the United States stop its Star Wars program, the senior official told reporters yesterday. "It's a precondition that must be dropped," he said.

That the Soviets have made an offer of deep cuts is "a very good development," and a sign that Reagan's policies have paid off, the official said. U.S. negotiators will pursue the details in Geneva, he added.

Most of the White House presentation, though, was centered on objections to the Soviet proposal, especially inclusion of U.S. Euromissiles and "forward based systems" among the strategic weapons to be cut by half. This would produce "highly unequal" forces with great advantages to Moscow, the official said.

Those two categories described as support for U.S. allies, were said to consume 1,149 of the U.S. entitlement of 1,680 strategic nuclear delivery systems under the Soviet plan. The United States would thus have only 531 missiles or bombers left for deterrence against Soviet nuclear attack, and these would be threatened by a much larger number of Soviet weapons.

The White House also said the Soviet proposal might unfairly hamper U.S. military modernization and could have serious verification problems. These aspects of the Soviet proposal have yet to be fully presented in Geneva, it said.

[From the New York Times, Oct. 14, 1985]

SHADOW ON THE SUMMIT

(By Anthony Lewis)

BOSTON.—It is only a matter of words—a Washington word game, you might say. But the players are after very large stakes. If their gambit works, it will sabotage next month's Reagan-Gorbachev summit meeting. And they have an even more ambitious goal: to remove all constraints on the nuclear arms race.

The game, little noticed outside of Washington, is being played with the words of the 1972 Anti-Ballistic Missile Treaty between the United States and the Soviet Union. For 13 years the treaty has been universally understood to mean what it says: that any ABM system based in space is outlawed. Now the claim is that it means the opposite. Out is in. Down is up.

This amazing proposition was first publicly advanced on television last week by President Reagan's national security adviser. Robert McFarlane. He said the 1972 treaty "approved and authorized" development and testing of space-based ABM systems "involving new physical concepts" such as lasers or directed energy.

In other words, President Reagan's Star Wars program can push ahead without any concern about the ABM treaty. But just last year the Reagan Administration said in a formal statement:

"The ABM treaty prohibition on development, testing and deployment of space-based ABM systems or components for such systems applies to directed-energy technology or any other technology used for this purpose. Thus, when such directed-energy programs enter the field-testing phase, they become constrained by these ABM treaty obligations."

How can that plain meaning have been transformed? By an "interpretation" that ought to embarrass the most brazen lawyer in town.

Article 3 of the 1972 treaty allowed a limited number of fixed, land-based ABM's. Article 5 banned the development, testing and deployment of "sea-based, air-based, space-based or mobile land-based" systems. Then, in "Agreed Statement D," the parties said they would discuss "specific limitations" on exotic new ABM systems if they were "created in the future."

The claim is that statement D permits new kinds of ABM systems unless the parties now agree to limit them. But the American diplomats who negotiated it say the purpose was the opposite. And statement D itself begins by saying that its purpose is "to insure fulfillment of the obligations not to deploy ABM systems and their components except as provided in Article 3."

An old national security hand, asked about the new "interpretation" of the treaty, said: "You've got to admire their brass. They have interpreted it 180 degrees from its intent. The idea is so preposterous that it would be amusing if it were not so serious."

The serious part is the consequences. The new reading would make the ABM treaty "a dead letter," as its chief negotiator, Gerard Smith, said last week. And it will have been killed in a way that casts doubt on the point of making any arms control agreements with the United States.

Treaties are meant to be serious undertakings. This one was negotiated for a purpose that all the world understood, to limit defensive systems. The United States Senate consented to the treaty by a vote of 88 to 2. Thirteen years later America would be telling the world: "The terms are inconvenient to us now, so on second thought they mean nothing."

The summit meeting would almost certainly be doomed to failure if President Reagan now adopts the new reading of the ABM treaty. This meeting is to focus on arms control, and what would be left to say if the United States had just in effect renounced the main existing arms agreement? Mr. Gorbachev would have a propaganda field day.

For all practical purposes, the whole idea of arms control would be dead. With the restraints on defensive systems gone, the Soviet Union would hardly proceed with its recent proposal to cut back on offensive weapons. The impulse would be to an all-out arms race, offensive and defensive.

With consequences so serious, for President Reagan personally and for international security, why would anyone in the Reagan Administration be pushing to read the ABM treaty out of existence? The answer is that the man who surely started this game of words wants the summit to fail and wants all arms control to end.

Richard Perle, Assistant Secretary of Defense, is the Administration's principal thinker on these issues—and is utterly opposed to arms control. The rereading of the ABM treaty has the stamp on it of his clever mind, and his ability to get ideas through the bureaucracy. But Secretary of State Shultz has not yet approved this idea, and there is still a chance that he will try to protect the President from this self-inflicted wound.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS (at the request of Mr. WRIGHT), for today, on account of official business.

SPECIAL ORDERS GRANTED

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

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

Mr. PARRIS, for 60 minutes, October 30, 1985.

Mr. PARRIS, for 60 minutes, October 31, 1985.

Mr. PARRIS, for 60 minutes, November 1, 1985.

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

Mr. BARNES, for 5 minutes, today.

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

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. GAYDOS, for 30 minutes, October 29, 1985.

Mr. GAYDOS, for 30 minutes, October 30, 1985.

EXTENSION OF REMARKS

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

Mr. JACOBS, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,962.

Mr. BERMAN, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $4,506.

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

Mr. MILLER of Washington.

Ms. SNOWE in two instances.

Mr. KINDNESS.

Mr. MOORHEAD.

Mr. GILMAN.

Mr. VANDER JAGT.

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

Mr. MONTGOMERY.

Mr. MAVROULES.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. HAMILTON.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. MORRISON of Connecticut.

Mr. SAVAGE.

Mr. LANTOS.

Mr. FASCELL in two instances.

Mr. MRAZEK.

Mr. LEHMAN of California.

Mr. HOWARD.

Mr. ROYBAL.

Ms. OAKAR.

Mr. MARKEY.

Mr. KASTENMEIER.

Mr. CONYERS.

Mr. BENNETT.

Mr. DYMALLY.

Mr. KANJORSKI in four instances.

SENATE JOINT RESOLUTIONS AND CONCURRENT RESOLUTION REFERRED

Joint resolutions and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 207. Joint resolution to designate November 1, 1985, as "National Philanthropy Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 228. Joint resolution relating to the proposed sales of arms to Jordan; to the Committee on Foreign Affairs.

S. Con. Res. 76. Concurrent resolution asking that the President bring the rights of the Polish people to the attention of the Soviet Government; to the Committee on Foreign Affairs.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2409. An act to amend the Public Health Service Act to revise and extend to the authorities under that act relating to the National Institutes of Health and National Research Institutes, and for other purposes.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 22 minutes p.m.), the House adjourned until tomorrow, Tuesday, October 29, 1985, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2186. A letter from the Acting Assistant Attorney General for Legislative and Intergovernmental Affairs, transmitting a draft of proposed legislation to amend title 28, and title 11 of the United States Code to provide for the appointment of United States trustees to supervise the administration of bankruptcy cases in judicial districts throughout the United States and for other purposes; to the Committee on the Judiciary.

2187. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice of proposed construction of NASA research and development facilities exceeding $500,000, pursuant to Public Law 98-361, section 101(e); to the Committee on Science and Technology.

2188. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting notification of the transfers of authorizations and appropriations of DOD funds, pursuant to Public Law 97-252, section 1101, Public Law 97-377, section 732, Public Law 98-94, section 1201(c), Public Law 98-212, secton 729, Public Law 98-473, section 8025, and Public Law 98-525, section 1501; jointly, to the Committees on Armed Services and Appropriations.

2189. A letter from the Comptroller General, General Accounting Office, transmitting the examination of the Commodity Credit Corporation's Financial Statements for the year ended September 30, 1984, pursuant to 31 U.S.C. 9106(a). jointly, to the Committees on Government Operations, Foreign Affairs and Agriculture.

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:

Mr. ROSTENKOWSKI. Committee on Ways and Means. H.R. 2817. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes; with an amendment (Rept. 99-253, Pt. 2. Ordered to be printed.

Mr. WHITTEN. Committee on Appropriations. Report pursuant to section 302 of the Congressional Budget Act of 1974 (Rept. 99-333). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS. Committee on the Judiciary. H.R. 2713. A bill to amend title 18, United States Code, to modify certain provisions pertaining to restitution, and for other purposes; with an amendment (Rept. 99-334). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS. Committee on the Judiciary. H.R. 3511. A bill to amend title 18, United States Code, with respect to certain bribery and related offenses (Rept. 99-335). Referred to the Committee of the Whole House on the State of the Union.

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. ROYBAL (for himself, Mr. BIAGGI, Mr. MICA, Mr. FRANK, Mr. TAUKE, Mr. JACOBS, Mr. BONER of Tennessee, Mr. SKELTON, Mr. HERTEL of Michigan, Mr. SMITH of Florida,

Mr. HOWARD, Mr. DICKS, Mr. WHITEHURST, Mr. MITCHELL, Mr. MARTINEZ, and Mr. OWENS):

H.R. 3630. A bill to amend part A of title XVIII of the Social Security Act to limit the rate of increase in the inpatient hospital deductible and to charge the extended care coinsurance amount and to amend the Internal Revenue Code of 1954 to increase by 8 cents per pack the excise taxes on cigarettes and to earmark revenues from the tax increase to the Federal Hospital Insurance Trust Fund; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 3631. A bill to amend part A of title XVIII of the Social Security Act to limit the increase in the inpatient hospital deductible and extended services coinsurance amount for 1986; to the Committee on Ways and Means.

By Mr. BROWN of Colorado:

H.R. 3632. A bill to amend the Internal Revenue Code of 1954 to simplify the issuing of tax-exempt bonds by institutions of higher education to finance scientific facilities and equipment; to the Committee on Ways and Means.

By Mr. DIOGUARDI:

H.R. 3633. A bill to require that funds which are deposited in an account at a depository institution by a check drawn on the Treasury of the United States shall be available for withrawal on the next business day after the business day on which such check is deposited, under certain circumstances; to the Committee on Banking, Finance and Urban Affairs.

By Ms. OAKAR:

H.R. 3634. A bill to require the Secretary of the Treasury to deposit in trust funds amounts equal to interest lost to such trust funds through disinvestment by the Secretary during the current fiscal year; to the Committee on Ways and Means.

By Mr. PEPPER:

H.R. 3635. A bill to amend part A of title XVIII of the Social Security Act to reduce the rate of increase of the inpatient hospital deductible and the rate of the extended care coinsurance amount; to the Committee on Ways and Means.

By Mr. SUNDQUIST (for himself, Mr. FRANKLIN and Mr. ROBERT F. SMITH):

H.R. 3636. A bill to establish a Department of Trade and for other purposes; to the Committee on Government Operations.

By Ms. SNOWE:

H. Con. Res. 221. Concurrent resolution to express the sense of the Congress that Medicare patients are entitled to accurate and timely information regarding their Medicare benefits; jointly, to the Committees on Ways and Means and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 580: Mr. GLICKMAN.

H.R. 871: Mr. COLEMAN of Texas.

H.R. 1047: Ms. SNOWE and Mr. TRAFICANT.

H.R. 1145: Mr. AKAKA, Mr. PEASE, and Mr. CONYERS.

H.R. 1430: Mr. FORD of Tennessee, Mr. ACKERMAN, and Mr. KASTENMEIER.

H.R. 1616: Mr. WRIGHT, Mr. ALEXANDER, Mr. FOLEY, Mr. WIRTH, Mr. OBEY, Mr. RITTER, Mr. WILSON, Mr. FROST, Mr. BONKER, Mr. DORGAN of North Dakota, Mr. KASTENMEIER, and Mr. YATES.

H.R. 1715: Mr. FUQUA.

H.R. 1769: Mr. EVANS of Illinois and Mr. MITCHELL.

H.R. 2440: Mr. TORRES and Mr. DENNY SMITH.

H.R. 2684: Mr. SABO, Mr. LIVINGSTON, Mr. DIOGUARDI, Mr. TORRICELLI, MR. GUARINI, Mr. SKEEN, Mr. GUNDERSON, Mr. SMITH of New Jersey, Mr. KINDNESS, and Mr. RIDGE.

H.R. 2761: Mr. MOODY and Mr. WILLIAMS.

H.R. 2823: Mr. ANDREWS, Mr. BARTON of Texas, Mr. BOEHLERT, Mrs. BOGGS, Mr. BOUCHER, Mr. BROWN of California, Mr. BRUCE, Mr. CLINGER, Mr. CROCKETT, Mr. DARDEN, Mr. DASCHLE, Mr. DWYER of New Jersey, Mr. EDGAR, Mr. FAZIO, Mr. FLORIO, Mr. GINGRICH, Mr. GLICKMAN, Mr. HENRY, Mr. LEHMAN of California, Mr. LEVINE of California, Mr. MCGRATH, Ms. KAPTUR, Mr. CONYERS, Mr. ATKINS, Mr. BARNES, Mr. RANGEL, Mr. FOGLIETTA, Mr. LUJAN, Mr. LUNDINE, Mr. MCDADE, Mr. MARTINEZ, Mr. RALPH M. HALL, Mr. MINETA, Mr. MITCHELL, Mr. MORRISON of Washington, Mr. MRAZEK, Mr. MURPHY, Mr. MURTHA, Mr. NELSON of Florida, Mr. PANETTA, Mr. PEPPER, Mr. REID, Mr. RITTER, Mr. ROE, Mr. SLAUGHTER, Mr. TORRICELLI, Mr. TRAFICANT, Mr. VOLKMER, Mr. YOUNG of Missouri, Mrs. BURTON of California, Mr. WEISS, Mr. BEVILL, Mr. TOWNS, and Mr. KOLTER.

H.R. 2854: Mr. ROE, Mr. MORRISON of Connecticut, Mr. GEJDENSON, Mr. TORRICELLI, Mr. MOLLOHAN, and Mrs. JOHNSON.

H.R. 3018: Mr. DASCHLE, Mr. EVANS of Illinois, Mrs. BOXER, Mr. MARTINEZ, Mr. STUDDS, Mr. BEDELL, Mr. GEJDENSON, Mr. DWYER of New Jersey, Mr. SCHEUER, Mr. SEIBERLING, Mr. FRANK, Mr. HAYES, Mrs. SCHNEIDER, Mr. WEAVER, Mr. ST GERMAIN, Mrs. COLLINS, Mr. EDWARDS of California, Mr. GLICKMAN, Mr. DURBIN, and Mr. EDGAR.

H.R. 3149: Mr. THOMAS of California, Mr. WHITLEY, and Mr. RANGEL.

H.R. 3180: Mrs. BENTLEY, Mr. DYSON, Mr. HENRY, Mr. LAGOMARSINO, Mr. WORTLEY, Mrs. MARTIN of Illinois, Mr. FROST, Mr. WILLIAMS, Mr. DARDEN, Mrs. BOXER, Mr. BERMAN, Mr. NIELSON of Utah, and Mrs. JOHNSON.

H.R. 3295: Mr. ATKINS, Mr. BARNES, Mr. BENNETT, Mrs. BOXER, Mrs. BURTON of California, Mrs. COLLINS, Mr. EVANS of Illinois, Mr. FAUNTROY, Mr. FAZIO, Mr. HOWARD, Mr. KLECZKA, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. MATSUI, Mr. MRAZEK, Mr. NEAL, Mr. OBERSTAR, Mr. RODINO, Mr. ROE, Mr. SABO, Mr. SAVAGE, Mr. SCHUMER, Mr. SMITH of Florida, Mr. TORRICELLI, Mr. TOWNS, Mr. UDALL, Mr. VENTO, Mr. WALGREN, Mr. WEAVER, and Mr. KASTENMEIER.

H.R. 3404: Mr. HYDE, Mrs. COLLINS, Mrs. MARTIN of Illinois, Mr. SMITH of New Hampshire, Mr. DIOGUARDI, Mr. MINETA, and Mr. MCCOLLUM.

H.R. 3436: Mr. EVANS of Illinois, Mr. DORNAN of California, Mr. DYSON, Mr. BURTON of Indiana, Mr. BRYANT, Mr. MCGRATH, Mr. SISISKY, Mr. RANGEL, Mr. BEVILL, Mrs. COLLINS, Mr. SCHAEFER, Mr. APPLEGATE, and Mr. MARTINEZ.

H.R. 3522: Mr. ROBERT F. SMITH, Mr. HAMMERSCHMIDT, Mr. MILLER of Washington, and Mr. COATS.

H.J. Res. 122: Mr. WATKINS, Mr. GREEN, Mr. SMITH of New Jersey, Mr. TAYLOR, Mr. COELHO, Mr. HALL of Ohio, Mr. ATKINS, Mr. SMITH of New Hampshire, Mr. WHEAT, Mr. WYLIE, Mr. FOLEY, Mr. FRANK, Mr. GEJDENSON, Mr. MONTGOMERY, Mr. WEBER, Mr. SKELTON, Mr. ROBERTS, Mr. SPRATT, Mr. MURTHA, Mr. SUNDQUIST, Mrs. LLOYD, Mr. PEPPER, Mr. GEPHARDT, Mr. KEMP, Mr. MARKEY, Mr. BUSTAMANTE, and Mr. SCHEUER.

H.J. Res. 126: Mr. JACOBS, Mr. ROBERT F. SMITH, Mr. WYDEN, Mr. HAMMERSCHMIDT, Mr. ANDERSON, Mr. ANNUNZIO, Mr. BONIOR of Michigan, Ms. MIKULSKI, Mr. BLILEY, and Mr. COATS.

H.J. Res. 127: Mr. MOODY, Mr. LEVIN of Michigan, Mr. GUARINI, Mr. KOSTMAYER, Mr. FLORIO, Mr. LUNGREN, Mr. EDGAR, Mr. FOGLIETTA, Mr. RINALDO, Mr. EMERSON, Mr. CARR, Mr. BUSTAMANTE, Mr. HAMMERSCHMIDT, Mr. HANSEN, Mr. HATCHER, Mr. HUNTER, Mr. HUTTO, Mr. IRELAND, and Mr. JONES of Tennessee.

H.J. Res. 314: Mr. RANGEL, Mr. SOLARZ, Mr. HOWARD, Mrs. LLOYD, Mr. SCHEUER, Mr. ROYBAL, Mr. TAUZIN, Mr. MILLER of California, Mr. CRAIG, and Mr. SIKORSKI.

H.J. Res. 375: Mr. BERMAN, Mr. BLILEY, Mrs. BOXER, Mr. BEREUTER, Mr. WEISS, Mr. CONYERS, Mr. DWYER of New Jersey, Mr. CHANDLER, Mr. SHUMWAY, Mr. LUNDINE, Mr. HUGHES, Mr. BARNES, Mr. JONES of Tennessee, Mr. FLIPPO, Mr. SISISKY, Mr. MCKINNEY, Mr. MARTINEZ, Mr. DEWINE, Mr. HORTON, Mr. DANNEMEYER, Mr. SWINDALL, Mr. WAXMAN, Mr. JACOBS, Mr. LELAND, Mr. SYNAR, Mr. HOYER, Mr. SEIBERLING, Mr. GILMAN, Mr. LUNGREN, Mr. LAFALCE, Mr. DYMALLY, and Mr. REGULA.

H.J. Res. 397: Mr. ENGLISH, Mr. FIELDS, Mr. FOLEY, Mr. FRANK, Mr. FRANKLIN, Mr. FRENZEL, Mr. GEJDENSON, Mr. GOODLING, Mr. GRADISON, Mr. GUNDERSON, Mr. HATCHER, Mr. HAWKINS, Mr. HENRY, Mrs. HOLT, Mr. HOPKINS, Mr. HUBBARD, Mr. HUGHES, Mr. HYDE, Mr. JEFFORDS, Mr. JONES of Tennessee, Mr. KEMP, Mr. LANTOS, Mr. LEHMAN of California, Mr. LENT, Mr. LEWIS of Florida, Mr. LIGHTFOOT, Mr. LIPINSKI, Mr. LUKEN, Mr. MCCOLLUM, Mr. MCEWEN, Mr. MCGRATH, Mr. MCMILLAN, Mr. MADIGAN, Mr. MARTIN of New York, Mr. MATSUI, Mr. MILLER of Washington, Mr. MOLINARI, Mr. MORRISON of Washington, Mr. NATCHER, Nr. NEAL, Mr. MINETA, Mr. MONSON, Mr. PACKARD, Mr. QUILLEN, Mr. ROBERTS, Mr. ROBINSON, Mr. RODINO, Mr. SAXTON, Mr. SCHUETTE, Mr. SHAW, Mr. SMITH of New Jersey, Mr. STANGELAND, Mr. STRANG, Mr. TAUKE, Mr. THOMAS of California, Mr. VANDER JAGT, Mr. WALKER, Mr. ZSCHAU, Mr. LOWERY of California, Mr. NICHOLS, Mr. ANNUNZIO, Mr. BATEMAN, Mr. BATES, Mr. BEDELL, Mr. BIAGGI, Mr. BLILEY, Mr. BOEHLERT, Mrs. BOGGS, Mr. BOSCO, Mr. BREAUX, Mr. BROOMFIELD, Mr. BROWN of Colorado, Mr. BROYHILL, Mr. BURTON of Indiana, Mr. CLINGER, Mr. COBLE, Mr. CRAIG, Mr. CRANE, Mr. DICKINSON, Mr. DYMALLY, Mr. DENNY SMITH, Mr. LUNGREN, Mr. REID, Mr. DEWINE, Mr. BARTLETT, Mrs. BENTLEY, Mr. BILIRAKIS, Mr. BROOKS, Mr. CONTE, Mr. COURTER, Mr. DANNEMEYER, Mr. DE LA GARZA, Mr. DIXON, Mr. DUNCAN, Mr. EVANS of Iowa, Mr. FASCELL, Mr. FAZIO, Ms. FIEDLER, Mr. GALLO, Mr. GILMAN, Mr. GROTBERG, Mr. HAMMERSCHMIDT, Mr. KINDNESS, Mr. LATTA, Mr. LEWIS of California, Mr. LOEFFLER, Mr. LOTT, Mr. LUJAN, Mr. MCCANDLESS, Mr. MCDADE, Mr. MACK, Mrs. MARTIN of Illinois, Mr. MARTINEZ, Mr. MICHEL, Ms. OAKAR, Mr. PANETTA, Mr. PARRIS, Mr. PETRI, Mr. RANGEL, Mr. REGULA, Mr. ROSE, Mr. ROSTENKOWSKI, Mr. ROTH, Mr. RUSSO, Mr. SMITH of New Hampshire, Ms. SNOWE, Mr. SOLOMON, Mr. STARK, Mr. STENHOLM, Mr. STUMP, Mr. SWIFT, Mr. TORRES, Mr. VOLKMER, Mrs. VUCANOVICH, Mr. WEBER, Mr. WHITLEY, Mr. WHITTAKER, Mr. WHITTEN, Mr. WOLF, Mr. WYDEN, Mr. YOUNG of Florida, and Mr. YOUNG of Alaska.

H. Con. Res. 207: Mr. TOWNS, Mr. VOLKMER, Mr. HEFTEL of Hawaii, Mr. KOSTMAYER, Mr. YATRON, Mr. HUGHES, and Mr. TRAFICANT.

H. Res. 256: Mr. PANETTA.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

240. By the SPEAKER: Petition of the city council of Anoka, MN, relative to the Baha'i community in Iran; to the Committee on Foreign Affairs.

241. Also, petition of Francisco San Marte, Philippines, relative to citizenship; to the Committee on the Judiciary.

242. Also, petition of the city council of Eureka, CA, relative to tax reform; to the Committee on Ways and Means.

SENATE—*Monday, October 28, 1985*

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

PRAYER

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

Let us pray.

ANNIVERSARY OF DEDICATION OF THE STATUE OF LIBERTY

God of our fathers, on this 99th birthday of the Statue of Liberty, we remember the history of this uncommon land and the measure of its greatness as a servant to the dispossessed of the world. As the Statue of Liberty is restored, grant Mighty God, that we may be renewed in our commitment to the unprecedented invitation of the great lady in New York Harbor:

"* * * Give me your tired, your poor, your huddled masses yearning to breathe free. The wretched refuse of your teeming shore. Send these, the homeless, tempest-tost to me, I lift my lamp beside the golden door!"—Emma Lazarus.

In these crucial days, Lord of history, may the Senate as a whole and the Senators individually be true to their destiny, not forsaking their sacred trust in the interest of political advatage. Renew us, God of the nations, to the greatness to which Thou hast called this Nation. For Thy namesake and the benefit of all mankind. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each, to be followed by special orders not to exceed 15 minutes each for Senator PROXMIRE and Senator HEFLIN, followed by routine morning business not to extend beyond the hour of 12 noon, with Sentors permitted to speak therein for not more than 5 minutes each.

Then we shall resume consideration of the farm bill, S. 1714, I do not believe there will be rollcall votes during the day, but there will be amendments. I understand there are a number of amendments that can be disposed of without record votes.

Also, we are attempting to resolve the controversy around the State-Justice-Commerce appropriations bill. If we could do that, we might ask permission to move to that bill today. If any votes are ordered, they would be set aside until tomorrow at 2 o'clock.

Let me indicate that we are nearing November 1, on Friday. In view of a request from a number of Members that we do all we can to move the legislation we have before us, we shall be coming in—we will not be in too late this evening, but starting tomorrow, we will probably be in at 8 or 8:30 in the morning and probably into the evening, and follow that procedure through Friday and, hopefully, complete action on the farm bill. I am not going to predict that.

Also, we have indicated to both Senators DOMENICI and CHILES that if we can work out the problems on reconciliation, we would interrupt consideration of the farm bill to complete action on reconciliation. That could take several hours because of the number of votes that could occur, even though time on the resolution, I think, is down to about 1 hour.

KANSAS CITY ROYALS, 1985 BASEBALL CHAMPIONS

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration. It is sponsored by myself, Senator KASSEBAUM, Senator EAGLETON, and Senator DANFORTH.

The PRESIDING OFFICER (Mr. GORTON). The clerk will state the resolution by title.

Mr. DOLE. Mr. President, I ask unanimous consent that the clerk may read the resolution, then that we delay further action until Senators EAGLETON, DANFORTH, and KASSEBAUM have an opportunity to speak on it.

The PRESIDING OFFICER. The clerk will read the resolution.

The legislative clerk read as follows:

A Senate resolution (S. Res. 246).

S. RES. 246

Whereas, on the night of October 27, 1985, the Kansas City Royals climaxed one of the great chapters in major league baseball annals with a world championship;

Whereas, the Kansas City Royals captured the hearts of baseball fans all across the country with its tenacious comebacks in both the American League playoffs and the World Series;

Whereas, the Royals made history by becoming the only team to lose the first two games of a World Series in its home park but then to fight back and win it all;

Whereas, the so-called experts gave the Royals almost no chance of winning anything in postseason play;

Whereas, the Kansas City Royals defeated an outstanding Saint. Louis Cardinals team in the World Series and a great Toronto Blue Jays squad in the playoffs;

Whereas, after 16 years of loyalty, Kansas City Royals fans in Kansas, Iowa, Arkansas, South Dakota, Missouri, and all over this great Nation have been rewarded with a much-deserved world title;

Whereas, Manager Dick Howser and his team have demonstrated they are indeed the right stuff;

Whereas, after an 11 to 0 seventh game victory last night the Royals—and Kansas City, Kansas, and Kansas City, Missouri—are on top of the baseball world: Now, therefore, be it

Resolved, That the Senate recognizes and applauds the accomplishments of the Kansas City Royals, 1985 baseball champions.

(Later the following occurred:)

Mr. DANFORTH. Mr. President, I rise to support the resolution of the distinguished majority leader congratulating and commending the Kansas City Royals on their first world championship. The accomplishments of the Royals have made this team a part of baseball legend. Down 3 to 1 in both the playoffs and the series, the Royals fought back with the kind of courage and character that earned them new fans across this country.

Having lost the first two games at home, with the second defeat coming as the result of a devastating ninth-inning rally by the Cardinals, the Royals' comeback was remarkable.

The series victory is especially heartwarming because the Royals are not a team made up of established stars. Until this series, few Americans had heard of Dane Iorg, Buddy Biancalana, and Darryl Motley—yet those players are now among the chosen few who can claim a game-winning World Series hit.

The young Kansas City pitching staff is truly the best in baseball and it certainly showed in postseason play. The country was charmed by 21-year-old Bret Saberhagen, who in the span of 2 days became a father and the most valuable player in the World Series, but appeared calm and relaxed throughout. Special praise must also go to Danny Jackson, Bud Black, Dan Quisenberry, and Charlie Leibrandt. These pitchers baffled one of the best hitting teams in baseball throughout the full seven-game series—an extraordinary accomplishment.

The Kansas City fans were justly rewarded yesterday evening with a World Series victory they had waited on for some time. Although the Royals have been a frequent fixture in postseason play, the series victory eluded them until last evening. The Royals fans are a loyal group and they deserve to be congratulated as well.

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

Mr. President, I would only add the sentiment that I am a person who is very proud of both teams which played for my State in the World Series. As a lifelong Cardinal fan, one who spent his youth at the Old Sportsman's Park watching the likes of Stan Musial, Enos Slaughter, and Marty Marion, I can only say on behalf of the Cardinals that spring training is only 4 months away and we shall rise to fight again.

THE ROYAL TREATMENT—HOW SWEET IT IS

(By request of Mr. DOLE, the following statement was ordered to be printed in the RECORD:)

● Mrs. KASSEBAUM. Mr. President, I proudly join my colleague from Kansas in congratulating the Kansas City Royals on their world championship. After 16 years of hard work and dedication, Royals players, fans, and owners can celebrate the greatest World Series comeback of all time. After years of challenging the best in baseball and coming oh so close, how sweet it is.

The Royals are fitting examples of Kansas City and our country's heartland. Not particularly flashy yet tantalizingly successful. They have proven the value of learning through adversity and the benefits of meshing experience with enthusiasm. Like the people of the Midwest, the Royals persevered, worked, learned, and succeeded.

Kansas City exhibited throughout the season the poise and maturity which made their victories less surprising to those fans who understood the Royals and had followed their history. Kansas City was not expected to win their division—they did. They were not expected to win their playoff series against a talented Toronto team—they did. They were not expected to win the World Series against the winningest team in baseball—they did.

How many times did sportswriters around the country—perhaps especially on the "knowledgeable" east and west coasts—write off the Kansas City Royals? How often was this team of "anemic" hitters and "too young" pitchers and a "choke-in-the-clutch" manager dismissed as a fluke? Did anyone else find it hard to confirm that the American League West did indeed exist? Oh, yes indeed, how sweet it is.

This was a special World Series. It involved two teams with special personalities. Both hailed from the Midwest and both had a claim to a season of destiny. The St. Louis Cardinals are a great team and deserve our applause. Together, the Royals and Cardinals made this a series to remember.

Kansas City fans will remember. They will remember falling behind two games to none in the playoffs and the series. They will remember rallying from a 3-to-1 deficit twice. They will remember gutty pitching performances, superb defense, and clutch hitting. These are dedicated and committed fans who drive from hundreds of miles around Kansas City to see their team. This morning, and probably for all time, their dedication and commitment seems well worth the effort.

Mr. President, it is not often a team and a city have as much cause to celebrate as the Royals and Kansas City. Against all odds, they have reached the pinnacle of success. I salute them, and I hope this becomes an annual event.●

Mr. EAGLETON. Mr. President, almost 2 weeks ago Senator DANFORTH and I introduced a resolution saluting the Kansas City Royals and the St. Louis Cardinals. At that time we called Kansas City "the Heart of the American League." Yesterday, the Royals won the hearts of America by winning that little-known, intra-Missouri contest, the World Series.

The 1985 Kansas City Royals are the stuff legends are made of, and indeed they have provided the grist for a new generation of half-time speeches, morale-boosting pep talks, and inspirational lectures. Instead of telling their players to "win one for the Gipper," when the going gets tough, tomorrow's coaches can ask their players, "Did the Royals give up in 1985?" The "Miracle Mets" of 1969 have been supplanted by the "Resurrection Royals" of 1985 as the modern-day patron saints of all underdogs.

Just as important as what the Royals have done, however, is how they did it. Rarely does one find a group with so many members possessed of talent, grace, style, and humor. The Royals didn't just win the World Series, the Royals won and won well.

Mr. President, I am most pleased and proud to join with my colleagues in saluting the 1985 Kansas City Royals for a wonderful season that gave the fans everything they could hope for. I can think of no group of individuals more worthy of the honor.

Mr. DOLE. Mr. President, earlier today, I submitted a resolution and asked that it be held until we had an opportunity to discuss its contents with Senators KASSEBAUM, DANFORTH, and EAGLETON. It is a very important resolution relating to the World Series victory by the Kansas City Royals. I am now advised by Senators that they have studied the resolution carefully, they agree with its terms, and we are prepared to pass it.

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

The resolution (S. Res. 246) was agreed to.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

(Conclusion of later proceedings.)

Mr. DOLE. Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the minority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve the remainder of my time.

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

Mr. BYRD. Mr. President, I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for 15 minutes.

ARMS CONTROL: THE ESSENTIAL ELEMENT IN CONTROLLING FEDERAL SPENDING

Mr. PROXMIRE. Mr. President, I suppose what happened last night should convince us that anything can happen. You can be a terrific underdog and still make it. As was pointed out in the resolution, the Kansas City Royals were not expected to win their division; they were not expected to win the American League pennant. They were not expected to win the World Series but they did. I suppose we have about the same prospect of balancing the budget, but I think the odds against that achievement set forth so well in the Gramm-Rudman-Hollings amendment is much dimmer. If we could achieve it, it would be a miracle. I want to speak on that in two sections, Mr. President.

What are the two biggest issues that confront the country today? The two biggest issues of our time. Issue No. 1 is how to stop the arms race and prevent the disaster of nuclear war. Issue No. 2 is how to bring our runaway Federal budget under control. Now, this Senator is astonished that almost no one seems to perceive the connection between stopping the nuclear arms race on the one hand and bringing this Nation's fiscal policy under control on the other. We have had a very considerable debate in the last few days on the nuclear arms race. A number of Senators have come to the floor to speak on that, and we have discussed the budget deficit persistently day after day for the last several years. But in all that debate and in all the comment in the media—and, of course, the editorials and columns, and so forth are full of both these issues—no

one has really seemed to stress the connection, and there it is. It is this:

A mutual, comprehensive, verifiable end to nuclear testing, production or deployment would not only provide a far safer and more secure world. It would also save hundreds of billions of dollars in Federal spending and constitute the single greatest prospect for reducing the Federal deficit. If any Senator considers that claim for the fiscal efficacy of arms control exaggerated, just consider the extraordinarily favorable effect on the budget of an arms control program that stopped SDI or star wars. That single program—and it is one program, the Department of Defense—according to former Undersecretary of Defense for Research De Lauer will deliver this country a cost that will stagger us. Now, Mr. President, when the Defense Department itself warns us that their anticipated spending for a program they approve will stagger this Congress, prepare to be staggered. In the last 4 years the stepped up arms race has cost this country more than a trillion dollars. Unfortunately, we are just beginning to get into the big bucks now. So far it has been penny-ante stuff. But no more.

The Star Wars Program will climb more than 100 percent this year and it is expected to double again next year. Research alone on SDI will skyrocket to more than $25 billion in the next few years. Ah, but Mr. President as Ronald Reagan likes to say "you ain't seen nothin yet." Then the big spending begins. And this is the truly explosive kind of spending. Here is why: the mammoth amount the Congress will be required to appropriate for star wars will certainly provoke a corresponding explosion in spending by the Soviet Union on offensive missiles and the penetration aids designed to overcome this antimissile defense. Meanwhile, the Soviets will certainly also build their own antimissile defense to match ours. What will be our response? The United States will have to pour hundreds of billions of dollars into our offensive missile system. We will research, test, produce and deploy a brand new, and immensely expensive arsenal in space. We will build a brand new immensely expensive offensive system designed to penetrate the Soviet SDI in addition.

This kind of spending, Mr. President, knows no end. The more we spend, the more our adversary, the Soviets' will spend. The more they spend, the more we spend. And then something else drives this explosive spending ever higher. It is this. As our laboratories accomplish exciting breakthroughs with lasers and antimatter bombs and other exotic defensive and offensive developments, the cost of production and then the cost of deployment grows ever greater.

Meanwhile the Senate has adopted at long last an amendment that seems to put some effective teeth in our efforts to hold down spending. No realistic Member of the Congress can expect the Gramm-Rudman-Hollings amendment to endure if we find it necessary to continue to explode military spending. We know that military spending constitutes far and away the biggest controllable element in the budget. We know that Social Security spending is off limits. We are not going to cut that. Interest on the debt cannot be cut. And in the outlay area, military personnel, readiness, maintenance—the very heart of our national defense will suffer devastating reductions unless the Congress and the President agree to either a big increase in taxes or we find a way to stop the explosion of spending called for by the full-fledged, all-out arms race.

Mr. President, in the judgment of this Senator, arms control and an end to the arms race constitutes an absolutely quintessential element in bringing our fiscal policy under control. Unless this country can agree with the Soviet Union to sharply reduce military spending, we can kiss budgetary restraint good bye. What will that take? An arms control agreement with the Soviet Union. Without arms control we can say goodbye to the work the Senate had done so recently in building the basis for bringing the Federal budget under control. Or, of course we can say hello to sharp and punishing increases in taxes.

HOW THE SENATE KICKED AWAY ITS CHANCE FOR FISCAL RESPONSIBILITY

Mr. PROXMIRE. Mr. President, the Senate needs to go back to grade school to learn a little simple arithmetic. Three-quarters of us in the Senate, including this Senator, went on record a few days ago for the Gramm-Rudman-Hollings amendment. What does that amendment do? It commits the Congress to cut the budget deficit $36 billion a year every year for 5 years beginning in fiscal 1987. The Government would, if Congress kept the schedule, end up with a balanced budget in 1991. All of us knew the achievement of that goal would be very difficult. After the Senate's performance in the past 10 days, we now know it will be impossible. The Senate blew it. Those who voted for that noble goal had a duty to take the painful steps necessary to achieve it. Many didn't. What happened? For the past week a substantial majority of Senators have voted over and over and over again against reducing spending.

What an astonishing reversal! A few days ago this body went on record in favor of a principled program of reducing the deficit by more than $200 billion by 1991. There is no way the Congress could do that without beginning to cut billions of dollars in obligational authority right now. Could Congress sharply reduce the budget deficit by simply increasing taxes? Some of us in the Senate are willing to increase taxes substantially if necessary. But every Senator knows that we cannot reduce the deficit to a reasonable level by a tax increase alone. We must achieve massive and painful reductions in spending. In the past week Senators had a full opportunity to begin to make those reductions in spending.

So what did Senators do when confronted with opportunity after opportunity to make the spending cuts that are crucial to give the Senate any chance of significantly reducing the deficit? Senators did cast one lonely significant budget reduction vote on one of the four appropriations bills before the Senate. That lone vote cut about $400 million in obligational authority. But given seven other opportunities to make substantial reductions, the Senate failed every time. It refused to adopt an amendment to the Transportation appropriation bill that would have reduced authorized spending by $616 million. It killed an amendment to the Labor, Health and Human Services appropriation that would have saved $267 million, and a second one that would have slashed $1.65 billion.

The Senate turned down an amendment that would have reduced spending appropriations in the Housing and Urban Development appropriation by $352 million, and a second amendment to that bill that would have slashed $7.2 billion. The Senate also voted against two reductions in the Agriculture appropriation. One would have cut obligational authority by $1.1 billion. The other would have slashed $1.8 billion. Every one of these amendments was in accordance with the original recommendation of the administration and the Office of Management and Budget. These were all responsible amendments which, as I say, were recommended by the experts in the administration. Those amendments totaled $13 billion and the Senate cut only $400 million. There were two other amendments this Senator was prepared to offer to the Transportation bill that would in aggregate have saved a little less than $1 billion.

These amendments would have considerably advanced the prospects for meeting the targets set in the Gramm-Rudman-Hollings road-to-fiscal-responsibility amendment. The Senate voted 3 to 1 for that fiscal responsibility amendment only about a week or so before the Senate so conspicuously turned its back on giving the amendment some genuine reality. Mr. President, simple arithmetic should con-

vince any Member of this body that there is no possible way we can have the remotest chance of meeting the requirements of our action on Gramm-Rudman-Hollings when we refuse to make spending cuts.

Some will say, now wait a minute, PROXMIRE. We can make cuts in military spending. Others say we can increase taxes. Of course we can do both those things. But there is absolutely no way this Senate will achieve the king-size budget deficit reductions required by following either of those routes. The first obvious obstacle is President Ronald Reagan. We know the President will not agree to large increases in taxes. And there is no way he would concur in any significant reductions in military spending. But we cannot blame this situation on President Reagan alone. No matter who was President of the United States, we know this Congress—House and Senate—will not actually reduce military spending. We can hold it down, as I said in my speech previously on star wars. We are not going to cut it.

But big reductions in military spending? No possible way.

The only people I know of, the only leading public figures who advocate the kind of cut we need, and I would not share their view—I oppose it—are George McGovern and Jesse Jackson.

I do not believe there is any Member of the Senate who would go along with their proposal for a 25-percent cut in military spending. We cannot do it and be responsible under present circumstances.

One more point, Mr. President, the cuts proposed in the amendments I discussed would reduce obligational authority. That means they would have cut spending over the years, and this is precisely what this Congress must do if we are to bring Federal spending under control.

I started this speech by saying that the Senate needs to go back to grade school. We need to learn our elementary addition and subtraction. The Senate voted for a framework on the debt limit bill that would mandate that Congress make sharp cuts in obligational authority in appropriations this year, so that spending can be reduced in 1987, 1988, 1989, 1990, and 1991 and thereafter. By refusing to make these reductions the Senate greatly diminished the prospect that Congress can achieve any significant improvement in the deficit over the next 5 years.

MYTH OF THE DAY—SPENDING FOR HEALTH CARE IMPROVES HEALTH

Mr. PROXMIRE. Mr. President, over the past two decades, spending for health care has skyrocketed. We spent $355 billion—11 percent of gross national product—on health care in 1983. A little less than 20 years ago—in 1965—we spent $42 billion or 6 percent of GNP. By any measure we are spending far more on what is commonly called health care.

We speak of this money as improving health care, and that is a myth. Only a small proportion of this money really goes to improve health. By far, the greater amount is spent to alleviate sickness.

Let me demonstrate what I mean, Mr. President. Heart disease is one of our leading killers. All of us know men and women who have been tragically struck down in the prime of life by this dread disease.

What are its causes? These, too, are becoming known—a genetic predisposition, obesity, lack of exercise, smoking, and high blood pressure. We can do little about genetics, but the other contributing causes can be controlled. Money spent to encourage proper eating, exercise, to detect and control high blood pressure, and to discourage smoking—this is health care.

Is that how we spend the bulk of the money? No, it goes instead for emergency care, for repairing already damaged hearts, for alleviating sickness in other words. This money must be spent for those who are afflicted. But wouldn't it be better to maintain health where we can.

Mr. President, this distinction is seldom made. What are its implications for public health policy? In a time of limits, and we certainly face limits, we can best improve public health by spending more money to encourage exercise, proper eating, and the other determinants of good health. We will never be as successful at alleviating sickness as we can be by encouraging good health in the first place. But good health is so often taken for granted, that we don't realize how valuable it is until it's gone.

As our population ages, as alleviating sickness continues to cost evermore, this distincton will become vital. As a society, we will be far better off by encouraging good health than by alleviating sickness.

BOTH THE RIGHT TO DETERMINE AND THE RIGHT TO ASK

Mr. PROXMIRE. Mr. President, the cover story in the October 4 edition of the National Review considers "The Awful Logic of Genocide." Jean-Francois Revel recounts the horrible conditions faced by the Afghan people since the barbaric Soviet invasion of their country. Reading his article, I am hard pressed to decide which are more troubling: The stories of a particular individual's hardship, or the statistics revealing the breadth of the tragedy.

There is a photograph that shows the weariness in an Afghan father's eyes as he carries his daughter the remaining distance into neighboring Pakistan. His daughter is the only other member of his family to have survived a Soviet massacre and he has already traveled for 3 weeks in search of safety and freedom.

The statistics, while colder, evoke the same horror. About 1 million Afghans have died—they were resistance fighters killed while battling the Soviets, or women and children massacred in their villages, or political opposition members executed. About 5 million Afghans have fled their country in despair.

Do these acts by the Soviets constitute genocide? We do not have enough information to know for certain. The acts certainly fall within the provisions of the Genocide Convention: "Killing members of the group, (or) causing serious bodily or mental harm to members of the group." To be considered genocide, the convention would require that the acts be committed with "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such."

But while we do not know if the acts committed by the Soviets in Afghanistan constitute genocide, it seems particularly cruel that it is difficult for us to ask. For while the Soviet Union is a signatory of the Genocide Convention, the United States has yet to ratify the convention. Mr. President, I urge the Senate to ratify the Genocide Convention, not only so we could determine if some acts were genocide, but so that we could join 96 other countries in having the right to ask.

I yield the floor.

RECOGNITION OF SENATOR HEFLIN

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama [Mr. HEFLIN] is recognized for not to exceed 15 minutes.

A FAREWELL TO ARTHUR BRISKMAN

Mr. HEFLIN. Mr. President. I rise today filled with both a sense of sorrow and a feeling of gratitude as I offer my personal thanks and sincere appreciation to my chief judiciary counsel, Arthur Briskman, who is leaving my staff to become U.S. bankruptcy judge for the southern district of Alabama. Arthur, or Judge Briskman as I guess I should begin calling him, is certainly to be congratulated upon his well-deserved selection, and I am positive that he will distinguish himself in his new post. At the same time, however, I am sorry to see him go.

Arthur Briskman and I have been together for a long time. He first came to work for me when he graduated from the Cumberland School of Law in 1972 and was hired as assistant court administrator for the State of

Alabama. At that time, as chief justice of the Alabama Supreme Court, I was interested in completely renovating the State court system. I was immediately impressed with Arthur's analytical mind, his instincts for problem solving, his overall ability.

In 1973, Arthur left the court system and became affiliated with the Mobile, AL, law firm of Perloff, Reid & Briskman. It was that law firm which I had to convince him to leave to join me here in Washington when I first came to the Senate in 1979.

Mr. President, during our many years together, I have grown to depend on Arthur Briskman in a wide variety of ways. He has been my primary judiciary counsel, and has assisted me with the full range of issues which come before the Judiciary Committee—from legislation dealing with the role of Federal courts and the impact of legislation on the judiciary, to patents and copyrights, immigration and naturalization, antitrust, criminal law, and more. In each of these areas, Arthur Briskman has become an expert, and his advice and counsel has been indispensable. It has, however, been in the area of bankruptcy reform where Arthur Briskman's greatest interest and expertise has been. In our review of the bankruptcy court system during the last several years, his familiarity with and knowledge of the issues were vital.

He has been an adviser on many other policy areas, whether it concerns budgetary matters, foreign aid, or the national defense. He has been a political adviser, and his calm, rational outlook has been more than valuable.

One of Arthur's many fine traits has been his loyalty. He has indeed been loyal to me, and has always kept my best interests in mind. His loyalty has evidenced itself in too many ways to enumerate. I hope it is sufficient to say that he has been my loyal and staunch friend.

In our office, we will miss Arthur's seemingly innate gift for analysis, his ability to cut through an apparently complex problem and quickly find a workable solution. We will miss his legislative instincts and his wide range of contacts, all of which enabled us to always have a good idea of what lay around the corner of the next legislative curve. We will miss his sense of humor, whether it was expressing itself with a funny joke or a horrible pun. We will miss his beard and his fondness for bow ties, both of which, at times, have made him subject to comments and puns from others in our office.

Still, Mr. President, more than all of this, and I am sure I speak here for the rest of my staff as well as myself, we will just miss Arthur. I will miss him as more than a staff member, but as a friend on a daily basis.

To Arthur and his wonderful wife, Jane, I am sorry to see you go, but am happy for your future. Good luck. I hope you will come back often to visit us.

SOUTHERN RESEARCH INSTITUTE

Mr. HELFIN. Mr. President, as we move closer and closer to the 21st century, one of the most critical aspects of our society is the maintenance and further development of our research base. I am both pleased and proud that one of the leading contributors to this aspect of our national well-being is Southern Research Institute, located in Birmingham, AL.

This year, Mr. President, marks the 40th year of operation of Southern Research Institute, and those four decades have been spent providing innovations, expanding opportunities, and solving problems.

Forty years ago, Thomas W. Martin, then president of Alabama Power Co., foresaw the importance the South would gain during the last half of this century, and saw the corresponding need for the South to develop a strong research base. Toward this end, he helped gather together businessmen, industrialists, and educators, all dedicated to establishing a research institute with the primary charge of promoting the development and general welfare of the southern region of the United States.

From these efforts grew Southern Research Institute. In its early years, the institute's projects reflected the area it served—research into the growing of cotton and peanuts, coal and metallurgical studies for the iron producers, studies of wood utilization for the forestry industry.

In those days, Mr. President, the entire institute—administrative offices, laboratories, and everything else—was located in an old mansion and carriage house on the southside of Birmingham. Today, four decades later, the institute occupies 19 modern buildings, totaling more than 350,000 square feet, spread over a 20-acre complex. It has grown into one of the Birmingham area's largest employers, with almost 700 employees and an annual payroll of more than $12 million.

In more recent years, the institute's emphasis has shifted a bit. No longer is there a geographically regional scope for their projects. Today, researchers at Southern Research Institute are making important progress in cancer research, antiviral and antiparasitic research, electronics, genetics, and engineering.

Mr. President, my colleagues are familiar with my repeated stand in favor of continuing our Government's emphasis on finding a cure to cancer. Southern Research Institute has developed one of our Nation's leading cancer research programs, and, in 1985, funding for these efforts will make up almost one-quarter of the institute's overall multimillion-dollar research efforts.

Today, Southern Research has gained a worldwide reputation for their efforts in the fight against cancer. A number of the drugs now in use against this dreaded disease were developed in their laboratories.

In addition to their health-related research, the staff at Southern Research Institute has been active in conducting research involving our national defense. One particular area in this regard concerns the need for further improvements in high temperature-resistant materials which are used in aircraft engines, missile, and space vehicles. Also in the defense field, Southern Research has done work on the tracking systems used in guided missiles.

Among the many other research projects on which Southern Research has worked are: Controlled release technology, resulting in the creation of items ranging from a sustained-release fluoride treatement to pesticides and antibiotics; desulfurization research, helping to answer the continued concern with air pollution; biomaterials technology, for use in absorbable surgical sutures and artificial bone joints; and many others.

Mr. President, as I said earlier in my remarks, our Nation cannot afford to neglect our research base. I am proud of the efforts which Southern Research Institute is making to provide our future with technical research of the highest quality possible.

The efforts of their highly trained and intensely dedicated staff are enabling us to prepare for the challenges of a changing world, and are helping us to find honest, workable answers to the problems of today and tomorrow.

Mr. President, I want to congratulate every person affiliated with Southern Research Institute, today or in the past, for, with their efforts, they are truly giving us all a better world to live in.

Thank you, Mr. President.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 11:45 a.m. with statements therein limited to 5 minutes each.

RED CHINA HELPS KHOMEINI WITH MISSILES

Mr. HELMS. Mr. President, I am deeply concerned about the proposed nuclear cooperation agreement with Red China which, failing congression-

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al action, will go into effect during the month of December.

Press reports during the past several weeks have indicated that Red China is facilitating the proliferation of nuclear weapons. Several of our distinguished colleagues have expressed grave reservations about the agreement and grave concerns about Red China's activities in the nuclear field.

Now, Mr. President, I wish to call attention to reports of Western news agencies in Peking that China is assisting Iran in developing surface-to-surface missiles of a design that is nuclear-capable.

Apart from the terms of the nuclear agreement, which I believe are seriously defective particularly in the area of verification and reprocessing, the question arises as to whether we can trust Red China to keep any agreement—no matter how is is drafted.

Mr. President, I happen to be chairman of the Senate Committee on Agriculture, and in that capacity I have gained a personal awareness of the manner in which the major United States agreement with Red China—the 1981-84 bilateral long-term grain agreement—has been implemented to date. Not only did Red China fail to fulfill its purchase obligations under the LTA before its expired in December 1984, but it has made no effort to fulfill these obligations since.

Under the terms of this agreement, Red China was to have purchased from 6 to 8 million metric tons of wheat and corn each year of the term of the agreement. Red China did not and has not fulfilled its end of the agreement even though it has bought wheat and corn from France and Argentina. The shortfall in the last 2 years of the agreement was 4.2 million tons.

Mr. President, to make matters worse, Red China used the threat of nonfulfillment of the agreement to blackmail the United States into an excessive textile import agreement. Red China then, of course, reneged on the grain agreement.

Red China's unreliability in the field of international agreements offers scant hope that Red China will be restrained by mere declarations of intent with regard to the issue of nuclear proliferation.

The fact is, Mr. President, that Red China's international activities today are already facilitating the military capabilities of several countries. It is a fact that Red China has a military relationship with the terrorist Khomeini regime in Iran. It has been reported that Iran has purchased over $1 billion of military equipment from Peking. There are reports that Red Chinese military advisers are in Iran.

Revealing reports from London, Paris, and the Middle East has reached my office in recent months. If true—and the evidence appears reliable—these reports cast a dark shadow on any type of sensitive relationship with Red China, particularly in the nuclear area.

Mr. President, it is no secret that Iran has a missile industry. The official Iranian news agency has publicly released information about this activity. For example, on April 9, 1985, Iranian news services announced that the Minister of the Revolutionary Guards, Mohsen Rafiqdust, met with the speaker of the Iranian Parliament, Ali Akbar Hashemi Rafsanjani, in order to brief him on the latest developments in the Iranian missile industry. This report was carried by our Federal Broadcast Information Service in its Daily Report for April 10, 1985.

Mr. President, I ask unanimous consent that that report be printed in the RECORD.

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

RAFIQDUST BRIEFS RAFSANJANI ON MISSILE INDUSTRY

[Text] TEHRAN, April 9, IRNA.—Islamic Revolution's Guards (IRGC) Minister Mohsca Rafiqdust, met with the Supreme Defence Council Spokesman, "Ali Akbar Hashemi-Rafsanjani today. In this meeting, Rafiqdust presented a report on the latest progress in the IRGC's missile industry.

Mr. HELMS. Mr. President, 3 days later, Rafsanjani was quoted by Iranian news services as stating that "the country's missile industry workers have invented a new missile." The Federal Broadcast Information Service for April 12, 1985, carried the item in its Daily Report for April 12:

Mr. President, I ask unanimous consent that the report be printed in the RECORD.

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

HASHEMI-RAFSANJANI ON NEW MISSILE DEVELOPMENT

[Text] TEHRAN, April 12, IRNA.—Iran's Majlis Speaker Hojjat of-Eslam Akbar Hashemi-Rafsanjani said here Thursday that the country's missile industry workers have invented a new missile which he said "we might use in the next few days."

Hashemi-Rafsanjani who is also the imam's representative to the Supreme Defence Council (SDC) further stated that the new missile was very different from those Iran had previously used (against the Iraqi capital). He described the new invention as very interesting and said it was very precise and could be launched only by pushing a button.

The Majlis speaker's remarks came in a meeting with Minister of Mines and Metals Hoscya Nili-Ahmadabadi and senior officials from the ministry.

Following the recent escalation of Iraqi atrocities against Iran's civilian areas and its attacks on neutral ships in the Persian Gulf, the Islamic Republic launched nine missiles against Baghdad causing extensive damage and casualties.

Mr. HELMS. It is interesting that it was the Minister of the Revolutionary Guards who briefed Rafsanjani. According to some reports, Khomeini has placed Rafiqdust in charge of weapons procurement rather than allowing the regular military to continue to handle this process. It is also reported that Rafiqdust is married to Rafsanjani's sister.

According to reports reaching my office, much of the Iranian missile development program is carried out at a location near the new Isfahan airport. It is said that a number of technical specialists, including North Koreans, are working at this location.

Mr. President, the Khomeini regime has been developing surface to air missiles based upon the Chinese versions of the Soviet Sam-2 and Sam-6 systems. The Iranian missile based upon the Sam-2 design is designated the Sahand I. The Iranian missile based upon the Sam-6 design is designated the Sahand II. It is said that the Red Chinese have been having problems developing certain components for these missiles and that the Iranians have been able to cooperate with Red China to obtain these components from various sources including Syria.

Reportedly, Syrian technicans are operating these systems in two locations in Iran: at the Mehrab International Airport, and at the residence of Ayatollah Khomeini at Jamaran which is near Tehran.

The Red Chinese are also cooperating with Iran in the development of a surface to surface missile. It is reported that this is based on a Red Chinese version of the Soviet SCUD-B missile. Apparently, the Red Chinese have been seeking certain components for this system and Iran has been able to obtain them from Swedish sources. This Iranian surface to surface missile is said to come in three versions which are designated the Yekan I, Yekan II, and Yekan III. The Soviet SCUD-B is nuclear capable at the fractional kiloton level.

The Swedish connection should come as no surprise. Indeed, a number of West European countries such as England, West Germany, and Switzerland, are engaged in a brisk weapons trade with Iran. It has been reported that the Swedish Bofors Co., for example, sold some 200 antiaircraft missiles to Iran in April of this year via Singapore. A central arms purchasing operation of the Iranian regime is said to be located in London and operating under the cover of the Iranian National Oil Co.

Mr. President, on October 23, the French news agency Agence France Presse carried a report by its correspondent in Peking. The report details negotiations between Khomeini's regime and the Red Chinese for the sale of Chinese-produced surface to surface missiles based on the Soviet SCUD-1A and SCUD-1B to Iran. It de-

scribes negotiations in June and July of this year in Peking and notes the discussion of the missile sale issue by Rafsanjani during his July visit to Red China. The report was carried by the Federal Broadcast Information Service in its Daily Summary for October 23 and is as follows:

IRAN, PRC NEGOTIATING MISSILE SALES IN BEIJING

(By Pierre-Antoine Donnet)

BEIJING, Oct. 23.—China has had at least two rounds of talks with Iran on the sale of Chinese surface-to-surface missiles and the negotiations are "progressing rapidly," a highly reliable source here said today.

The source said that officials from the two countries met in June and July at Tehran's embassy and the Defense Ministry here to discuss Beijing's terms for the sale of older-generation Scud 1A and 1B missiles.

The Chinese and the Iranians both expressed satisfaction after the last talks and negotiations since have been "progressing rapidly," the source said.

A spokesman for the Foreign Ministry here declined immediate comment.

Beijing says that it has maintained a strict neutrality in Iran's more than 5-year-war with neighboring Iraq and has denied reports that it had sold arms to Tehran.

The Scud 1A and 1B missiles, with a range of 130 to 270 kilometers (81 to 169 miles), are liquid-propulsion tactical missiles of Soviet design dating back to the 1960's. But China still produces them.

Western diplomats here said that although technologically outmoded they have a large destructive capacity and can carry a chemical warhead.

The source said that the first series of talks between China and Iran on the missiles began a few days before the arrival here on June 27 of Iranian Parliament Speaker Hashemi-Rafsanjani.

Mr. Rafsanjani spent 4 days in China on the first visit here by a senior leader from Tehran since the Iranian revolution in 1979.

At that time, he did not explicitly deny Iran was receiving arms from the Chinese, telling a news conference only that he was in no position to say since he was not involved in defense matters.

Before Mr. Rafsanjani's arrival, however, an Iranian source had said that the question of Chinese arms sales could be raised during the parliamentary leader's talks here.

A Western correspondent in Beijing saw an unmarked transport plane take off from the capital's old airport on July 1. Airport personnel said the aircraft was headed for Iran.

Western diplomats here also said that a former Iranian defense minister made a quick and unpublicised visit to Beijing in August.

The Iraqi military attache in Beijing left a year ago and was not replaced, while his Iranian counterpart still works at Tehran's embassy.

Mr. HELMS. Mr. President, I emphasize that the information which I have just described has not come from any U.S. sources, classified or unclassified. This information has come to my office from sources, in West Europe and in the Middle East, which have proven reliable in the past. Should these reports be accurate, the specter of Red Chinese military cooperation with the terrorist Khomeini regime is reason alone not to enter into any sensitive nuclear agreements with the dictators in Peking.

Indeed, Mr. President, there have been recent reports that Red China has admitted entering into nuclear cooperation with Pakistan and other countries, claiming, of course, that only peaceful nulcear materials are involved. Red China denies that there is a nuclear relationship with Iran. But reliable Western journalists in Peking are reporting otherwise. The potential that Red China might divert nuclear technology to the Khomeini regime is a terrifying one. The United States should not become an accomplice in this process.

ORDER FOR STAR PRINT—SENATE RESOLUTION 28

Mr. BYRD. Mr. President, earlier this year I submitted Senate Resolution 28, and other resolutions, the objective of which was to do two things: to provide for television and radio coverage of Senate proceedings, and also to provide for certain rules changes which I believe to be useful and necessary in the event debate should be televised. The Rules Committee held a hearing at my request, for which I thank the distinguished chairman, Mr. MATHIAS, and the ranking member, Mr. FORD.

I attended much of the hearing and as a result of the hearing, as result of the testimony that was given by various witnesses, I feel it incumbent upon me to submit, in some ways, a different version of Senate Resolution 28.

For one thing, I concluded from that hearing that if we are to have television and radio coverage, it should be gavel-to-gavel, coverage. Heretofore, I have not supported gavel-to-gavel coverage, but as a result of that hearing, I have changed my mind, and I now believe the Senate should have such coverage. Moreover, there are certain rules changes that I think, whether or not television and radio coverage of Senate debate becomes a reality, it nevertheless, would be well to have.

Mr. President, the able chairman of the committee has scheduled a markup for tomorrow. The markup will be on Senate Resolution 28. That will be the proposed legislation from which the committee can work as we proceed to mark up.

The legislation provides a trial period for television and radio coverage, the trial period to be for the purpose of finding the bugs, ironing out the wrinkles, and trying to resolve problems before the actual live coverage of Senate debate would begin.

In order to accommodate the committee in the markup, I shall ask for a star print of Senate Resolution 28 so to reflect changes I have made in the original Senate Resolution 28.

On Friday of last week, I introduced Senate Resolution 245, which reflected those changes, and I meant on Friday to ask for a star print of Senate Resolution 28 so that the same number would be on the resolution upon which the committee would do its work tomorrow. I inadvertently let the Senate close down before asking consent. So I am prepared to ask unanimous consent now that Senate Resolution 28 be star-printed to reflect the changes which I have referred to.

Mr. President, this request has been cleared with the distinguished majority leader and he has authorized me to make the request to the Senate. I, therefore, Mr. President, ask unanimous consent that Senate Resolution 28 be star-printed to reflect the following changes in Senate Resolution 28, which I send to the desk.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Presiding Officer.

Mr. President, I have been asked by Mr. GORE to add his name as a cosponsor to Senate Resolution 28, as star-printed. So I make that request.

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

THEODORE ROOSEVELT'S BIRTHDAY

Mr. ANDREWS. Mr. President, I rise today to honor a great man who served this Nation well and whose policies remain a source of guidance today.

Yesterday, October 27, 1985, marked the 127th anniversary of the birth of President Theodore Roosevelt. A man whose vision and actions represent those of the first American President of the modern age who forthrightly confronted the dilemmas of the industrial age. Remembered as a man of unwavering determination, he was also an individual of keen intelligence and sensitivity. As Robert Frost one said, "He was our kind * * * he quoted poetry to me. He knew poetry." Frost's comments are indicative of this unique American who would publish historical writings in his early twenties, master a nation in his early forties, and win lasting acclaim as the first American to win the Nobel Peace Prize.

Born in New York City, Roosevelt was an asthmatic child of slight build and poor sight. Due to this childhood condition, he was tutored privately until entering Harvard. He began writing a scholarly work as an undergraduate, "The Naval War of 1812," which would be published 2 years after receiving his B.A. degree in 1880. Incidentally, Theodore Roosevelt's birthdate also marks his marriage to Alice Hathaway Lee in 1880. Unfortunately,

on February 14, 1884, following the birth of their child, Alice, his wife died—his mother died the same day.

This tragedy led Theodore Roosevelt to withdraw from New York State's political scene and move to the Dakota territory. From 1884 to 1886, he ranched and wrote, but most importantly, he gained a unique perspective on life that would serve him and the Nation well during his Presidency. As one North Dakotan observed about Roosevelt during that Dakota winter of 1883, "clearly I recall Roosevelt's wild enthusiasm over the badlands * * * It had taken root in the congenial soil of his consciousness, like and irradicable * * * plant to thrive and permeate it thereafter, causing him more and more to think in the broad guage terms of nature—of the real Earth."

Roosevelt returned East in 1886 to run for mayor of New York City. Rising from defeat in that election, he remarried and moved to Oyster Bay, Long Island. He continued his writing there until 1889 when he received an appointment to the New York State Civil Service Commission. During his 6 years on the commission, Roosevelt championed his firmly held belief that the political spoils system was "a faithful source of corruption." He implemented his philosophy by pursuing fraud, revising entrance exams, doubling the number of positions available for competition, and opening the fields of competition to women. This straightforward approach to efficient and fair governing would become the cornerstone of the progressive movement.

Roosevelt's tenure in the civil service commission was followed by his role as chief of police of New York City and then as Assistant Secretary of the Navy. None of these offices were to catapult him into the national view as would his role in the Spanish-American War. Upon leaving the Navy in 1898, at the eruption of American and Spanish hostilities in Cuba, Teddy went to be a lieutenant colonel of the 1st U.S. Volunteer Cavalry. This division had actually been orchestrated with the help of Roosevelt and was known as the "Rough Riders."

In his service in Cuba, Teddy Roosevelt would lead the Riders up Kettle Hill and into history. This heroic charge would establish his mark in American history and begin his rise to national prominence. With strong public support, he was elected Governor of New York in 1898 and continued to carve out the principles and direction that would give national scope to the progressive movement.

As Governor, Roosevelt championed higher wages for teachers, legislation to end racial discrimination in public schools, and to tax corporate franchises. He attacked urban poverty and the slums where it was bred, and he instituted his policies to preserve the State's natural resources. Yet these were only hints of the wide-ranging, forward-looking legislative and administrative reforms that he would pursue during his Presidency.

In 1900, Theodore Roosevelt was elected Vice President of the United States. On September 14, 1901, Roosevelt, the youngest man to do so at 42, took the oath of office following the tragic assassination of President McKinley. Roosevelt moved quickly to put his own stamp on the Presidency. Theodore Roosevelt's accomplishments as President are well known. Progressive, trust buster, internationalist, conservationist, and the Nation's first modern, activist President. What is less well known about Roosevelt and why I take special pride in acknowledging the anniversary of his birth is because of the lessons he learned during his time in North Dakota and what those experiences later meant to the Nation as a result of those experiences.

His foremost biographer Edmund Morris has written of his Dakota days:

> Roosevelt "had gone west sickly, foppish, and racked with personal despair; during his time there he had built a massive body, repaired his soul, and learned to live on equal terms with men poorer and rougher than himself. He had broken bones with Hashknife Simpson, joined in discordant choruses to the accompaniment of fiddlin' Joe's violin, discussed homicidal techniques with Bat Masterson, shared greasy blankets with Modest Carter, shown Bronco Charlies Miller how to "gentle" a horse, and told hell-roaring Bill Jones to shut his foul mouth. These men, in turn, had found him to be the leader they craved in that lawless land, a superior being, who paradoxically, did not make them feel inferior. They loved him so much they would follow him anywhere, to death if necessary—as some eventually did. They and their kind, multiplied seven millionfold across the country and became his natural constituency."

But to me and to all North Dakotans, Teddy Roosevelt said it best.

> "If it had not been for my years in North Dakota," he said long afterward, "I never would have become President of the United States."

Therefore, Mr. President, while we cannot claim Teddy Roosevelt as our own by birthright, we feel uniquely privileged to claim his stalwart, progressive leadership of our Nation as a direct result of his experiences in our State of North Dakota.

BIRTHDAY OF THE STATUE OF LIBERTY

Mr. DOLE. Mr. President, on October 28, 1886, France presented the United States with a gift to commemorate our 100th year of independence. This gift, the Statue of Liberty, has since become one of the most distinctive symbols of what our Nation stands for. Situated in New York Harbor, the Statue of Liberty welcomes travelers to our land of freedom, democracy, and opportunity. During the surge of immigration at the turn of the century, the Statue of Liberty became the most visible image of the promise of a new world.

THE NEW COLOSSUS

In 1903, Emma Lazarus wrote a sonnet to the Statue of Liberty called "The New Colossus." Now inscribed on a plaque beside the statue, the poem beautifully depicts the grace and vision of Miss Liberty. At this time, I ask that the sonnet be inserted into the RECORD:

> Not like the brazen giant of Greek fame, with conquering limbs astride from land to land; here at our sea-washed, sunset gates shall stand a mighty woman with a torch, whose flame is the imprisoned lightening, and her name mother of exiles. From her beacon-hand glows world-wide welcome; her mild eyes command the air-bridged harbor that twin cities frame, "keep ancient lands, your storied pomp!" cries she with silent lips. "Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore. Send these, the homeless, tempest-tos to me, I lift my lamp beside the golden door!"

RESTORATION PROJECT

Although Miss Liberty's character will never weaken, her physical structure is in severe disrepair. In view of this, President Reagan created the Statue of Liberty/Ellis Island Centennial Commission, and appointed Lee Iacocca as its chairman. Along with his dedicated staff, Mr. Iacocca has managed to raise millions of dollars to restore the Statue of Liberty in time for us to celebrate her 100th birthday next year.

Mr. President, on this birthday of the Statue of Liberty, I wish to pay tribute to those who had the vision to create her, to those who had the tenacity and courage to realize her dream, and to those who have dedicated themselves to keeping her torch lit for the future.

CONGRESSIONAL CALL TO CONSCIENCE

Mr. DANFORTH. Mr. President, Americans have always been responsive to the plight of the oppressed. Nowhere is there greater need for that response to be heard than in the case of Soviet Jewry.

The emigration of Soviet Jews has slowed to a trickle. From a peak of over 50,000 in 1979, the number of Jews allowed to emigrate dropped to less than 1,000 last year, and this year's figures are little better. It is indeed a frightening turn of events when the official Soviet view refuses to acknowledge even that the issue persists—that there are Jews who wish to emigrate and join their families outside of the Soviet Union.

In addition to the reductions in emigration, the Soviet Government has

stepped up its campaign of persecution, isolation, imprisonment, and harassment of those who agitate for their rights.

It is clear that the Government of the Soviet Union has sought to crack down aggressively on the cultural life of its Jewish population. The situation has progressively worsened, and teachers of Jewish language and culture such as Yevgeni Aizenberg and Yuli Edelstein have been arrested and imprisoned for their teachings.

It is thus critical that the United States continue to focus on this problem and remain committed to its resolution. Our country is a symbol of freedom and hope for oppressed men and women everywhere. We must live up to this image. Emigration and human rights must remain a top priority among U.S. foreign policy objectives.

Our expression of concern for the Jews and other oppressed groups in the Soviet Union does have an impact in that country. Many of my colleagues have joined in efforts on behalf of individuals pressing their right to emigrate. We have encouraged President Reagan and other U.S. officials to confront Soviet leaders with this issue. And we have made public our own concerns about the denial of these rights. The victims of this repression must know that we have not forgotten them, that we will not abandon them.

Americans must be concerned about the Soviet Union's treatment of its Jewish population for another reason. Soviet adherence to existing international commitments involving human rights and freedom of emigration is a key measure of their interest in improving relations with the United States. It is not a coincidence that the recent cooling in United States-Soviet relations was paralleled by dramatically decreased emigration and increased hostility toward Jewish activities.

The plight of Jews in the Soviet Union is acute, but there is some cause for hope. President Reagan's summit meeting with Soviet Premier Gorbachev next month represents his first opportunity to press this issue with the Soviet leader face to face. It is essential that we work to eliminate the persecution of Soviet Jews and that we do it now, while there is potential for change and before their situation deteriorates further.

OPPOSITION TO ARMS SALES TO JORDAN

The PRESIDING OFFICER. The clerk will read Senate Joint Resolution 223 by title.

The bill clerk read as follows:

A joint resolution (S.J. Res. 223) to prohibit the sales of certain advanced weapons to Jordan.

Mr. HELMS. Mr. President, I object to further consideration of the joint resolution.

The PRESIDING OFFICER. Objection is heard. The joint resolution will be placed on the Calendar.

AGRICULTURE, FOOD, TRADE AND CONSERVATION ACT OF 1985

The PRESIDING OFFICER. The Senate will now resume consideration of the unfinished business which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1714) to expand export markets for United States agricultural commodities, provide price and income protection for farmers, assure consumers an abundance of food and fiber at reasonable prices, continue food assistance to low-income households, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole Amendment No. 904, to amend the Animal Welfare Act, to ensure the proper treatment of laboratory animals.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. What is the pending business?

The PRESIDING OFFICER. Amendment 904.

Mr. HELMS. I thank the Chair.

Mr. President, I ask unanimous consent that amendment 904 be laid aside temporarily so that the Senator from Texas [Mr. BENTSEN] may call up an amendment.

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

Mr. BENTSEN. I thank the distinguished chairman of the committee.

AMENDMENT NO. 908

(Purpose: To improve the working of U.S. agricultural trade programs and to expand export markets for U.S. agricultural products)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for himself, Mr. COCHRAN, Mr. PRYOR, Mr. BURDICK, Mr. FORD, and Mr. SYMMS, proposes an amendment numbered 908.

Mr. BENTSEN. 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 26, between lines 15 and 16, insert a new subsection (c) as follows:

"(c) The United States Trade Representative shall—

(1) review the reports prepared under subsection (a) and any other information available to identify export subsidies or other export enhancing techniques (within the meaning of the agreement on Interpretation and Application of Article VI, XVI, and XXIII of the General Agreement on Tariffs and Trade);

(2) identify markets (in order of priority) in which United States export subsidies can be used most efficiently and will have the greatest impact in offsetting the benefits of foreign export subsidies that—

(A) harm United States exports,

(B) are inconsistent with the Agreement on Interpretation and Application of Article VI, XVI, and XXIII of the General Agreement on Tariffs and Trade,

(C) nullify or impair benefits accruing to the United States under international agreements, or

(D) cause serious prejudice to the interests of the United States and

(3) submit to the Congress and to the Secretary of Agriculture an annual report on—

(A) the existence and status of export subsidies and other export enhancing techniques that are the subject of the investigation conducted under paragraph (1), and

(B) the identification and assignment of priority to markets under paragraph (2)."

On page 26, line 16, strike out "(c)" and insert in lieu thereof "(d)".

On page 26, line 24, strike "subsection (a)" and insert in lieu thereof "subsections (a) and (c)".

On page 27, line 3, strike out "(c)" and insert in lieu thereof "(d)".

On page 27, line 9, strike "subsection (a)" and insert in lieu thereof "subsections (a) and (c)".

Mr. BENTSEN. Mr. President, this amendment will strengthen the export section of this bill by helping us to better target our responses to foreign export subsidies. I am joined in offering this amendment by the Senator from Mississippi [Mr. COCHRAN], the Senator from Arkansas [Mr. PRYOR], the Senator from North Dakota [Mr. BURDICK], the Senator from Kentucky [Mr. FORD], and the Senator from Idaho [Mr. SYMMS].

This amendment will require the U.S. Special Trade Representative to submit an annual report on the existence of export subsidies or other export enhancing techniques, as defined in the GATT Subsidies Code. This report must also identify and rank order markets in which U.S. export subsidies can be used most efficiently and will have the greatest impact in offsetting subsidies that are harming U.S. interests.

This report will give us a list, certified by STR, of export subsidies that are damaging U.S. agriculture. Anyone who doubts the existence or the status

under international trade law of these practices can remove those doubts simply by checking this report.

In addition, the recommendations of the Nation's top trade official will be available for use in guiding any U.S. export subsidy programs. We need to make the most efficient use of our resources in these export subsidy programs, just as we do in every other Government program. Having this report from the Special Trade Representative will help us to do that.

Although the executive branch of Government has awesome discretionary powers for use in dealing with trade problems, the powers have not been used wisely or well in the past. We have not had a real trade policy under Democratic or Republican administrations. Responses to trade problems have been ad hoc and uncoordinated.

Unfortunately, Mr. President, the executive branch's track record on dealing with foreign agricultural export subsidies and other trade barriers is not good. In many cases they have done nothing about barriers to U.S. agricultural exports. In other cases they have tried to do something but have accomplished nothing.

In 1983 Secretary Block announced, with great fanfare, the sale of $1.5 billion worth of wheat flour to Egypt to counter the European Community's subsidies. It really shook up the EC. They had taken that market away from us by using export subsidies, and we clearly had the clout to take it and other markets back. They were seriously considering negotiating with us about trade barriers and export subsidies on agricultural products.

But all of a sudden, what happened? The EC found that we had the clout, but not the will to use it. The State Department did not want to upset our friends. The Defense Department wanted European countries to live up to their agreements to put cruise missiles and Pershing II's in place so that we could defend them. The USDA was told to back off and the EC was told, "We're sorry we upset you, and we won't let this terrible thing happen again." A good initiative announced with great fanfare was very quietly cosigned to the trash heap after having wasted a bunch of the taxpayers' money.

What has happened since then? Nothing. The EC has cruised merrily along subsidizing their exports. They can do it a lot more cheaply now because of the high value of the dollar. They drove U.S. farmers out of our wheat markets with cash subsidies of up to $80 per ton, or $2.18 per bushel. Then the U.S. dollar got so high that the EC even tried a sale or two with no subsidies. They are back subsidizing again, but at what are to them very affordable levels.

USDA announced, again with great fanfare, a new export subsidy program last May. The results so far can charitably be described as minimal. We blew our credibility when backed down before, and now it will be twice as hard to get the EC, or anyone else, to take us seriously.

The recent announcement of the filing of a GATT complaint against EC wheat export subsidies is just more shrubbery for the administration to hide behind instead of getting into the fight. The failure to use any of the really serious options available to the President under current law clearly tells the EC that this administration is only looking for a way out of the political mess they are in on the trade issue. It says they are not serious about getting results.

But results are what the United States desperately needs, and it is not just U.S. farmers. EC sugar export subsidies are absolutely destroying the world sugar market. A French farmer is paid 27 cents per pound for his beet sugar. It is then sold, through subsidies, at the current world market price of 4.9 cents. The French farmer has seen the value of land for growing sugar beets go from $1,000 to $7,000 per acre. But the depression of the world sugar market through that dumping has cost the Caribbean basin countries billions of dollars. It has probably done just as much to destabilize Central America as the Communist guerrillas have done.

This bill contains some good export provisions that are designed to produce results, not just rhetoric. I commend the Senate Agriculture Committee for recognizing the problems and taking needed steps to deal with them.

This amendment will complement the committee's efforts. It will help see that we use our resources wisely and well, where they will get the most return on our investment. It will help make our export subsidies more effective, and it will add more and better information to the debate on our agricultural trade policy. I urge its adoption by the Senate.

Mr. President, I commend the Senate Agriculture Committee for recognizing this problem and taking the needed steps to try to deal with it. I am appreciative of that. I think this amendment is going to complement the committee's effort. It will help see that we use our resources wisely, that we do not blow them, and that we put them in those areas where we are really having to confront subsidies that are taking crop markets away from the U.S. farmers. It will make those subsidies that we finally are using for exports more effective. And, in all candor, I wish we would both do away with them. But you will never get the other side to do away with it until you take them head on and they understand that we are serious about it. This will help us be more effective in doing it.

I urge the adoption of this by the Senate. I understand that the majority has surveyed it and the minority and feel kindly toward it.

Mr. HELMS. Mr. President, this is a good amendment. If anything it is long overdue. I thank the Senator for his comments about the efforts of the Agriculture Committee. We have a good export title in this bill and this will improve it.

The problem that the Senator has discussed is not some illusory thing or speculative matter. It is real. We are losing jobs; we are losing exports; and we are increasing our deficit day after day.

A couple years ago, I went over to Geneva for the GATT ministerial conference. I was sent by the President. The message that I was to take, and I took as best I could, was that the EC's right to swing its subsidy fist ended at Uncle Sam's nose. I am afraid I overspoke a little bit because it has taken us a couple of years to wake up and smell the coffee with respect to what has gone on.

But I think that throughout this Congress, and certainly among the American people, there is an understanding that free trade is fine, so long as it is fair. But if it is not fair, it is not free.

The Senator's amendment is a good one and I commend him for it. I am delighted to commend it to the Senate and I accept the amendment.

Mr. BENTSEN. I thank the distinguished Senator, the distinguished chairman of the Agriculture Committee. I share with him the view that I am all for free trade, but you cannot be the only country in the world really trying to exercise it.

Mr. HELMS. The Senator is right.

Mr. BENTSEN. And it is time, frankly, that we have a heavy dose of pragmatism and we should quit apologizing for seeking some self-interest for the United States.

Mr. HELMS. The Senator is absolutely right.

Mr. MELCHER. Mr. President, I commend the senior Senator from Texas [Mr. BENTSEN] for presenting a solid amendment, one that we want to accept to provide specific instructions to the U.S. Trade Representative to study and identify those markets where concentrated efforts by the United States need to be taken to offset export subsidies used by foreign countries and to see that it is effective.

The amendment will attempt to expand our markets, and we certainly need to do that. Our foreign agriculture exports have dropped off terrifically, and much to our detriment, causing further surplus in the United States of these commodities, and,

therefore, further depressing the price. Like the Senator from Texas, I do not think we can sit idle and watch this export market slip away from us while we have the commodities to sell and need to sell them and have other countries subsidizing their exports.

So the study provided for in the Senator's amendment is an excellent one. On behalf of our side of the aisle, we not only accept the amendment, we are extremely pleased to support the amendment.

Mr. HELMS. Mr. President, I think at this point it might be well to say a few words about the export title in the farm bill which is now before the Senate.

In the first place, the export title expands the Intermediate Export Credit Program to authorize the guarantee of loans and to require the financing or guarantee of such loans in the amount of $1 billion annually for the next 3 years. The title also requires the Commodity Credit Corporation to make available short-term export credit guarantees in the amount of at least $5 billion annually for the next 4 years.

Specifically, to combat predatory practices of foreign competitors, such as the Senator from Texas has discussed, the bill requires the Secretary of Agriculture to use at least $325 million annually for 3 years to directly assist in the export of U.S. commodities adversely affected by the price or credit subsidies or unfair marketing arrangements used by other countries. To add to the effort, the Secretary of Agriculture is required to sell for export at least 150,000 tons of CCC-owned dairy products annually for 3 years.

Then the bill requires the Secretary to use at least $2 billion of CCC-owned commodities to enhance and encourage export sales of U.S. agriculture commodities during fiscal years 1986 through 1988.

I mention that simply to say that the Senator's amendment fits in well with what the Agriculture Committee is attempting to do, if we can ever get this bill passed and enacted into law.

Mr. President, I suggest we vote on the amendment.

Mr. PRYOR. Mr. President, I am pleased to support the amendment of the Senator from Texas [Mr. BENTSEN] and I hope it is adopted by the Senate. This amendment will set up a mechanism for identifying and targeting foreign export subsidies and other unfair trade practices. It will result in the creation of the first central listing of unfair trade practices that harm our agricultural exports. This listing will make a major contribution to the debate over agricultural policy. If we are to have an effective program to combat unfair foreign trade practices, then we must know what those practices are and how we can best use our own limited resources to combat them.

I think the time is overdue for our Government to "go to bat" for our farmers and to level the playing field of international competition. We have, for too long, allowed our farmers to have the unfair task of having to compete against foreign governments and treasuries, and not against foreign farmers.

This amendment will require the U.S. Trade Representative to report annually on the existence and status of trade barriers. This report will further identify markets in which U.S. export assistance can be used most efficiently and would have the greatest benefit in offsetting unfair foreign subsidies.

Mr. President, this is a "pro-farmer pro-American" amendment that says "enough is enough." Our farmers are the most efficient and productive producers of food and fiber in the world. It's time we allowed them to get on "equal footing" with competitors worldwide.

Mr. ABDNOR. Mr. President, before we do, I seek the floor to support the amendment of the Senator from Texas and to compliment him for his excellent amendment. I just walked into the Chamber. I would like to be listed as a cosponsor, if the Senator does not mind.

Mr. BENTSEN. Mr. President, I am flattered by the statement of the distinguished Senator from South Dakota. I would be delighted to do that. I ask unanimous consent that the Senator from South Dakota be added as a cosponsor.

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

The question is on agreeing to the amendment of the Senator from Texas [Mr. BENTSEN].

The amendment (No. 908) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. ABDNOR. Mr. President, I have amendment No. 901 at the desk and I would like to offer it at this time.

Mr. HELMS. Mr. President, I ask unanimous consent that the amendment of the Senator from Kansas be temporarily laid aside so that we may consider the amendment of the Senator from South Dakota.

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

AMENDMENT NO. 901

(Purpose: To revise the study of the Farm Credit System and provide for recommendation for improving such system)

Mr. ABDNOR. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. ABDNOR] proposes an amendment numbered 901.

Mr. ABDNOR. 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 376, beginning with line 19, strike out all down through line 20 on page 377 and insert in lieu thereof the following:

SEC. 1718. (a) The Governor of the Federal Reserve System, in consultation with the Secretary of Agriculture and the Governor of the Farm Credit System shall conduct a study of methods to ensure the availability of adequate credit, on reasonable terms and conditions, for farmers of the United States.

(b) In conducting such study, the Governor of the Federal Reserve System shall—

(1) evaluate the financial circumstances relative to both lenders and borrowers of farm credit; and

(2) evaluate the structure, performance, and conduct of the Farm Credit System.

(c) Not later than 180 days after the date of enactment of this Act, the Governor of the Federal Reserve System shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report containing the results of the study provided for in this section together with such comments and recommendations for providing a sound and reasonable credit program for farmers as the Governor considers appropriate.

Mr. ABDNOR. Mr. President, the current bill calls for a study of the farm credit system by the Governor of the Farm Credit Administration. With all due respect to the Governor, I do not believe the Agency which has the problem should investigate itself. My amendment would have the Chairman of the Board of Governors of the Federal Reserve System perform that study in consultation with the Governor of the Farm Credit Administration and the Secretary of Agriculture.

My amendment would require the Federal Reserve System to evaluate the financial condition of, and the prospects for, both lenders and borrowers of farm credit and evaluate the structure, performance and conduct of the Farm Credit System.

In addition, the Federal Reserve System would provide recommendations to the House and Senate Agriculture Committees, including recommendations of any assistance needed to stabilize the financial condition of the Farm Credit System and to protect the capital that borrowers have invested in the system.

I expect the Federal Reserve System to address the need for the establishment of a fund to be used to insure institutions of the Farm Credit System against loan losses.

The study is to be completed in 180 days.

I must admit, Mr. President, that my nomination of Paul Volcker to do this study was done with mixed feelings. I am very concerned about the degree of sensitivity that Chairman Volcker has with respect to the current economic depression in agriculture. But then I am not comfortable with the attitudes of many Washington officials regarding rural and agricultural problems. However, there is little question that the Federal Reserve System has the resources to do the job within the legislated time frame and, with proper monitoring, can do the job. The agricultural community will be watching.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HELMS. Mr. President, we have examined this amendment on this side. Not only do we find it acceptable, but we find it a piece of legislation for which we commend the distinguished Senator from South Dakota. We accept the amendment.

Mr. ZORINSKY. Mr. President, we have no objection to the Chairman of the Board of Governors working with the Secretary of Agriculture and the Farm Credit Administration in ensuring that there is adequate credit available for the Nation's farmers. I do think that the study provisions in the committee-reported bill are not inconsistent with the thrust of the Senator's amendment, and would want to see them retained in the legislation.

Mr. ABDNOR. I thank both the chairman and the ranking minority member for their support. Thank you very much.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 901) was agreed to.

(Later the following occurred:)

AMENDMENT NO. 901 AS (MODIFIED)

The PRESIDING OFFICER (Mr. COHEN). The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, on behalf of Senator ABDNOR, I ask unanimous consent that the amendment offered by the distinguished Senator from South Dakota earlier today, amendment No. 901, be modified, which modification I send to the desk. I might add that this has been cleared, as I understand it, on the other side.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The modified amendment is as follows:

On page 376, beginning with line 19, strike out all down through line 20 on page 377 and insert in lieu thereof the following:

SEC. 1718. (a) The Chairman of the Board of Governors of the Federal Reserve System, in consultation with the Secretary of Agriculture and the Governor of the Farm Credit System, shall conduct a study of methods to ensure the availability of adequate credit, on reasonable terms and conditions, for farmers of the United States.

(b) In conducting such study, the Chairman of the Board of Governors of the Federal Reserve System shall—

(1) evaluate the financial circumstances relative to both lenders and borrowers of farm credit; and

(2) evaluate the structure, performance, and conduct of the Farm Credit System.

(c) Not later than 180 days after the date of enactment of this Act, the Chairman of the Board of Governors of the Federal Reserve System shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report containing the results of the study provided for in subsection (a), together with such comments and recommendations for providing a sound and reasonable credit program for farmers as the Chairman considers appropriate.

(d) The Governor of the Farm Credit Administration shall conduct a study of the need for the establishment of a fund to be used—

(1) to insure institutions of the Farm Credit System against losses on loans made by such institutions; or

(2) for any other purpose that would—

(A) assist in stabilizing the financial condition of such System; and

(B) provide for the protection of the capital that borrowers of such loans have invested in such System.

(e) In conducting such study, the Governor shall—

(1) consider the advisability of using the revolving funds provided for under section 4.1 of the Farm Credit Act of 1971 (12 U.S.C. 2152) to provide initial capital for the fund referred to in subsection (d); and

(2) estimate the amount and level of future assessments levied on institutions of the Farm Credit System that would be necessary to ensure the long-term liquidity of such fund.

(f) Not later than 180 days after the date of enactment of this Act, the Farm Credit Administration shall submit a report containing the results of the study required under subsection (d) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(Conclusion of later proceedings.)

Mr. DIXON. Mr. President, what is the order of business?

The PRESIDING OFFICER (Mr. SYMMS). The pending question is amendment 904 offered by the majority leader to S. 1714.

Mr. DIXON. Mr. President, I ask unanimous consent that that amendment be temporarily set aside.

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

AMENDMENT NO. 910 AND AMENDMENT NO. 911

Mr. DIXON. Mr. President, I will state for my colleagues that my purpose in making the request is to send two amendments to the desk that I contemplate offering at an appropriate time later this afternoon after the distinguished chairman of the Agriculture Committee, Senator HELMS, and the ranking minority member on our side, Senator ZORINSKY, have had an opportunity to examine the amendments.

The PRESIDING OFFICER. The amendments will be stated.

The bill clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 910 and an amendment numbered 911.

Mr. DIXON. Mr. President, I send these two amendments to the desk. I do not ask for their immediate consideration.

I ask unanimous consent that the reading of the amendments be dispensed with.

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

Mr. DIXON. Mr. President, at such appropriate time as the distinguished chairman of the Agriculture Committee and the ranking minority member have had an opportunity to examine these amendments, I wish to bring them up again.

The PRESIDING OFFICER. The amendments will be received and will lie on the table.

Mr. DIXON. I thank the Chair.

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

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

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

Mr. DIXON. Yes. Of course.

Mr. HELMS. Mr. President, I ask unanimous consent that the pending amendment by the Senator from Kansas be temporarily laid aside so that this amendment may be considered.

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

Mr. DIXON. I thank the distinguished chairman of the committee.

AMENDMENT NO. 911

(Purpose: to express the sense of Congress that new Federal initiatives are needed in the area of research on new or improved food processing or value-added food technologies)

Mr. DIXON. Mr. President, I understand that No. 911 is at the desk. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DIXON. I believe I previously asked that we dispense with the reading of the amendment. I believe that was allowed.

The PRESIDING OFFICER. The clerk still needs to report the amendment.

Mr. DIXON. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 911.

Mr. DIXON. 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 285, between lines 14 and 15, insert the following:

(1) in paragraph (8)—

(A) by striking out "and" at the end of subparagraph (N);

(B) by inserting "and" at the end of subparagraph (O); and

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

"(P) research on new or improved food processing or value-added food technologies;";

On page 285, line 15, strike out "(1)" and insert in lieu thereof "(2)".

On page 285, line 17, strike out "(2)" and insert in lieu thereof "(3)".

On page 285, line 19, strike out "(3)" and insert in lieu thereof "(4)".

Mr. DIXON. Mr. President, during this time of great crisis in the agricultural sector of our Nation, we need to focus our efforts on research and technology. Research and the development of new technologies will help us realize our greatest hopes for agriculture. We desperately need to strengthen the scientific base of America's food industry.

Mr. President, the Federal Interagency Research Subcommittee observed in its publication, "Research: Background for 1985 Farm Legislation," that there has been an increasing decline in productivity for food processing over the last 25 years. The report goes on to state that one major cause of poor productivity is the low investment in research and development in the food processing and distribution sector. The report concludes that "improved technologies are badly needed in processing."

For this reason, I am introducing amendments which would include high priority status for food processing or value-added research, and would require the Department of Agriculture to appoint food technologists from accredited or certified departments of food technology to the Joint Council on Food and Agricultural Sciences and to the National Agricultural Research and Extension Users Advisory Board.

The Department of Agriculture has not previously included food science or food processing in its list of 1986 priorities for research, extension, and higher education.

It is vital to recognize that any expansion in research will help our farmers sell their products. I urge support of these important amendments dealing with research and technology.

Mr. President, I ask unanimous consent that a paper prepared by the Institute of Food Technologists entitled, "The Needs of Food Science and Technology Research and Development," be printed in the RECORD at this point.

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

THE NEEDS OF FOOD SCIENCE AND TECHNOLOGY R&D—FOR A HEALTHIER AMERICA

INTRODUCTION

Alarmed by inroads made by foreign food producers and manufacturers, IFT has determined the critical need for a concerted effort to improve the scientific base for America's food industry. A workshop held in November, 1984 delineated R&D requirements (summarized below). Now IFT is presenting this need to Congress and federal agencies, focusing on the 1985 Farm Bill. The major points follow.

Key points: Direct increased federal research support now to:

Broaden the basic science of food properties through fundamental research. This will enable the use of automation in food processing, and enhance food safety and the environmental compatibility of food and agricultural processes.

Develop new and better foods to further improve nutrition and increase the use of farmers' output. Value-added R&D can lead to new uses for raw ingredients—corn, wheat, soybeans, etc.

BENEFITS AND PAYOFFS

A. Greater scientific depth and sharpened technology can help U.S. food producers compete more successfully with foreign manufacturers.

B. By developing innovative food products, the output of the American farmer can be more fully utilzed.

C. Greater value-added of food products will return more tax dollars to federal and state governments.

D. More jobs can be created for American workers.

E. Increased competition and more efficient processes will tend to lower prices to consumers.

F. Enhanced nutrition, developed through research, new food items, and consumer education will tend to improve the wellness of Americans. Over the long term, this can substantially reduce the nation's health care costs.

WORKSHOP THEMES

Two hundred outstanding scientists met last fall with IFT to discern and specify the most critical food science and technology research needs into the next Century.

Their mandate: Define R&D priorities which will restore this country's competitive edge vis-a-vis foreign manufacturers. Determine the research to be done which is essential to maximize nutrition and, thereby, health, and tap the economic potential of enhanced value-added food processing. ("Value-added" is an economists' term to indicate the extent to which a product increases in economic value as it moves through the processing chain. In each step of the process, from raw material to sale to the consumer, the product attains more value. The value is reflected in its initial costs, plus the science, machinery, energy labor, etc. put into it. It is accepted that 80 percent of the value added of food products results from processing.)

MAJOR WORKSHOP FINDINGS

Forty-two program proposals from the IFT Workshop are encompassed in seven major research thrusts. They are directed as follows:

1. Develop innovative technologies to improve processing, and especially integrate value-added research with promising biotechnologies. Develop available science for badly-needed productivity gains in processing. Foster the use of robotics in food industries. (Each one percent improvement in yield—or increase in productivity—would return $1 billion to the economy).

2. Develop scientific techniques which will improve agricultural, food, dairy and meat products. Such research, including genetic engineering, promises quality improvements in both the palatability and nutritive value of foods.

3. Increase scientific understanding of food constituents—the physical, chemical and biological properties and structures of foods and related materials. Accompany this research with parallel efforts to employ the findings to improve processing, nutrition, food safety, and environmental compatibility.

4. Develop innovative analytical procedures. These must be rapid, nondestructive, simple, continuous, on-line, automated and inexpensive. These can help link advances in biotechnology to improvements in food safety, by providing quick and reliable monitoring of processes and properties of foods.

5. Develop better knowledge of mechanisms which control biological activity. To do so will help both the safety of foods and their relationship to the environment.

6. Obtain and evaluate critical data related to health and nutrition, and to chemical and mircobial safety.

7. Determine long-term needs for scientifically-trained personnel, and fund programs—including laboratory facilities—to meet these needs.

THE PRESENT SETTING

Despite deepening inroads by foreign manufacturers into U.S. markets, research programs within the U.S. Department of Agriculture remain substantially oriented to increased farm production, even in the face of growing surpluses. Currently contemplated programs largely retain this emphasis. What scant post-harvest research exists in these USDA programs (only 15 percent of all budgets) is focused largely on marketing economics, packaging and transportation—not on food characteristics useful in the marketplace. Further, this proportion has declined steadily over the past 20 years.

The USDA's "Joint Council" and "Users Advisory Board" consist mainly of agricultural production-oriented persons, and their reviews of USDA programs minimally reflect the potential contributions of post-harvest or value-added research. The same is true of the USDA Experiment Station Committee on Organization and Planning.

The 1981 National Agricultural and Food Act (the Farm and Food Act) in its R&D sections contains no mention of food processing or post-harvest technology. Value-added considerations are totally absent. In both proposed legislation (1985 Farm and Food Bill) and recommendations from established groups, emphasis largely remains on trends of the past. Some new emphasis does fall on biotechnology research, but this

lacks sufficient consideration of how this science's possible developments can be translated into useful products in the marketplace, domestic or foreign.

Food regulations created to meet old exigencies have the effect of forcing private sector R&D resources into "defensive research," to meet various labelling or safety mandates. This drains R&D resources from the creation both of new and better foods and more internationally competitive technologies.

In both the Agriculture and Health and Human Services departments' nutrition research programs, food scientists and technologists are sparsely represented. Beyond this, there is a need to broaden support for nutrition research, both on nutritives values of foods and nutrient requirements of both the general population and special subgroups for which capability beckons. Better coordination and reduced diviseness between the two agencies' programs is essential.

IFT RECOMMENDATIONS TO CONGRESS

Based on Workshop findings, IFT testimony before both the House and Senate Agriculture committees made the following recommendations:

Authorize increased R&D funding (by redirecting planned appropriations) earmarked for food science and technology—through value-added research—by $50 million for FY 1986 (and eventually $275 million per year).

Include more food technologists on the Joint Council on Food and Agricultural Sciences and the Users Advisory Board.

Encourage the USDA (ARS and CSRS) to strongly incorporate food science and technology research in their external programs.

Separate food science and technology institutionally within ARS and CSRS from marketing economics research.

Bring food regulations up to date, so research funding can be freed to advance science and technology, instead of defending against outmoded and outdated regulatory constraints.

Incorporate active roles for food scientists in DHHS and USDA nutrition programs.

Integrate value-added research into the USDA competitive grants systems.

Recognize the need for scientifically trained food scientists by providing sufficient educational funding and training grants.

NATIONAL SECURITY IMPLICATION

The benefits above speak for themselves; beyond these lies a more fundamental consideration:

The economic health of this nation already has been threatened by foreign assaults at U.S. and overseas markets in steel, autos, electronics. A similar threat now portends in agriculture and foods. If the scientific base for this country's food system is not strengthened soon, fundamental policy decisions will be abrogated to others. Foreign producers will decide what we will eat, and who will produce it. These decisions will profoundly impact our national agricultural policy, our food producers, consumer choices, and ultimately the economic and physiological health of this nation.

IFT feels such matters are too important to be decided in foreign capitals.

Mr. DIXON. Mr. President, I believe amendment No. 911 has been cleared on both sides, both by the distinguished manager of the bill, the chairman of the Agriculture Committee, Senator HELMS, and by the distinguished ranking member, the manager on our side, Senator ZORINSKY. There were some minor changes made in the amendment. I believe it is now acceptable to both sides.

This amendment expresses the sense of the Congress that new Federal initiatives are needed in the area of research on newer, improved food processing or value-added food technologies.

I believe it has been adequately discussed by the appropriate managers on both sides.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, it has indeed been discussed and considered. We find it not only acceptable but an excellent amendment. This side approves of it.

I might say, Mr. President, that research to promote value-added products will help create jobs at home and improve the problem of our agricultural surpluses. I believe our agricultural research program should give high priority to this type of reseach, and I certainly commend the Senator from Illinois for submitting this amendment.

Mr. ZORINSKY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ZORINSKY. Mr. President, we have examined the amendment, and believe it has merit. I congratulate the distinguished Senator from Illinois for introducing the amendment, and for his excellent work in drafting the Agriculture Committee farm bill.

I urge adoption of the amendment.

Mr. HELMS. Mr. President, I ask the distinguished Senator from Illinois whether he struck the words "(such as food irradiation)" on page 1, line 10.

Mr. DIXON. The distinguished manager of the bill is correct. At the request of the distinguished Senator from North Carolina, and others, we struck the words on page 1 "(such as food irradication)."

On the second page, we corrected the page number in lines 3 and 5 from 295 to 285, so that will be accurate.

Mr. HELMS. I thank the Senator.

Mr. DIXON. I thank the manager.

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

The amendment (No. 911) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. 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. 910

(Purpose: To require the Secretary of Agriculture to appoint two food technologists to the Joint Council on Food and Agricultural Sciences and two food technologists to the National Agricultural Research and Extension Users' Advisory Board)

Mr. DIXON. Mr. President, I have at the desk an amendment numbered 910, I believe. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DIXON. I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside for that purpose.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 910.

Mr. DIXON. 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 287, line 5, insert "(a)" after the section designation.

On page 287, between lines 8 and 9, insert the following new subsection:

(b) Section 1407(b) of such Act is amended by inserting before the last sentence the following new sentence: "To ensure that the views of food technologists are considered by the Joint Council, two of the members of the Joint Council shall, as determined to be appropriate by the Secretary, be appointed by the Secretary from among distinguished persons who are food technologists from accredited or certified departments of food technology, as determined by the Secretary.".

On page 287, between lines 14 and 15, insert the following new subsection:

(b) Section 1408(b) of such Act is amended—

(1) by striking out "twenty-five" in the matter preceding clause (1) and inserting in lieu thereof "27";

(2) by striking out "and" at the end of clause (10);

(3) by striking out the period at the end of clause (11) and inserting in lieu thereof ", and"; and

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

"(12) two members who are food technologists from accredited or certified departments of food technology, as determined by the Secretary.".

On page 287, line 15, by striking out "(b)" and inserting in lieu thereof "(c)".

Mr. DIXON. Mr. President, may I say to my distinguished friends, the managers of the bill, that this amendment has now been cleared on both

sides—with the Department of Agriculture, and my colleagues, the distinguished chairman of the committee, and the ranking member. They should know that on the first page of this bill, in line 9, after the word "shall" and before the word "be" we have inserted, at the request of both sides and the Department of Agriculture, these words:

* * *, as determined to be appropriate by the Secretary, * * *.

May I say, Mr. President, to my distinguished colleagues, the manager and the ranking member, that this is now cleared, as I understand, on both sides.

The purpose of this amendment is to require the Secretary of Agriculture to appoint food technologists to both the Joint council on Food and Agricultural Sciences and the National Agricultural Research and Extension Users' Advisory Board.

Mr. HELMS. Mr. President, has the Senator completed his remarks?

Mr. DIXON. Yes.

Mr. HELMS. Mr. President, since this amendment has been modified, it is satisfactory to both sides. Therefore, we accept the amendment.

Mr. ZORINSKY. Mr. President, we have examined the amendment on this side. It will improve the committee reported bill. We urge its adoption.

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

The amendment (No. 910) was agreed to.

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

Mr. DIXON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, I thank the chairman of the Agriculture Committee and the ranking member for their cooperation.

Mr. HELMS. Mr. President, we are awaiting the arrival of the distinguished majority leader [Mr. DOLE]. I believe at that time we will be in a position to continue consideration of the animal welfare amendment. Pending that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, I understand we may be near a resolution of the animal welfare amendment on the farm bill. Senator MELCHER has been very helpful. We hope we can dispose of that amendment within the next 15 or 20 minutes.

I know the distinguished chairman, Senator HELMS, has been here all day, along with Senator ZORINSKY, and others, and they are prepared to take up a series of amendments. There are still, as I view it, 30 or 40 possible amendments to the farm bill.

So if Members have amendments that we can dispose of today without votes, the chairman would be pleased to have those amendments brought to the floor.

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. 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, I wish to take the time this afternoon to give the Senate my view of the tremendously important matter before us, known as the farm bill. I anticipate that my colleagues would suspect that the Senator from Nebraska, who has been an advocate of sound farm programs for a long, long time, would have something to say about the importance of the matter, but I cannot overemphasize the crisis situation that affects large segments of agriculture today.

I wish to take a few minutes of the Senate's time to try to put this into perspective and to place in the RECORD some information that I think will be very helpful to our colleagues who, I think, are seeking more detailed and understandable information on the seriousness of the matter before us before we proceed, later on this week or next week, on tremendously important amendments that I understand will be offered to this bill.

Mr. President, I simply cannot impress on my colleagues enough the importance of the measure that we are working on today. I only hope that we would recognize in America that the posture that we are in on the bill now is not one to my liking. I would prefer that it had not been brought up as a sort of interim thing. We got hung up on the reconciliation bill so we rushed in and brought up the farm bill to kind of fill in time when we "don't have anything else to do."

I was on the floor when this measure was brought up last week and I heard the discussion then that we may go off this bill if we can get some kind of agreement on reconciliation and this had to be pulled down. I therefore say that the critical matter of agriculture and what is going on and not going on in rural America today is something that is deserving of more and higher priority consideration by the Senate.

I do object to the fact that we are kind of filling in time between agreements being worked out on other measures that are before the Senate at this time.

This bill that we are working on may well decide the fate of a large number of our family farmers across this Nation. This is a heavy responsibility and one which I hope this body will recognize and meet as we proceed in the days ahead with debate and passage of this bill.

I hope we have all heard about how tough things are "down on the farm." I want my colleagues to know those Americans who produce our food are not "crying wolf." Farmers are not asking for a "get rich scheme," they are crying out for survival. They want to be able to pay their bankers. They want to be able to pay their suppliers. They want to be able to provide their families with necessities. The situation is that bad, and it is time we did something constructive.

Agriculture is facing depression such as it has not seen since the 1930's. That is not an overstatement; if anything, it is an understatement.

At least in the thirties, the farmers could see and understand most of their problems. They felt the scorching drought, they saw the dusty winds, and the dust piled high above the fence rows like snow, and they fought the grasshoppers that devoured anything green that dared push through the parched remaining soil. Those farming or ranching in 1985 find themselves fighting to overcome a different kind of plague. Instead of dust, we see a flood of grain weighing heavily on our markets. Instead of grasshoppers, we have excessive interest rates eating away at what little profit there is to be made. Instead of the drought of the 1930's, our farmers today are experiencing a drought in the international marketplace where the export markets of the 1970's have dried to a trickle in the 1980's. Even though the causes are different, the effects are the same. We are truly revising the depression on the farm comparable to that time some 50 years ago.

If the financial collapse facing farmers is not enough to move us to action, look at some other hard, cold facts. Reliable studies show that over the next 5 years the economywide impact of loan losses from agriculture alone could have the following impacts:

Business investment down $24 to $38 billion;

Housing starts down 115,000 to 189,000 units;

Real GNP down $31 to $49 billion;

Job losses 178,000 to 275,000.

Mr. President, the chairman of the Senate Agriculture Committee has said this farm bill has serious flaws. I agree. The flaw with this bill is that it

will not do enough. I think it is our responsibility to do more, certainly not less.

Mr. President, I also noted this morning that the Secretary of Agriculture is at it again. It seems to this Senator that virtually every time the Senate is about to take up a matter affecting the farmers of this country, the Secretary goes to the public and indicates that the matter in question is veto bait because it is too costly. Of course, he then pulls out his new cost analysis, conveniently revised by his own subordinates, to prove his already dubious argument.

Well, I can say flatly that this Senator is growing increasingly weary with this negative approach. Furthermore, I do not think the Secretary's credibility is enhanced by the continued jockeying of numbers to support his basic premise. As a member of the Senate Budget Committee, I can say that USDA cost analyses for programs have been wrong more times than right. Given this fact, how can the Secretary keep coming back asking us to believe his prediction about the cost of the Senate farm bill.

I also remember, Mr. President, that the Secretary of Agriculture has been wrong, wrong, wrong several times when he testified before the Senate Budget Committee about the projected farm income for the year to come.

Mr. President, we have heard time and time again that this administration has spent billions on agriculture in an effort to improve the overall farm economy only to see it continue to decline. This admission of failure has caused the administration to once again change their philosophy on farm policy. Now they tell us that the real solution to the current depression in rural America is eliminating commodity price supports and turning the family farmers loose on the free market in order that they can export their way out of their financial problems.

I suggest, Mr. President, that instead of turning the farmers loose on the "free market," as Secretary Block recommends, such a policy at this time would be more like turning Faye Ray loose on King Kong. Our farmers would be swept up by the highly controlled international marketplace and would almost assuredly meet certain demise.

Not only has the Secretary of Agriculture trotted out on his veto horse in full gladiator armor over the cost issue, he has also unsheathed his gold-plated veto sword on the subject of farmer referendums.

Last week the President of the United States gave a ringing defense of democracy at the United Nations. I applaud that speech. But what about American farmers right here at home? Why can they not vote on their economic future?

To listen to the administration's claims and threat about cost, you would think a referendum would also be a budget buster. No way, Mr. President. A successful referendum on production controls would save money, and all of the estimators of what it would do to the budget agree on that. And it would raise farm income, which is supposedly what we are trying to do with the farm bill.

That is what this farm bill should be all about, raising farm income. And that is what we must do, or rural America will never see a recovery from the depths of the agricultural depression we are now seeing.

This is the task before us. In the next few days, the Senate will be debating the issue and dealing with amendments. As we work our way through this farm bill, let us remember the goal of raising farm income and keep our eyes on the ball. We must remember that this legislation will set Federal farm policy for 4 years. We had better do the job right.

Mr. President, a tremendously informative booklet has been printed by experts on the subject that we are discussing. Mr. President, it is entitled "A Prelude to the 'Crash of '87'." A key statement in this report, which is well documented by experts in the area, says how cutting AG supports will likely increase rather than decrease the Federal budget deficit.

Mr. President, I recommend the information to my colleagues because in a rather short space of time it indicates, as best any short document can, the serious situation that we are facing.

Mr. President, I ask unanimous consent that a full copy of "A Prelude to the 'Crash of '87'" be printed in the RECORD.

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

A PRELUDE TO THE "CRASH OF '87"

The current "Farm Crisis" is the result of many factors, including surpluses, loss of much of our foreign trade, low prices, substantial farm debt, over production (due primarily to improved farming methods), less political "clout", an uninformed press, and a public interest in reducing the Budget Deficit.

Since 1982 bank regulators and near panic stricken bankers caused by regulators demands have been destroying farm values, farm equities, small town banks, and farm credit agencies, which will soon also decimate the reserves of the F.D.I.C. and add to the growing burdens of the Treasury and the Federal Reserve.

The "Dominoe Effect" of these conditions is spreading like wildfire throughout the "farm states" and in the agriculture dependent areas of other states and is predicted to soon have substantial impact on business, insurance, and banking throughout America.

Cutting Agriculture supports can increase (not decrease) the Federal Deficit.

Every $1.00 of Farm Foreclosures, Write-downs and Bankruptcies, can likely, eventually, cost the U.S. Treasury $2.00!!!

THE DOMINOES—FOR USE IN THE ILLUSTRATION

1. Bank regulators (adverse classifications, write downs, charge offs).
2. Lenders (foreclosures, land and equipment auctions, write downs, charge offs, et al).
3. Farm values plummet.
4. Virtually no buyers for farms and ranches: No cash—no credit.
5. Small town business in trouble.
6. Small town banks in trouble.
7. Distributors of seeds, pesticides, fertilizers, and farm equipment in trouble.
8. Property tax sources dry up.
9. Farm credit agencies in trouble.
10. FDIC pays losses on small town banks.
11. FDIC staff and travel costs accelerate.
12. Municipalities default on bonded debt and obligations.
13. Electric Power Company bonds default.
14. Land grant colleges and public school system—income drops, tax base erodes, school bonds and loans default.
15. State income and sales tax revenues decrease.
16. Trust funds in Commercial Banks lose value.
17. Investment in farm credit agency paper is lost.
18. Regional banks lose on bank stock loans, farm and commercial loans.
19. Life insurance company investments in farm land and other Ag sector investments go sour and policies lapse.
20. Manufacturers of farm equipment and producers of seeds, pesticides and fertilizers lay off workers or go out of business.
21. FDIC pays losses on regional banks.
22. Investors in bank securities lose.
23. Farmers Home Administration Loan Portfolio decimated.
24. Money center banks in trouble as Ag chemical and farm machinery manufacturers, correspondent banks, et al fail and municipal bonds default.
25. Full scale loss of confidence in U.S. banking system.
26. Full scale loss of confidence in U.S. insurance system.

"Please send money, Mr. Baker, we're running out of it here."

The U.S.A. food and agricultural system is the single most important component of the American economy.

This system—which includes the production, preparation, delivery and sale of edible crops, livestock, textiles, leather and tobacco—is responsible for about one-fifth of the United States' gross national product (GNP):

	In billions of dollars
Contributors:	
Farm producers	74
Farm input suppliers (tractors, harvesters, equipment, fertilizers, pesticides, pharmaceuticals and services)	178
Manufacturers and processors of food and fibre	135
Distribution (transportation, sales, servicing, etc.) of food and Ag products	240

It provides 21-22 percent of the employment in America:

	Number of workers
Owner-operators and farm workers	3,770,000

	Number of workers
Producers of supplies and services purchased by farmers	4,000,000
Food processing, transportation and marketing	16,000,000

It is interesting to note that in the states that have been the largest beneficiaries of "Defense Job Welfare Programs" that land values have increased or have remained resonably firm.

State	Percent change in farmland values 1981–85	Prime contract awards 1983 (defense jobs welfare) per capital
Texas	+45	$578
Washington	+3	968
New England	+29	[1] 1,102
New York	+1	548
Virginia	+14	1,322
California	0	1,114
Nebraska	−46	103
Montana	−15	148
Iowa	−49	139
Illinois	−42	134
North Dakota	−20	209
South Dakota	−33	61

[1] Mass.

It's not just the $216 billion of Farm Debt but also the other billions of dollars of municipal government, business, and industry debt related to the Ag sector that is of major concern to bankers and insurance companies.

Government programs and policies directly or indirectly affecting agriculture have a dramatic impact upon the other parts of the food and agricultural industry.

For example, when the net income of farmers drops substantially, as it did from 1979 ($32.3 billion) to 1983 ($15.7 billion), the business of input suppliers is drastically affected.

A. Sales of all types of farm machinery fell anywhere in a range of 40 percent (mower conditioners) to 77 percent (four-wheel-drive tractors) from 1979 through mid-1983.

B. Nearly 1,200 farm equipment dealerships closed their doors from 1981 through 1983, a closure rate more than twice the historical average.

C. More than 20,000 machinery manufacturing workers were laid off.

D. The real value of pesticide sales declined by one-third, from $1.5 billion in 1979 to $1 billion in 1983, with plants operating at 54 percent capacity.

E. Fertilizer use dropped 18 percent during the same period.

SOME HISTORY NOT TO FORGET

1. Domestic agriculture has always been the primary source of our food, clothing and shelter, three essentials to our continued existence.

2. Since the Continental Congress first recommended it 208 years ago, "aid to agriculture" has been a major concern of the nation's public policy.

3. This historic concern and support of the nation's food and agricultural system has been a major contributor to the fact that Americans are the best fed and best housed humans on earth—and at a more reasonable cost than anywhere else in the world. (For example, less than 13% of U.S. personal spending goes for food consumed at home. In Japan it's 21%. In Russia it's 31%).

3. In the 1970's a main concern was that world food needs would outpace production. Many believed—inside and outside of government—that the agricultural issue of the future was going to be how to produce enough for a starving world rather than surpluses.

A. Many also believed that the United States was the only country that possessed the potential to expand food production enough to meet world needs.

B. Land was (and was to be) of great value. ("They just weren't making it anymore".

C. During the decade of the 1970's the volume of U.S. exports increased by over 150 percent in response to the growing world demand. This growth in world demand is evidenced by an increase of nearly a third in world grain consumption and a rise in oilseed consumption of over 50 percent. The situation is similar for other major commodities produced in the U.S.

D. During this period colleges and the USDA and others were teaching farmers how to become more efficient; what new equipment to use; how to buy land; and how to borrow the dollars to do so.

E. Federal Agriculture Officials went up and down the land and preached "fence row to fence row farming."

F. Bankers were there to help finance this "growing world wide need". Prior to the Carter grain embargo on Russia, the U.S.A. provided 70% of Russia's needs. Now we're lucky to supply 20%–30% of their needs.

5. The current high value of the U.S. dollar in international trade (which tends to make U.S. Ag products less competitive world wide) has been influenced only very slightly by Federal Agriculture supports (because it contributes so little—1–2% to the Federal Budget Deficit.) On the other hand, the quality and quantity of our food products contribute $20 Billion to the U.S. net Balance of Trade.

6. Bankrupt farmers who are currently being forced to move off the land and into the city add to the unemployment rolls and increase social welfare costs. In past years when farmers "sold out" to their neighbors or others and moved to the city, they had money to live on, to invest in small businesses or securities, or to tide themselves over until productive employment skills could be learned and put to work. Such is no longer the case.

Families who remain on the farm are able to take care of themselves by providing much of their own food, heat and housing costs and to lead a healthy and productive life.

FARM OPERATORS HAVE SPECIFIC UNIQUE NEEDS THAT ARE NOT OFTEN FULLY UNDERSTOOD

1. *Investment Capital Requirements.*—Agriculture assets, as a whole, rival those in the manufacturing sector.

The average capital asset needs per farmer are much higher than that of the average employee in the rest of the economy.

2. Today's commercial farmer is comparable, not to the wage-earner/consumer of the city or suburbs, but to the owner of a small manufacturing operation.

3. The average farmers income is vastly more variable and insecure from year to year than the average wage earner.

4. *Working Capital Requirements.*—Extensive purchasing of supplies and services by farm operators, long before they receive the income from the sale of commodities produced, requires vast sums of operating and investment credit. Our farmers and ranchers have become, as noted, business managers and operators who are, in terms of physical capital, two-and-one-half-times as capitalized as U.S. manufacturers (on a per-worker basis) (without considering the land they own and/or rent for farming.)

BANK REGULATOR ACTIONS—A BASIC PROBLEM FACING AMERICA

1. Plummeting farm land values today are not due to the "Free Market" at work. The substantial recent drops (40–50–60%) in farm and ranch land values in the farm sector are caused primarily by the "self-destruct" actions of bank regulators and affected lenders.

These actions quickly:

Destroy many lifetimes of building up of farm assets and equity;

Destroy some of the nation's most efficient food producers;

Destroy extensive values of loan collateral;

Destroy (eventually) the actual funds of the depositors in banks that the regulators are trying to protect.

2. When bankers foreclose on commercial business organizations such foreclosures often strengthen other competitive businesses in the area and makes them more profitable.

3. However, when bankers foreclose on farms and ranches, other land and equipment values in the area nearby are rapidly driven downward; farm equities evaporate; bankers foreclose on loans, and the general business and financial structure of the entire area are threatened.

4. The current, near panic foreclosures and write downs occurring in the nation's farm sector are seriously damaging not only the approximate 3,987 farm sector banks, but are also threatening the larger banking and financial structure of the U.S.A.

THE IMPENDING BANKING DISASTER IN NEBRASKA

1. Commerical Banks in Nebraska have a combined net worth of $1,240,000,000.

2. Nebraska has 62,000 farms and ranches.

3. Their average value is $500,000.

4. Approximately ½ of them owe more than 50% of their value to banks, farm credit agencies, insurance companies and other creditors. Approximately half of this debt is held by commercial banks.

5. Bankers and economists in Nebraska are forecasting that 15–20% of these farms will be forced out of business in 1986. 62,000 farms × 15% failures = 9,300 farm failures.

6. These 9,300 farms at $500,000 average value totals $4,650,000,000 in total asset values. The debt of these failed farms is estimated at $2,500,000,000.

7. If commercial banking's share of this debt is 50%, they are facing $1,250,000,000 in charge offs, writedowns, et al. All of which, under the best conditions, will threaten much of the capital accounts of Nebraska banking, which have already been weakened.

Continued strong support of the Ag Sector by Congress and the Administration is an essential investment for America. It is a relatively small price to pay to help avoid the "Crash of '87".

A popular feeling is that the U.S.A. now has too much Agriculture production. Some believe also that the U.S. "Welfare State" has "too many" and "too much" of alot of things, i.e.—defense workers—lobbyists—hospitals—medicare and medicaid rich doctors—nurses—non profit groups and associations—space program workers—single parents—unproductive social security and other welfare recipients—all propped up by huge

Federal Government outlays. These outlays represent more than 80% of the Federal Budget—as compared with the mere 1-2% that is traditionally spent in keeping our "agriculture house" together.

HOW TO HELP AVOID THE "CRASH OF '87"

1. Bank Regulators must take a more long term and historic view of changing farm values and equities and to recognize that their current policies and practices can well trigger the "Crash of '87".

2. Congress should maintain price and other supports through a transition period as a budget saving investment for the future.

3. Remove, for the time being, some farm and ranch land currently in production. Set it aside under government control until this country needs it or until it can be determined how it can be best used to preserve world peace and to feed the 40% of the world that goes to bed hungry every night.

4. Allow banks to hold land as an asset without adverse classification if certain conditions exist (i.e. annual returns exceed cost of funds).

5. Implement aggressive, competitive, skillful foreign trade actions by the Federal Government.

The "Free Market" philosophy is a good one, but there is no such thing in International Agriculture trade. Our foreign competitors don't practice free trade. Their governments are able to meet whatever low prices our agriculture products may sell at.

6. Set up a Bi-Partisan Committee to re-examine and re-establish a "National Food Policy". Also determine what effect Russian and Cuban activities in grain futures is having on U.S. Agriculture. Develop a better way to deliver "Food for Peace" and to provide foreign aid.

7. Have regular meetings at the White House level with the FDIC, Comptroller, Treasurer, Agriculture Dept. and selected Ag Sector Senators and Congressmen. Among other things, determine the actual economic impact on U.S. Banking, Business and Finance and the Treasury of present "Free Market" and Ag Budget cutting philosophies of the Administration.

Mr. EXON. Mr. President, I simply say to the Senate that no bill is more important to not just rural America but also to all America and the continuation of the economic recovery we are seeing taking place today. Some sectors of our economy are at risk unless we can write an acceptable farm bill here in the next few days.

Mr. HELMS. Mr. President, I have listened, as always, with interest to the able Senator from Nebraska. He is my friend, and he is a valuable Member of this body.

I can assure him that the consideration of the farm bill is by no means a fill-in proposition.

I have here, if the Senator would like to see it, the schedule. It indicates that the farm bill was supposed to come up for consideration this past Thursday. We missed that by 1 day, and we are now on it; and the schedule calls for us to be on the farm bill through Wednesday, November 6. That may be a little optimistic or it may not be. We will see.

However, the point is that the distinguished colleague of the Senator from Nebraska [Mr. ZORINSKY] and I have been on this floor both Friday and today, pleading with Senators to come and offer amendments to the farm bill. As of this hour, 9 minutes to 4, we have been able to handle 4 amendments out of the 31 I have on my list, on which we had hoped Senators might come and begin earnest debate.

I will not have any comment about whether or not the Senate is a Tuesday through Thursday club. But I agree with the Senator: I think it is time we got down to brass tacks and gave full consideration to the production of a sensible farm bill.

The Senator, in a very gracious way, mentioned my interest in some aspects of the farm bill, and he is right. I believe that I see some serious flaws that simply must be remedied if we are to have legislation that will be meaningful to the farmers of America.

For example, I say to the Senator that in the bill as reported by the Agriculture Committee, the bulk of the target prices are paid to the largest and the wealthiest farmers. The largest 5 percent of the farmers of America get more than 35 percent of the total dollars paid out. That is one of the things I objected to in the consideration of the farm bill in committee. If we are really concerned about the family farmers, the small farmers, then this flaw, as I perceive it to be, must be corrected.

I say to the Senator that less than 20 percent of the $70 billion this bill will cost the taxpayers will go to farmers in financial distress, meaning that 80 percent of that $70 billion will go to those farmers that are not in trouble. The subsidies are paid on the basis of how much a farmer grows, not on how much debt or financial stress that farmer is experiencing.

All this, in my judgment, makes the bill too costly.

According to the latest estimate of CBO—and you may argue with those figures, but they are the figures we ordinarily operate on around this place—this farm bill will cost $25 billion more than the budget resolution passed by Congress a month or so ago. That resolution allocated $34.8 billion for farm commodity and related programs for 3 years, and this bill will cost more than $60 billion for those programs over the 3-year period and more than $71 billion over the 4-year period, according to the CBO.

So, these are the questions, I say to my friend from Nebraska—and he is my friend—that we must consider; and I hope we can get about it and have some debate. But ED ZORINSKY and I have sat here this morning, since the opening of the Senate, waiting for Senators to come and participate in the debate. As I say, we have handled four relatively minor amendments, and that is all. I doubt that we will do much more than call up one of the substantive amendments before we recess for the evening.

Again, I pay my respects to the distinguished Senator from Nebraska. I will close as I began, by saying that he is an able Member of the Senate, he is my friend, and he has made a valuable contribution.

Mr. EXON. Mr. President, I thank my good friend and colleague from North Carolina for those kind remarks. He is the chairman of the Agriculture Committee, and we depend on him for his understanding of the serious problems we have in agriculture today.

I say to the chairman that I share—as I know my colleague from Nebraska does—the fact that this measure is somewhat over budget. I am not sure that I can agree fully with the figures that the chairman of the Agriculture Committee cited just now, but I think any reasonable person would have to agree that this is over budget now.

We might go back, as we have from time to time, and argue whether or not that is the right amount, but suffice it to say that it is over budget. What is over budget? There are several ways that can be corrected. We do not necessarily have to correct that in the agriculture budget.

Let us assume, for the sake of discussion, that we would approve the agriculture bill as it came out of the Senate Agriculture Committee by a majority vote. If we were to do that and if CBO or any other forecasting agency said it is over budget, that, in and of itself, is not busting the budget. We would have to make reductions in other parts of the budget to make that up.

I do not mean to say that that is an easy way to dismiss it. I do not mean to say that, therefore, we should not pay any attention to the budget, because I am a member of the Budget Committee. I simply say that I tried to emphasize in my earlier remarks that what we are about here is to write a farm bill that will not cause the Federal Government and the Federal taxpayers to spend even more money because of our penny-wise and pound-foolish actions here on the floor.

My colleague from North Carolina and I have worked together on many things. I would certainly like the opportunity to try to work with him, perhaps to come up with some cost-cutting measures, to direct more of this money to what most of us consider the family-sized farmers. Maybe we can make some sort of savings there.

I believe that the Senator from North Carolina knows—and I think it was implied in his remarks—that this Senator was here on Friday all day. I have been here today. I just do not have any amendments at this time. I simply say that the quicker we can start voting on this matter, the better.

I suggest that probably the reason why there is not much more action on the floor of the Senate in this regard right now than there obviously is, to the disappointment of all of us, is the way this measure has been handled.

Certainly the Senate knows that when we went to the farm bill on Thursday night of last week, I believe it was—I stand corrected on that if that is not the right time, but I believe it was Thursday—it was clearly indicated that we hoped to get unanimous agreement that we would debate and bring up for the most part noncontroversial amendments on both Friday and again on Monday, that we would not have any votes, that if necessary we would stack these votes on Tuesday. I simply say, and I suspect that the chairman of the Agriculture Committee would agree with me, that when any time you tell the Senate that you are not going to have any votes on Friday and you are not going to have any votes on Monday next, that if we have to require any votes if we should get into anything controversial, then we will put those over and stack them on Tuesday, I suspect that that took a chance of any bite of anyone being here and getting anything done.

It is true that agreement was not entered into but that agreement was proposed.

If there is any lament about the inability to get things done on Friday last and this day, Monday, I would suggest that it was primarily because this matter I think again—in my opinion, once again I could be wrong—was one of those filler motives that I do not suspect that we are going to have very much happen on serious voting until Tuesday of next week, if not later.

I, too, wish to say that those who have amendments that are ready now have also been encouraged by this Senator to come over and offer them. At least, we can begin debate to move things forward.

What I am saying is that if we begin debate now, then we are going to save some time that we might wish that we had later on.

It is old story, as the chairman of the Agriculture Committee fully knows, and we went through it on the reconciliation bill. We get down to the last few minutes and we have 10 or 15 or 20 Senators who want to come over and offer a major amendment of some kind and there is no time left to debate it. It is not the way we should do business in the Senate and I think that probably my friend from North Carolina would agree with me at least on that statement.

Mr. President, I yield the floor.

AMENDMENT NO. 904 (AS MODIFIED)

Mr. DOLE. Mr. President, on Friday I offered an amendment dealing with animal welfare on the farm bill. I am now advised that, thanks to hard work by the staff on Friday, over the weekend, and today, and with the assistance of the able Senator from Montana [Senator MELCHER], and the concurrence by the distinguished Senator from Utah [Senator HATCH], that we now have reached an agreement which I would send to the desk on behalf of myself and the distinguished Senator from Montana [Mr. MELCHER], and Senators HEINZ, ROTH, STEVENS, LEAHY, COHEN, STAFFORD, MATSUNAGA, SIMON, BAUCUS, FORD, SPECTER, DURENBERGER, BOSCHWITZ, GOLDWATER, BINGAMAN, ZORINSKY, GORTON, BURDICK, D'AMATO, KASTEN, PROXMIRE, PELL, DOMENICI, CHAFEE, MOYNIHAN, MITCHELL, MURKOWSKI, EVANS, WILSON, STENNIS, HUMPHREY, HECHT, BUMPERS, CRANSTON, METZENBAUM, MATTINGLY, ROCKEFELLER, THURMOND, and EXON.

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment is as follows:

Strike everything after the title and insert in lieu thereof the following:

SEC. . This Act may be cited as the "Improved Standards for Laboratory Animals Act".

SEC. . The Congress finds that—

(1) the use of animals is instrumental in certain research and education for advancing knowledge of cures and treatment for diseases and injuries which afflict both humans and animals;

(2) methods of testing that do not use animals are being and continue to be developed which are faster, less expensive, and more accurate than traditional animal experiments for some purposes and further opportunities exist for the development of these methods of testing;

(3) measures which eliminate or minimize the unnecessary duplication of experiments on animals can result in more productive use of Federal funds; and

(4) measures which help meet the public concern for laboratory animal care and treatment are important in assuring that research will continue t progress.

SEC. . (a) Section 13 of the Animal Welfare Act (7 U.S.C. 2143) is amended—

(1) by redesignating subsections (b) through (d) as subsections (f) through (h) respectively; and

(2) by striking out the first two sentences of subsection (a) and inserting in lieu thereof the following:

(1) The Secretary shall promulgate standards to govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors.

(2) The standards described in paragraph (1) shall include minimum requirements—

(A) for handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, and separation by species where the Secretary finds necessary for human handling, care, or treatment of animals; and

(B) for exercise of dogs and for a physical environment adequate to promote the psychological well-being of primates.

(3) In addition to the requirements under paragraph (2), the standards described in paragraph (1) shall, with respect to animals in research facilities, include requirements—

(A) for animal care, treatment, and practices in experimental procedures to ensure that animal pain and distress are minimized, including adequate veterinary care with the appropriate use of anesthetic, analgesic, tranquilizing drugs, or euthanasia;

(B) that the principal investigator considers alternatives to any procedure likely to produce pain to or distress in an experimental animal;

(C) in any practice which could cause pain to animals—

(i) that a doctor of veterinary medicine is consulted in the planning of such procedures;

(ii) for the use of tranquilizers, analgesics, and anesthetics;

(iii) for pre-surgical and post-surgical care by laboratory workers in accordance with established veterinary medical and nursing procedures;

(iv) against the use of paralytics without anesthesia; and

(v) that the withholding of tranquilizers, anesthesia, analgesia, or euthanasia when scientifically necessary shall continue for only the necessary period of time;

(D) that no animal is used in more than one major operative experiment from which it is allowed to recover except in case of—

(i) scientific necessity; or

(ii) other special circumstances as determined by the Secretary; and

(E) that exceptions to such standards may be made only when specified by research protocol and that any such exception shall be detailed and justified in a report outlined under paragraph 7 and filed with the Institutional Animal Committee.

(b) Section 13(a) of such Act is further amended—

(1) by designating the third and fourth sentences as paragraph (4);

(2) by designating the fifth sentence as paragraph (5); and

(3) by striking out the last sentence and inserting in lieu thereof the following:

(6) Nothing in this Act shall be construed as authorizing the Secretary to promulgate, rules, regulations, or orders with regard to the design, outlines, or guidelines of actual research or experimentation by a research facility or Federal research facility: *Provided*, That the Secretary shall require every research facility to show that professionally acceptable standards governing the care, treatment, and practices on animals are being followed by the research facility during research and experimentation. No rule, regulation, order, or part of this Act may require a research facility to disclose publicly, or to the Institutional Animal Committee during its inspection, trade secrets or commercial or financial information which is privileged or confidential.

(7)(A) The Secretary shall require, at least annually, every research facility and Federal research facility to report that the provisions of this Act are being followed.

(B) In complying with subparagraph (A), such research facilities shall provide—

(i) information on procedures likely to produce pain or distress in animals and assurances demonstrating that the principal investigator considered alternatives to those procedures;

(ii) assurances satisfactory to the Secretary that such facility is adhering to the standards described in this section; and

(iii) an explanation for any deviation from the standards promulgated under this section.

(8) Paragraph (1) shall not prohibit any State (or a political subdivision of such

State) from promulgating standards in addition to those standards promulgated by the Secretary under paragraph (1).

(c) Section 13 of such Act is further amended by inserting after subsection (a) the following new subsections:

(b)(1) The Secretary shall require that each research facility establish at least one Institutional Animal Committee. Each Institutional Animal Committee shall be appointed by the chief executive officer of each such research facility and shall be composed of not fewer than three members. Such members shall possess sufficient ability to assess animal care, treatment, and practices in experimental research as determined by the needs of the research facility and shall represent society's concerns regarding the welfare of animal subjects used at such facility. Of the members of the Institutional Animal Committee—

(A) at least one member shall be a doctor of veterinary medicine;

(B) at least one member shall not be affiliated in any way with such facility other than as a member of the Institutional Animal Committee, shall not be a member of the immediate family of a person who is affiliated with such facility, and is intended to provide representation for general community interests in the proper care and treatment of animals; and

(C) in those cases where the Institutional Animal Committee consists of more than three members, not more than three members shall be from the same administrative unit of such facility.

(2) A quorum shall be required for all formal actions of the Institutional Animal Committee, including inspections under paragraph (3).

(3) The Institutional Animal Committee shall inspect at least semiannually all animal study areas and animal facilities of such research facility and review as part of the inspection—

(A) practices involving pain to animals, and

(B) the condition of animals, to ensure compliance with the provisions of this Act and that pain and distress to animals is minimized. Exceptions to the requirement of inspection of such study areas may be made by the Secretary if animals are studied in their natural environment and the study area is prohibitive to easy access.

(4)(A) The Institutional Animal Committee shall file an inspection certification report of each inspection at the research facility. Such report shall—

(i) be signed by a majority of the Institutional Animal Committee members involved in the inspection;

(ii) include reports of any violation of the standards promulgated, or assurances required, by the Secretary, including any deficient conditions of animal care or treatment, any deviations of research practices from originally approved proposals that adversely affect animal welfare, any notification to the facility regarding such conditions and any corrections made thereafter;

(iii) include any minority views of the Institutional Animal Committee; and

(iv) include any other information pertinent to the activities of the Institutional Animal Committee.

(B) Such report shall remain on file for at least three years at the research facility and shall be available for inspection by the Animal and Plant Health Inspection Service of the Department of Agriculture and any funding Federal agency.

(C) In order to give the research facility an opportunity to correct any deficiencies or deviation discovered by reason of paragraph (3), the Institutional Animal Committee shall notify the administrative representative of the research facility of any deficiencies or deviations from the provisions of this Act. If, after notification and an opportunity for correction, such deficiencies or deviations remain uncorrected, the Institutional Animal Committee shall notify (in writing) the Animal and Plant Health Inspection Service of the Department of Agriculture and the funding Federal agency of such deficiencies or deviations.

(5) The inspection results shall be available to Department of Agriculture inspectors for review during inspections. Department of Agriculture inspectors shall forward any Institutional Animal Committee inspection records which include reports of uncorrected deficiencies or deviations to the Animal and Plant Health Inspection Service and any funding Federal agency of the project with respect to which such uncorrected deficiencies and deviations occurred.

(c)(1) In the case of Federal research facilities, a Federal Institutional Animal Committee shall be established and shall have the same composition and responsibilities oultined in subsection (b), except that the Federal Institutional Animal Committee shall report deficiencies or deviations to the head of the Federal agency conducting the research rather than to the Animal and Plant Health Inspection Service of the Department of Agriculture. The head of the Federal agency conducting the research shall be responsible for—

(A) all corrective action to be taken at the facility; and

(B) the granting of all exceptions to inspection protocol.

(d)(1) Each research facility shall provide for annual training for scientists, animal technicians, and other personnel involved with animal care and treatment in such facility. Such training shall include instruction on—

(A) the humane practice of animal maintenance and experimentation;

(B) research or testing methods that minimize or eliminate the use of animals or limit animal pain or distress; and

(C) utilization of the information service at the National Agricultural Library, established under subsection (e).

(D) include methods whereby deficiencies in animal care and treatment should be reported.

(e)(1) The Secretary shall establish an information service at the National Agricultural Library. Such service shall, in cooperation with the National Library of Medicine, provide information—

(A) pertinent to employee training;

(B) which could prevent unintended duplication of animal experimentation as determined by the needs of the research facility; and

(C) on improved methods of animal experimentation, including methods which could—

(i) reduce or replace animal use; and

(ii) minimize pain and distress to animals, such as anesthetic and analgesic procedures.

(f) In any case in which a Federal agency funding a research project determines that conditions of animal care, treatment, or practice in a particular project have not been in compliance with standards promulgated under this Act, despite notification by the Secretary or such Federal agency to the research facility and an opportunity for correction, such agency suspend or revoke Federal support for the project. Any research facility losing Federal support as a result of actions taken under the preceding sentence shall have the right of appeal as provided in sections 701 through 706 of title 5, United States Code.

SEC. . Section 16(a) of the Animal Welfare Act (7 U.S.C. 2146(a)) is amended by inserting after the first sentence the following:

"The Secretary shall inspect each research facility at least once each year and, in the case of deficiencies or deviations from the standards promulgated under this Act, shall conduct such follow-up inspections as may be necessary until all deficiencies or deviations from such standards are corrected.".

SEC. . The Animal Welfare Act (7 U.S.C. 2131-2156) is amended by adding at the end thereof the following section:

SEC. 27. (a) It shall be unlawful for any member of the Institutional Animal Committee to release any confidential information of the research facility including any information that concerns or relates to—

(1) the trade secrets, processes, operations, style of work, or apparatus, or

(2) to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of the research facility.

(b) It shall be unlawful for any member of such Committee—

(1) to use or attempt to use to his advantages, or

(2) to reveal to any other person, any information which is entitled to protection as confidential information under subsection (a).

(c) A violation of subsection (a) or (b) is punishable by—

(1) removal from such Committee, and

(2)(A) a fine of not more than $1,000 and imprisonment of not more than one year, or

(B) if such violation is willful, a fine of not more than $10,000 and imprisonment of not more than three years.

(d) any person, including any research facility, injured in its business or property by reason of a violation of this section may recover all actual and consequential damages sustained by such person and the cost of the suit including a reasonable attorney's fee.

(e) Nothing in this section shall be construed to affect any other rights that any such person may have, nor shall subsection (d) be construed to limit the exercise of any such rights arising out of or relating to a violation of subsections (a) and (b).

SEC. . (a) Subsection (b) of section 19 of the Animal Welfare Act (7 U.S.C. 2149(b)) is amended—

(1) in the first sentence by striking out "$1,000 for each such violation" and inserting in lieu thereof "$2,500 for each such violation"; and

(2) in the sixth sentence by striking out "$500 for each offense" and inserting in lieu thereof "$1,500 for each offense".

(b) Subsection (d) of such section is amended by striking out "$1,000" and inserting in lieu thereof "$2,500".

SEC. . (a) Section 2 of the Animal Welfare Act (7 U.S.C. 2132) is amended by adding after subsection (j) the following new subsections:

(k) The term "Federal agency" means an Executive agency as such term is defined in section 105 of title 5, United States Code, and with respect to any research facility means the agency from which the research facility receives a Federal award for the conduct of research, experimentation, or testing, involving the use of animals;

(l) The term "quorum" means a majority of the Committee members;

(m) The term "Federal research facility" means each department, agency, or instrumentality of the United States which uses live animals for research or experimentation;

(n) For purpose of this Act, the term "animal" shall have the same meaning as defined in section 2(j) of the Animal Welfare Act (7 U.S.C. 2132(j)), as redesignated by subsection (b) of this section.

SEC. . Section 14 of the Animal Welfare Act (7 U.S.C. 2144) is amended by changing "section 13" to "section 13 (a), (f), (g), and (h)" wherever it appears.

SEC. . This Act shall take effect one year after the date of the enactment of this Act.

Mr. DOLE. Mr. President, I also have a statement in support of the modification, and I do particularly want to thank the distinguished Senator from Montana who is an expert in this area, a veterinarian himself who understands many of the practical problems involved on both sides, and he has been most helpful along with, as I have indicated, his staff, my staff, the staff of Senator HATCH, and other outside groups who have a direct interest in the legislation, some on each side. I want to also thank Christine Stevens for her tireless efforts on behalf of this legislation.

I think we have a good resolution. I would certainly hope that we could pass this amendment without extensive debate on a voice vote or rollcall vote, whichever. But if there is a rollcall, I would hope that that might be delayed until tomorrow.

ANIMAL WELFARE LEGISLATION

Mr. President, last Friday I brought up as an amendment to the farm bill, S. 1233, a bill I introduced earlier in the session which would modify the Animal Welfare Act.

Similar legislation on animal welfare was introduced during the last session of Congress and hearings were held in both the House and Senate Agriculture Committees. In addition, a great deal of time and effort has gone into drafting legislation which would represent a responsible approach toward ensuring the humane treatment of animals, while taking into consideration the needs of medical research.

FRIDAY MEETING

It was apparent last Friday that there were still a few concerns on the part of the Senator from Utah, and in an effort to accommodate his concerns I instructed staff members to try to work out an agreement on the bill. The Senator from Montana also had language he was interested in incorporating into the amendment. as a result of Friday's meetings, I believe we reached agreement on any differences which might have existed.

BASIC AGREEMENT

Mr. President, I believe we have taken care of most, if not all, of the questions raised earlier in connection with this legislation, including those that USDA and NIH may have had as well as any questions raised by the medical research community while maintaining the intent of the legislation.

We would maintain exercise for dogs and clarify in report language the intention of this provision as applying on a case-by-case basis. We would include language important to the Senator from Montana dealing with the physical environment for primates. We would clarify that all members of the institutional animal committees are responsible for representing the general community's interest in animal care and treatment; we would also indicate the outside person on the committee is intended to provide representation for the general community's interest in the care and treatment of animals.

The new language would promote uniformity by providing that Federal research facilities establish institutional animal committees with similar responsibilities as outlined previously in the amendment and would leave enforcement up to the head of the Federal facility conducting the research.

We would modify the whistleblower clause by providing for methods whereby deficiencies should be reported.

We would also add language for strengthened trade secret protections as well as other more minor changes.

BROAD SUPPORT

Mr. President, 39 of my colleagues on both sides of the aisle have joined me as cosponsors of this legislation, and I urge its adoption by the full Senate.

Mr. MELCHER. Mr. President, will the distinguished majority leader yield?

Mr. DOLE. I am happy to yield to the Senator from Montana.

Mr. MELCHER. Mr. President, I commend the Senator from Kansas, the majority leader of the Senate, for over the past 1½ or 2 years more correctly, working on the necessary amendments for the Animal Welfare Act. It is a basic act that protects laboratory animals and assures humane treatment for them while research is going on. The step that is being taken today in these amendments is indeed a very forward step in the direction of assuring that the continuation of that type of humane treatment for research animals.

I am pleased to join in with the distinguished majority leader in working out the language and I feel confident that the research community will be well-served and certainly the humaneness of the animals has taken a stride forward.

During the last Congress we held hearings on this subject in the Agriculture Committee and heard from representatives of the scientific and animal welfare communities. What we have here is, I think, a fair and reasoned approach which addresses the twin concerns of medical advancement and ensures the humane treatment of animal subjects.

The proposal which is before the Senate today accomplishes two important points. The first is the establishment of Institutional Animal Committees at Federal and private research facilities. These committees will be made up of three or more members, with one member being a doctor of veterinary medicine and one member, not affiliated with the facility in any way, and is intended to represent the general community interests. It is the responsibility of the committee to represent society's concerns regarding animal research subjects.

The second important provision of this proposal, for the first time, requires a physical environment adequate to promote the psychological well-being of primates. I have seen the types of cages used in many facilities to house primates. These cages are not much wider than the average shower stall and there is hardly enough room to allow the animal to stand erect. Under the new provisions, I think we are not only providing humane treatment of these animals, but assures more confidence in the results in the experiments they are used in. It is certainly true that the results of our research is directly affected by the physical and psychological health of the subject.

I certainly hope that my colleagues will accept this proposal and that we will be able to hold on to it intact during conference deliberations.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the distinguished majority leader has described the process by which this compromise agreement has been reached.

This legislation amends the Animal Welfare Act over which the Agriculture Committee has jurisdiction. But most of its implications are directed toward laboratory animal testing procedures under the jurisdiction of the National Institutes of Health and the Labor and Human Resources Committee. Given this overlapping jurisdiction, I believe it was important to accommodate the concerns of Senator HATCH and others who serve on the Labor and Human Resources Committee.

The National Institutes of Health recently adopted policies and published guidelines for recommended care of laboratory animals. There was some concern at the NIH that this legislation might force them to reconsider or amend these guidelines even though they have been applauded by the animal welfare groups. This new agreement would enable the NIH to retain these newly revised and updat-

ed policies without having to make any major modifications to reflect the provisions of this amendment.

Senator MELCHER also had some justifiable concerns with the fact that this legislation would require the Animal and Plant Health Inspection Service to regulate other Federal agencies. It is my understanding that these concerns have also been resolved in a way that would not greatly affect this agencies resources.

I commend those who have put many long hours toward working out this mutual agreement. I am prepared to accept the amendment on this side of the aisle.

Mr. ZORINSKY. Mr. President, I am a cosponsor of the underlying legislation and I congratulate the distinguished Senators from Kansas and Montana on working out the accommodation, and I urge my colleagues on this side of the aisle to support the amendment and move for its approval.

Mr. HATCH. Mr. President, Senator DOLE and I and our staffs, have had many discussions, over the last several years, concerning the need for legislative action relative to the appropriate and humane use of animals in research. I am pleased to have worked with Senator DOLE in these efforts, to define new Federal protections for animals.

Research utilizing laboratory animals remains absolutely essential if we are to achieve advancements in the treatment and cure of diseases and injuries suffered by people and animals today. Nonetheless, I support the development of uniform standards in order that we might have a consistent national policy to assure the appropriate care and use of laboratory animals, while not jeopardizing research needs.

We have already made outstanding progress toward goals as well as increasing understanding and use of viable alternatives to live animal research models. The Office of Technology Assessment report of alternatives to animal use in testing and experimentation which I requested during the last Congress, will be available to us shortly. In addition, the National Academy of Sciences and the Institute of Medicine have jointly undertaken a review of the use of animals in biomedical and behavioral research. This initiative was prompted by legislation I introduced, and which the Senate endorsed and is now being supported by Federal agencies and the private sector. Both the OTA and Academy studies have brought together a wide range of opinions and further encouraged constructive dialog on animal welfare concerns.

Beyond promoting public awareness, this congressional interest has produced positive action. Concurrent with the Senate Labor and Human Resources Committee's consideration of NIH reauthorization and following a lengthy public review process, the U.S. Public Health Service strengthened its policy on the humane care and use of laboratory animals and revised the NIH guide for awardee institutions. Now, with the recent passage of the NIH reauthorization bill, H.R. 2409, Congress has given the new Public Health Service policy and procedures a statutory foundation and mandate.

To be certain that the legislation we are now considering did not operate at cross-purposes with H.R. 2409 my staff has worked with Senator DOLE's staff to develop the amendment being offered today. It represents a fair consideration of the interests of our respective committees, and I believe the amendment as revised is consistent with policy established in H.R. 2409. This will not require duplicative regulations be developed by the USDA and HHS. In fact, it requires interagency cooperating in developing new guidelines for animal welfare. Further, I believe we have produced a proposal which provides a consistent national policy in the care and treatment of laboratory animals, one which will not unduly restrict research facilities to conflicting standards and regulations.

To ensure that this is the case, the report accompanying this legislation must clarify any areas of potential confusion. Specifically, the report should reinforce:

First, the Secretaries of the Departments of Agriculture and Health and Human Services will consult with each other to promulgate conforming regulations.

Second, no resulting regulations shall be construed to prescribe methods of research.

Third, research facilities' privileged information or confidential trade secrets, commercial and financial information will be protected.

Fourth, the important role of research facilities' attending veterinarians will be retained in determining the choice and use of anesthetics, analgesics, and tranquilizing drugs and in overseeing exercise of research animals.

Fifth, that the compositions and operation of the Institutional Animal Care Committees established by the two authorities be consistent so that duplicate effort is avoided.

Mr. President, I recommend my colleagues join with Senator DOLE and myself and approve this amendment.

IMPROVED STANDARDS FOR LABORATORY ANIMALS

Mr. MOYNIHAN. Mr. President, I rise today to say a few words in support of this proposal, to improve the standards of treatment of laboratory animals, now an amendment to the farm bill. I am a cosponsor of the legislation on which this amendment is based, in this Congress as in the last.

It is time—perhaps long past time—to take steps to protect laboratory animals and to encourage the use of alternative research methods whenever possible. We know abuse exists in the laboratory, and that it can be stopped.

No one questions the need for animal research. In some cases, no alternative methods exist; without continued research, we would have little hope of conquering Parkinson's disease, or heart disease, or cancer. But I ask, When there are no substitutes for experiments on live animals, can we not be certain that the animals be treated with care and humanity? I believe we can, and at least 34 of my colleagues agree. I contend that we must.

This amendment would ensure that animals necessary for research receive fair and humane treatment, and that their discomfort is kept to an absolute minimum. It also would establish a central information center in the National Agricultural Library, where results of past animal experimentation will be available to the research community. The ready availability of this information would encourage researchers to pause before beginning new experiments, perhaps to discover that someone else has already learned what they seek to know.

Mr. President, as continued animal research is essential to the progress of efforts to protect human health, so the improved standards for laboratory animals amendment is the least we can do to ensure the animals receive humane care and treatment. I urge my colleagues to join me in support of this proposal.

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

The amendment (No. 904), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, again I thank my colleagues and chairman of the committee and the ranking Democratic Member, Senator ZORINSKY, who has been a cosponsor, an original cosponsor. There may be additional Senators who would like to be cosponsors.

Mr. President, I share the frustration I have heard by both the chairman and by both Senators from Nebraska. I think the only way we are going to complete this bill is to stay in late starting tomorrow evening.

Once Senators start to offer amendments, then I think we will have some action, and hopefully disposition of this bill very quickly. Very quickly could mean several days. It is a very important bill. There are a number of titles.

As the Senator from Nebraska pointed out, we are talking about a 4-year program, something we have to focus on.

I would be happy to discuss at some later time a little variation I have been working on. I used to call it flexible parity. It passed the Senate in 1977. We are now calling it the TOP program, target option program [TOP].

We will be discussing that with colleagues on both sides of the aisle in the next few days. It will save some money. It will protect primarily the middle-income farmers, and we would hope we might be able to stimulate some interest.

I thank the Chair.

Mr. DANFORTH. Mr. President, no one who has traveled recently through rural America, and particularly the farm communities of the Midwest, can doubt the importance of the legislation we are considering today.

Here in Washington, we see only the numbers that quantify the crisis in American agriculture. They tell us that farmers today receive 12 percent less for their products than they did 4 years ago, when Congress last debated omnibus agricultural legislation. During the same period, farm exports fell by almost one-fifth. With falling prices and declining sales, net farm income dropped by $3 billion over these years, despite unprecedented Federal outlays.

When agricultural income falls, the impact extends beyond farmers themselves. More and more rural banks are being pushed toward insolvency by debtor repayment problems and low land values. With less money for capital investments, farmers defer major purchases, spreading the agricultural recession. Farm machinery manufacturers alone have laid off 80,000 workers in the past 5 years. Across the board, statistics show that things are bad and getting worse.

But numbers cannot communicate the personal toll of this crisis. Talk with a farmer who is losing not just his business, but his family home and way of life. Walk down the main street of a town like Trenton, MO, where empty storefronts bear silent witness to economic distress. Listen to men and women who have seen the growth of stress-related family violence in their community.

The legislation we are considering today cannot solve these problems overnight, but it can be a first step toward revitalization of the agricultural economy.

The 1985 farm bill will send a message to farmers, providing a framework for their business decisions. We must be sure that the message is one of long-term recovery and not of political expediency. Again and again, farmers have told us that they do not want Federal bailout; they want a consistent, fair, and predictable agricultural policy. That is precisely what this legislation should give them.

Three elements of the committee's bill are particularly important.

First, a major step has been taken in the area of commodity loans. Under the Agricultural Act of 1949, the USDA received permanent authorization to issue nonrecourse loans, using commodities as collateral. Since then, these loans have provided a source of interim farm financing, have reduced supply and price fluctuations, and have supported commodity prices.

But the loan rates near or above market prices, forfeitures have increased dramatically, leading to high Federal expenditures and threatening to reduce the United States to a residual supplier in international markets. When the world price is below the loan rate, farmers default on their loans, abandoning the marketplace and allowing foreign suppliers to meet demand at the prevailing price. Current policies provide foreign governments and producers with precisely the certainty they need to undercut American producers and capture an increasing share of international trade.

I believe there are better ways of protecting farmers against low prices than by maintaining unreasonably high loan rates. By gradually aligning loan rates to market conditions while retaining deficiency payments and other efficiently targeted income-support programs, export competitiveness can be increased without devastating American farmers or necessitating unreasonable Federal expenditures. S. 1714 begins this process; it recognizes what commodity loans do well and what they do poorly, and takes a step forward for agricultural producers.

Second, S. 1714 announces a new determination to compete dollar for dollar, bushel for bushel, with other exporting nations. We cannot afford to allow foreign trade practices to drive our farmers out of international markets, particularly at a time of depressed global demand. One out of every three farm acres in this country is now planted for export, and this may rise to one of two by the end of this century. American farmers can compete in the world marketplace, and Government should do everything in its power to be sure that they have a fair chance.

This bill encourages agricultural exports by expanding such existing programs as intermediate credit and direct export assistance. Recognizing that inequitable trade practices have injured American farmers, it requires that the U.S. trade representative develop specific recommendations for reducing foreign trade barriers and expanding American exports. The committee's bill maintains the effectiveness of export and food assistance programs by strictly limiting the application of cargo preference requirements, which will cost the Department of Agriculture more than $100 million this year.

Third, S. 1714 includes important new conservation provisions. The welfare of American farmers is inseparable from the condition of their land. Representing a State that is particularly vulnerable to soil erosion, I am acutely aware of the need for strong conservation measures. In every State, mismanagement of fragile lands endangers agricultural productivity and environmental stability. By supporting strong "sodbuster" and "swampbuster" language, the Senate can make a lasting contribution to what must be a continuing effort.

Some lands are so prone to erosion that they need even more stringent protection. In 1982, 26 million acres, or just 6 percent of total cropland, accounted for 41 percent of all sheet and rill erosion, the most serious forms of soil loss. With the conservation reserve provisions of S. 1714, Congress has an opportunity to remove such highly erodible lands from intensive production for up to 15 years, and to encourage responsible management of these lands thereafter.

Of course, this program would entail new Federal expenditures. But the proposed conservation reserve would initiate a new era in conservation policy, one in which the risks of abusing fragile lands are given full weight in farm legislation. In addition, the costs of establishing a conservation reserve would be significantly offset by the elimination of CCC payments which would otherwise be made on reserve acreage. According to the Soil Conservation Service, a 25 million acre reserve would, given current conditions, actually save $4.6 billion over its lifetime when alternative CCC payments are considered.

The major flaw in S. 1714 is budgetary. The bill is at least $9 billion over budget for the first 3 years, and perhaps as much as $25 billion over. Those of us who have been promising farmers that we would help them by reducing the Federal deficit simply cannot vote for agricultural programs that make a mockery of those promises. Most farmers do not want a budget-busting bill, and we should not pass one.

Reducing farm outlays will not be easy, particularly at this time, but we would be doing farmers a grave disservice if we fail to exercise reasonable restraint. One thing is certain about farm programs—how we spend is just as important as how much.

Finally, Mr. President, it is important to note that no matter what form this legislation takes, it will not end our responsibility to rural America. I have already mentioned the importance of reducing the Federal deficit, which hurts farmers at every state of

production, from loans to international sales. Agricultural credit is another problem which will remain after we enact this legislation. Export issues, tax reform, rural development, and other matters will continue to affect the welfare of this Nation's farmers. It is our responsibility to give them prompt and judicious consideration. To do less would be to betray the promise offered by this bill.

Mr. DURENBERGER. Mr. President, this is the second in a series of speeches this Senator will give each day the Senate debates the 1985 farm bill. As the Senate continues the debate, I think it is important that it not lose sight of what a farm bill represents—an economic master plan for a $1 trillion industry and the rural way of life it sustains. And our primary responsibility in this debate is to keep that way of life alive.

During the course of the next 10 days, the Senate will complete action on over 100 amendments, most of which will increase or decrease loan rates, target prices, acreage reduction programs and the $50,000 payment limitation. I hope my colleagues will take the time to sift through the rhetoric which traditionally accompanies such amendments and take a look at the bottom line against which everything which we do here should be judged—will it help rural America?

It is not often, Mr. President, that I pledge my unyielding support for an industry. After all, one never likes being called a tool of industry. But agriculture is more than an industry—it is an essential part of the fabric of American life. It has produced more than just food and fiber, Mr. President; it has been the source of long enduring American values. The American farmer is the most productive, hardworking, unselfish, and compassionate worker in the world; he has made us the envy of all nations. But the American farmer is in trouble. And, if we fail to take immediate, corrective action, we will also find ourselves in trouble as well. In today's comments, I would like to focus the Senate's attention on the financial condition of the American farmer.

In a March 1985 study entitled "The Current Financial Condition of Farmer and Farm Lenders," the Department of Agriculture acknowledged the obvious—that:

The financial conditions of many farmers and farm lenders have deteriorated significantly;

Large supplies and weak demand have squeezed farm income and reduced the net worth of farmers;

Many farmers face insufficient cash-flow, declining asset values, problems of access to credit, forced liquidation, foreclosure and bankruptcy;

Farm financial stress is transmitted to farm lenders through loan delinquenices and losses, inadequate security for loans, and in some cases, insolvency and failure of lending institutions.

How and why did this come about? The report went on to note that the current distress among farmers and farm lenders is rooted in the inflationary period of the 1970's and adjustments from the excesses of that period to sharply different economic circumstances in the 1980's. Throughout the 1970's farmers faced rapidly expanding exports, accelerating inflation and low to negative real interest rates. Farmers responded by borrowing heavily to invest in new capital equipment, to adopt new production technologies, and to purchase increasingly expensive farmland. Farm debt rose more than 10 percent a year. Yet, farmland values rose even faster, providing the economic rationale as well as the security for farmers and lenders to expend and roll over debt. Debt/asset ratios of farms declined over the 1970's.

By the eary 1980's, the report went on to note, the factors which had given rise to the expansion had reversed direction. A worldwide recession weakened international markets; the value of the dollar rose rapidly against major currencies, further dampening export demand; and inflation was slowed by stringent control of monetary growth. Real interest rates, which had been low or negative through the 1970's, jumped to unprecedented levels of 8 to 10 percent. Farm commodities in foreign and domestic markets were to plentiful to sustain the prices that had prevailed during the 1970's, causing commodity prices and farmers incomes to drop significantly. Land values, which depend on both current farm income and prospects for future income growth, also began to decline. The 1970's debt levels became unsustainable. Expansion minded farmers were pushed steadily and speedily toward insolvency. Cautious farmers, whose only fault was bad weather, were also subjected to financial stress.

Mr. President, after making those reflections, the report went on to make some statements of fact which are frightening in their own right, but even more so when one considers that they are based on information which dates to January 1984. The report noted that farmers' equity and lenders' security are reflected by the debt/asset ratio and net worth of farm businesses. Cash-flow indicates the amount of short run net cash income from all sources that a farm can use to service debts after meeting family living needs; that is, it indicates repayment capacity of the farm business.

Available data, now 18 months old, on the severity of farm financial problems summarized in summary table 1, suggest the following:

At current interest rates and levels of net returns in farming, farms with debt/asset ratios of over 40 percent are likely experiencing cash shortfalls. Farms with debt/asset ratios of over 70 percent are almost certain to have serious cash shortfalls.

Some 243,000 farms—11.1 percent—have debt/asset ratios from 40 to 70 percent and owe one-third of all farm debt.

As many as 143,000 farms have debt/asset ratios above 70 percent. These farms make up only 6.6 percent of all farms but owe almost one-fourth of all farm debt.

In short, Mr. President, 17 percent of farmers having debt-to-asset ratios which would result in their being classified highly leveraged or very highly leveraged, hold 56 percent of all farm debt. That adds up to $300,000 of debt for 386,000 farmers, a debt load that might not be serviceable with price supports at twice the current level.

The report further broke the debt level down to classes of farmers, placing special emphasis on farms with sales of $50,000 to $500,000 annually. These farms, totaling about 679,000, are recognized by the Department as the mainstream of fairly sized commercial agriculture. In a sobering commentary, the Department noted that:

Over one-quarter of these farms, owing 36 percent of all farm debt, face some degree of financial stress.

That 30,000 farms, owing 6.5 percent of all farm debt, had debt/asset ratios in excess of 100 percent and were insolvent.

Another 34,000 farms, holding 7.5 percent of all farm debt, had debt-to-asset ratios in excess of 70 percent and were rapidly moving toward insolvency.

An additional 114,000 farms, holding 22 percent of all farm debt, were classified as highly leveraged and faced serious financial problems.

In what must rate as the most underrated comment of the year, the authors of the report further went on to explain that if the situation in early 1984 is extended to early 1985, the available data suggest that one-third of all family size commercial farms, owing almost one-half of all farm debt will have some degree of financial difficulty.

For example: 43,000 farms owing more than their assets are worth, will be technically insolvent; 50,000 farms, owing 11 percent of all debt, will be moving rapidly toward insolvency; 136,000 farms, owing 26 percent of all debt, will have serious financial problems, but will be able to survive a few more unfavorable years.

Mr. President, what troubles this Senator is that, if anything, the situation which existed in early 1984 has deteriorated substantially. If I recall correctly, in early 1984 market prices

for wheat, corn, and soybeans were rising in the aftermath of the PIK Program and the 1984 drought. Since that time, however, prices have fallen sharply, with corn dropping from $3.40 bushel in March 1984 to $2 in October 1985, beans dropping from $8 bushel in March 1984 to $5 October 1985, feeder cattle dropping from $61 hundredweight in March 1984 to $49 hundredweight in October 1985, and hogs have gone from $49 hundredweight in March 1984 to $40 hundredweight in October 1985.

Mr. President. In conclusion, I will end my comments today with the simple statement that 240,000 struggling farmers need not go out of business. If members of the Senate are willing to do so, I am confident we can find a way to restructure the farm debt which is strangling the life out of rural America. If we give farmers a chance, they will vindicate our faith in them as they have time after time. But the key is to take steps to protect farm income and give farmers a chance to make it through this difficult period.

Mr. HELMS. Mr. President, I inquire of the distinguished majority leader as to his wishes with respect to the farm bill. I see no Senator on the floor and know of no Senators on their way to offer amendments. I wonder what his wishes would be about continuing the consideration of the farm bill today.

Mr. DOLE. As I indicated earlier, I know both managers, Senator HELMS and Senator ZORINSKY, have been urging Members to come to the floor. Apparently they are not coming.

We will be in early tomorrow morning. We will be in late tomorrow night, until 9 or 10 o'clock. I think once it starts, once Members understand that the push is on and the rollcall bells are ringing, we will have amendments, so I do not see any reason to stay on this legislation.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to exceed beyond the hour of 5 p.m.

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 which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:11 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2409. An act to amend the Public Health Service Act to revise and extend the authorities under that act relating to the National Institutes of Health and National Research Institutes, and for other purposes.

MEASURE PLACED ON THE CALENDAR

The following joint resolution was read the second time and placed on the calendar:

S.J. Res. 223. Joint resolution to prohibit the sales of certain advanced weapons to Jordan.

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-1931. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to ensure the supply of childhood vaccines, and for other purposes; to the Committee on Labor and Human Resources.

EC-1932. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Strong Leadership Needed to Improve Management at the Department of Labor"; to the Committee on Labor and Human Resources.

EC-1933. A communication from the Executive Secretary, Office of the Secretary of Defense, transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for the period October 1984 through June 1985; to the Committee on Small Business.

EC-1934. A communication from the Assistant Attorney General (Antitrust Division), transmitting, pursuant to law, a report on the Voluntary Agreement and Plan of Action to Implement the International Energy Program; to the Committee on Energy and Natural Resources.

EC-1935. A communication from the Special Counsel to the Merit Systems Protection Board, transmitting, pursuant to law, a report on an investigation of the Secretary of the Air Force relating to allegations of violations of law and regulation at Selfridge Air National Guard Base, Michigan; to the Committee on Government Affairs.

EC-1936. A communication from the Secretary of Education, transmitting, pursuant to law, a report on the program reviews of 416 projects funded under the Indian Education Act; to the Committee on Labor and Human Resources.

EC-1937. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of the Federal Crop Insurance Corporation's Financial Statement for the Year Ended September 30, 1984"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1938. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a report on the transfer of certain funds authorized and appropriated to the Department of Defense; to the Committee on Appropriations.

EC-1939. A communication from the Acting Assistant Attorney General (Office of Legislative and Intergovernmental Affairs), transmitting a draft of proposed legislation to amend title 28, and title 11 of the United States Code to provide for the appointment of United States trustees to supervise the administration of bankruptcy cases in judicial districts throughout the United States and for other purposes; to the Committee on the Judiciary.

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. THURMOND (for himself and Mr. HATCH) (by request):

S. 1794. A bill to amend Revised Statutes section 722 (42 U.S.C., sec. 1988) to exempt State judges and judicial officers from assessment of attorneys' fees in cases in which such judge or judicial officer would be immune from actions for damages arising out of the same act or omission about which complaint is made; to the Committee on the Judiciary.

By Mr. HATCH (for himself and Mr. THURMOND):

S. 1795. A bill to provide that in judicial actions against State judges, such judges shall not be held liable for attorney fees; to the Committee on the Judiciary.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 1796. A bill to authorize an extension of Interstate Route H-3; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mrs. KASSEBAUM, Mr. EAGLETON, and Mr. DANFORTH):

S. Res. 246. Resolution recognizing baseball's new world champions, the Kansas City Royals; considered and agreed to.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself and Mr. HATCH) (by request):

S. 1794. A bill to amend Revised Statutes section 722 (42 U.S.C. 1988) to exempt State judges and judicial officers from assessment of attorneys'

fees in cases in which such judge or judicial officer would be immune from actions for damages arising out of the same act or omission about which complaint is made; to the Committee on the Judiciary.

ELIMINATION OF CERTAIN ATTORNEY FEE AWARDS AGAINST JUDGES

Mr. THURMOND. Mr. President, today, along with Senator HATCH, I am introducing legislation at the request of the Judicial Conference of the United States which would eliminate certain attorney fee awards against judges.

In 1984, in the case of *Pulliam* v. *Allen*, the Supreme Court ruled that the doctrine of judicial immunity does not prevent injunctive relief in Federal courts under 42 U.S.C. section 1983. Prospective State action may be enjoined—judges may be enjoined—under that statute, the Court ruled, and attorneys' fees may be awarded to prevailing parties under 42 U.S.C. section 1988.

Mr. President, the ruling by the Supreme Court in *Pulliam* has, understandably, caused serious concern among our Nation's judges and judicial officers. They are concerned that the threat of heavy financial burdens, which might result from awards of attorneys' fees, will have a chilling effect on judicial independence and judicial detachment. Especially disconcerting is the likelihood that such attorney fee awards would arise from a judicial decision required of a judge in the ordinary course of litigation. Additionally, judges are concerned that *Pulliam* will lead to the creation of a new class of Federal litigation against State judicial decisions.

The legislation I am introducing today would amend 42 U.S.C. section 1988 to prohibit the award of attorney fees against a judge or judicial officer who would be immune from actions for damages arising out of the same act or omission about which complaint is made.

Mr. President, earlier this year, I introduced S. 1580, the "Legal Fees Equity Act," an administration proposal which would provide a revamping of the federally mandated attorney compensation schemes. It is my belief that the legislation I am introducing today is appropriate for consideration along with S. 1580, which provides a broader, more comprehensive approach to reform in the attorney fee area.

I ask unanimous consent that the bill be printed in the RECORD along with the letter of transmittal from the Judicial Conference of the United States.

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

S. 1794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 722 of the Revised Statutes, as amended (423 U.S.C. § 1988) is amended to read as follows:

"In any action or proceeding to enforce a provision of Sections 1977, 1978, 1979, 1980, and 1981 of the Revised Statutes, title IX of Public Law 92-318, or title VI of the Civil Rights Act of 1964, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs; provided that no such fees shall be awarded against a judge or judicial officer who would be immune from actions for damages arising out of the same act or omission about which complaint is made."

ADMINISTRATIVE OFFICE
OF THE U.S. COURTS,
Washington, DC, October 4, 1985.

Hon. GEORGE BUSH,
President, U.S. Senate,
Dirksen Senate Office Building,
Washington, DC.

DEAR MR. PRESIDENT: The Judicial Conference of the United States recommends the enclosed draft bill to eliminate awards of attorney fees in a suit against a judge or judicial officer who would be immune from actions for damages arising out of the same act or omission about which complaint is made.

The general outline for judicial immunity has developed over many years. Absolute judicial immunity applies to tort actions for damages, including 42 U.S.C. § 1982 civil rights actions, for a judicial decision within the court's jurisdiction, even if alleged to have been made corruptly or maliciously (*Bradley* v. *Fisher*, 80 U.S. (13 Wall.) 335 (1872); *Pierson* v. *Ray*, 386 U.S. 547 (1967)). "Jurisdiction," for these purposes, is satisfied if the decision involves a function normally performed by a judge and the parties were dealing with the judge in his judicial capacity (*Stump* v. *Sparkman*, 435 U.S. 349 (1978)). Immunity from civil actions for non-judicial official conduct by a judge is determined by reference to the rules normally applicable to that type of activity (*Virginia* v. *Consumers Union*, 446 U.S. 719 (1980)).

In May 1984, the Supreme Court held by a 5 to 4 vote that, while damages may not be awarded, judicial immunity does not bar injunctive relief in Federal courts under 42 U.S.C. § 1983 to enjoin prospective State judicial action or the award of attorneys' fees to prevailing parties under 42 U.S.C. § 1988 (*Pulliam* v. *Allen*, 104 S. Ct. 1970, —— U.S. —— (1984)). In so ruling, the Court relied upon statutory construction and the legislative history of the provisions.

In the months since the *Pulliam* decision, the State Chief Justices and other State judges and judicial officers have expressed serious concern with respect to the impact of the case on State judiciaries. These concerns include: (1) a chilling effect on judicial independence and judicial detachment; (2) the creation of a new class of Federal litigation against State judicial decisions; (3) encroachment upon the doctrines of federalism, exhaustion of State remedies, judicial restraint, and comity; and (4) the threat of heavy financial burdens, in the form of attorneys' fees, arising from a judicial decision required of the judge in the ordinary course of litigation.

In August 1984, the Conference of State Chief Justices adopted a resolution calling upon the Judicial Conference of the United States to study the issue of assessment of attorneys' fees against State judges and judicial officers under 42 U.S.C. § 1988 and to support efforts to amend the statute to exempt such individuals in suits for injunctive relief pursuant to 42 U.S.C. § 1983.

Based on review and recommendations of its Subcommittee on Federal-State Relations, as approved by the Committee on Court Administration, the Conference concluded that the concerns pressed by the State Chief Justices and others were well-founded. Accordingly, the Conference voted to recommend to the Congress that 42 U.S.C. § 1988 be amended so as not to allow attorneys' fees in cases covered by the *Pulliam* decision. The enclosed amendment would accomplish that result.

We urge the Congress to act favorably on this proposal.

Sincerely,

L. RALPH MECHAM,
Director.

By Mr. HATCH (for himself and Mr. THURMOND):

S. 1795. A bill to provide that in judicial actions against State judges, such judges shall not be held liable for attorney fees; to the Committee on the Judiciary.

STATE JUDGES' LIABILITY FOR ATTORNEY FEES

Mr. HATCH. Mr. President, in the recent case of *Pulliam* v. *Allen*, 104 S. Ct. 1970 (1984), the Supreme Court held, by the narrow margin of 5 to 4, that judicial immunity is not a bar to injunctive relief against a judge acting in his judicial capacity, nor is it a bar to the award of attorney fees against a judge against whom an injunction to request the introduction of a bill addressing the implications of Pulliam with relation to judicial independence. Accordingly, I would like to introduce at the request of the Conference of Chief Justices this legislation. It should serve as a vehicle to illuminate the critical questions posed by the Pulliam case. For the benefit of those unfamiliar with the Pulliam decision, I will recount some of the background giving rise to this opinion.

In January 1980, the respondent, Allen, was arrested for using abusive and insulting language, a class 3 misdemeanor. The petitioner, Judge Pulliam, set a bond of $250. Respondent Allen was unable to post the bond and was thus jailed until his trial day, a period of 14 days. Allen was subsequently tried, found guilty, fined, and released. The trial judge reopened the case and reversed the conviction. Allen then filed a claim in accordance to section 1983 of title 42 of the United States Code, seeking relief against the petitioner's practice of incarcerating persons waiting trial for nonincarcerable offenses. The district court found Judge Pulliam to have acted improperly and enjoined her actions. The court also found that the respondent was entitled to costs, including attorney's fees, in accordance with section 1988 of title 42 of the United States Code.

Pulliam petitioned the court to reduce the attorney's fees on the grounds of judicial immunity. The

court upheld its original decision. Pulliam then brought her case before the court of appeals arguing that as a judicial officer, she was immune from injunctive relief and attorney's fees. The court upheld the district court's decision against Pulliam. Certiorari was granted by the Supreme Court in November 1983. It marked the first time the Supreme Court ever decided a case on whether or not a judge could be held personally liable for attorney fees. In May 1984, the Court reached a 5-to-4 decision. Judicial immunity is no bar to the award of attorney's fees.

This precedent-setting decision placed limitations on the doctrine of the judiciary's common-law immunity, limitations that were for centuries unnecessary, due to the nature of common law. In 1868, one of the judges of the court of exchequer explained judicial immunity in language close to our contemporary understanding of the doctrine:

> It is essential in all courts that the judges who are appointed to adminster the law should be permitted to administer it under the protection of the law, independently and freely, without favor and without fear. This provision of the law is not for the protection or benefit of a malicious or corrupt judge, but for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence, and without fear of consequences.

Hence, to protect the independence of a judge neither a suit nor damages can be brought against him.

In the Pulliam case, the Supreme Court reasoned that "for the most part, injunctive relief against a judge raises concerns different from those addressed by the protection of judges from damages awards." Yet, four of the nine Supreme Court Justices, dissenting, argued otherwise. They noted that the court, in effect, awarded a $7,691 money judgment against a State magistrate on the determination that she made erroneous judicial decisions with respect to bail and pretrial detentions. Such a judgment poses the same threat to independent judicial decisionmaking whether it be labeled "damages" of $7,691 or "attorney fees" in that amount. Moreover, as the court had stated a century and a half ago, an "action before one judge for what is done by another * * * is a case * * * against the independence of the judges." The burdens of having to defend such a suit are identical in character and degree, whether the suit be for damages or prospective relief. The dissenters maintained that the holding of the court subordinates realities to labels, that this new precedent eviscerates the doctrine of judicial immunity.

In 1895, the Supreme Court concluded:

> The public are deeply interested in the rule of judicial immunity, which * * * was established in order to secure the independence of the judges, and prevent them being harassed by vexatious action; * * *

This simple statement of 90 years ago accepts as self-evident the relationship between judicial immunity and judicial independence. In that context, it is imperative that Congress examine the implications of Pulliam.

I am pleased, therefore, to introduce this bill by request of the Conference of State Chief Justices to facilitate a public discussion of the important issues at stake as judicial immunity begins to erode. I commend to my colleagues the following letter by Chief Justice Edwin J. Peterson of the State of Oregon requesting the introduction of this legislation.

Mr. President, I ask unanimous consent that a letter from the chief justice, Supreme Court of Oregon and Chairman, Committee on Judicial Immunity be printed in the RECORD.

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

CONFERENCE OF CHIEF JUSTICES,
October 11, 1985.

Hon. ORRIN G. HATCH,
Chairman, Subcommittee on the Constitution, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing on behalf of the Conference of Chief Justices to ask your assistance in dealing with a problem that threatens the integrity of the judicial process. Our concern is directed to erosion of the common law doctrine of judicial immunity through a series of Supreme Court decisions involving 42 U.S.C. 1983 and 1988.

This erosion has been underway for some time as it involves a judge's administrative, rulemaking, and other non-judicial functions necessary to operation of an independent judicial system. But it reached a truly critical stage with the decision in *Pulliam* v. *Allen*, 104 S. Ct. 1970 (1984), which held that the doctrine of judicial immunity is not a bar to injunctive relief in federal civil rights (42 U.S.C. 1983) actions against a member of the state judiciary acting in a judicial capacity, or to the award of attorney fees against the judge under the Civil Rights Attorney's Fees Act, 42 U.S.C. 1988. This strikes at the very heart of the judicial function.

The *Pulliam* court continued to uphold the doctrine of judicial immunity as it involves direct damages against a judge. But it is our view, and that of four dissenting justices in *Pulliam*, that fee awards are as destructive to the integrity of the judicial process as direct damages would be.

Accordingly, the Conference of Chief Justices, the American Bar Association, the Judicial Conference of the United States, and many other bar and judicial organizations have passed resolutions urging Congress to remedy the problems posed for state judges by the Court's interpretation of 42 U.S.C. 1983 and 1988.

The issues are set forth in detail in the enclosed manuscript by Justice Joseph R. Weisberger of the Supreme Court of Rhode Island, prepared for publication in the Suffolk University Law Review and appropriately titled, "The Twilight of Judicial Independence".

Because you have long shown your concern for the burdens placed on state and local officials by attorney fee awards under various federal fee shifting statutes, and because you are currently addressing this problem through hearings on S. 1580, the Legal Fees Equity Act, we would appreciate it if you would sponsor legislation directed to the special problems posed for the judicial process by fee awards against judges. We enclose a draft bill for that purpose.

The suggested legislation reflects the normal policy position of the Conference of Chief Justices which proposes amendment of 42 U.S.C. 1988 to exempt judges from fee awards in actions challenging their official actions. This language offers the subcommittee and Congress the opportunity to examine the full range of decisions affecting judicial immunity and to decide on the appropriate legislative response. State judges are virtually unanimous on the view that such a response is urgently needed.

The Conference of Chief Justices would, of course, wish to testify in support of this legislation if it is introduced and hearings are scheduled.

Very truly yours,

EDWIN J. PETERSON,
Chief Justice, Supreme Court of Oregon, and Chairman, Committee on Judicial Immunity.

ADDITIONAL COSPONSORS

S. 89

At the request of Mr. INOUYE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 89, a bill to recognize the organization known as the National Academies of Practice.

S. 887

At the request of Mr. DOLE, the name of the Senator from Massachusetts [Mr. KERRY] 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. 945

At the request of Mr. THURMOND, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 945, a bill to recognize the organization known as the National Association of State Directors of Veterans' Affairs, Inc.

S. 1233

At the request of Mr. DOLE, the names of the Senator from Georgia [Mr. MATTINGLY], the Senator from Ohio [Mr. METZENBAUM], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1233, a bill to amend the Animal Welfare Act to ensure the proper treatment of laboratory animals.

S. 1250

At the request of Mr. HEINZ, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1250, a bill to amend the Internal Revenue Code of 1954 to extend the targeted jobs tax credit for 5 years, and for other purposes.

S. 1647

At the request of Mr. ROTH, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1647, a bill to amend the Tariff Act of 1930 to enhance the protection of intellectual property rights.

S. 1741

At the request of Mr. DURENBERGER, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 1741, a bill to amend the Internal Revenue Code of 1954 to provide capital gain treatment for sales of certain condominiums.

S. 1774

At the request of Mr. GRASSLEY, the name of the Senator from Colorado [Mr. ARMSTRONG] was added as a cosponsor of S. 1774, a bill to amend section 1951 of title 18 of the United States Code, and for other purposes.

SENATE JOINT RESOLUTION 74

At the request of Mr. THURMOND, the name of the Senator from Michigan [Mr. RIEGLE] 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 217

At the request of Mr. HEINZ, the names of the Senator from Kansas [Mr. DOLE] and the Senator from Nebraska [Mr. ZORINSKY] were added as cosponsors of Senate Joint Resolution 217, a joint resolution to designate the week of December 2, 1985, to December 8, 1985, as "National Emergency Medical Air Transport Week."

SENATE JOINT RESOLUTION 222

At the request of Mr. D'AMATO, the names of the Senator from Nevada [Mr. LAXALT], the Senator from Indiana [Mr. QUAYLE], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Joint Resolution 222, a jont resolution concerning the cruel and inhuman killing of Leon Klinghoffer by international terrorists aboard the cruise ship *Achille Lauro*, because he did not submit to the demands of these terrorists.

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. DANFORTH, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Concurrent Resolution 69, a concurrent resolution to recognize the National Camp Fire Organization for 75 years of service.

AMENDMENT NO. 904

At the request of Mr. DOLE, the names of the Senator from Montana [Mr. MELCHER], the Senator from Nebraska [Mr. EXON], the Senator from Washington [Mr. EVANS], the Senator from South Carolina [Mr. THURMOND], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Amendment No. 904 proposed to S. 1714, an original bill to expand export markets for U.S. agricultural commodities, provide price and income protection for farmers, assure consumers an abundance of food and fiber at reasonable prices, continue food assistance to low-income households, and for other purposes.

AMENDMENT NO. 906

At the request of Mr. ABDNOR, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Amendment No. 906 proposed to S. 1714, an original bill to expand export markets for U.S. agricultural commodities, provide price and income protection for farmers, assure consumers an abundance of food and fiber at reasonable prices, continue food assistance to low-income households, and for other purposes.

SENATE RESOLUTION 246—RECOGNIZING BASEBALL'S NEW WORLD CHAMPIONS, THE KANSAS CITY ROYALS

Mr. DOLE (for himself, Mrs. KASSEBAUM, Mr. EAGLETON, and Mr. DANFORTH) submitted the following resolution; which was considered and agreed to:

S. RES. 246

Whereas, on the night of October 27, 1985, the Kansas City Royals climaxed one of the great chapters in major league baseball annals with a world championship;

Whereas, the Kansas City Royals captured the hearts of baseball fans all across the country with its tenacious comebacks in both the American League playoffs and the World Series;

Whereas, the Royals made history by becoming the only team to lose the first two games of a World Series in its home park but then to fight back and win it all;

Whereas, the so-called experts gave the Royals almost no chance of winning anything in postseason play;

Whereas, the Kansas City Royals defeated an outstanding Saint Louis Cardinal team in the World Series and a great Toronto Blue Jays squad in the playoffs;

Whereas, after 16 years of loyalty, Kansas City Royals fans in Kansas, Iowa, Arkansas, South Dakota, Missouri, and all over this great Nation have been rewarded with a much-deserved world title;

Whereas, Manager Dick Howser and his team have demonstrated they are indeed the right stuff;

Whereas, after an 11-0 seventh game victory last night the Royals—and Kansas City, Kansas, and Kansas City, Missouri—are on top of the baseball world: Now, therefore, be it

Resolved, That the Senate recognizes and applauds the accomplishments of the Kansas City Royals, 1985 baseball champions.

AMENDMENTS SUBMITTED

AGRICULTURAL, FOOD, CONSERVATION, AND TRADE ACT

BENTSEN (AND OTHERS) AMENDMENT NO. 908

Mr. BENTSEN (for himself, Mr. COCHRAN, Mr. PRYOR, Mr. BURDICK, Mr. FORD, Mr. SYMMS, and Mr. ABDNOR) proposed an amendment to the bill (S. 1714) to expand markets for U.S. agricultural commodities, provide price and income protection for farmers, assure consumers of an abundance of food and fiber at reasonable prices, continue food assistance to low-income households, and for other purposes; as follows:

On page 26, between lines 15 and 16, insert a new subsection (c) as follows:

"(c) The United States Trade Representative shall—

(1) review the reports prepared under subsection (a) and any other information available to identify export subsidies or other export enhancing techniques (within the meaning of the agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade);

(2) identify markets (in order of priority) in which United States export subsidies can be used most efficiently and will have the greatest impact in offsetting the benefits of foreign export subsidies that—

(A) harm United States exports,

(B) are inconsistent with the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade,

(C) nullify or impair benefits accruing to the United States under international agreements, or

(D) cause serious prejudice to the interests of the United States and

(3) submit to the Congress and to the Secretary of Agriculture an annual report on—

(A) the existence and status of export subsidies and other export enhancing techniques that are the subject of the investigation conducted under paragraph (1), and

(B) the identification and assignment of priority to markets under paragraph (2)."

On page 26, line 16, strike out "(c)" and insert in lieu thereof "(d)".

On page 26, line 24, strike "subsection (a)" and insert in lieu thereof "subsections (a) and (c)".

On page 27, line 3, strike out "(c)" and insert in lieu thereof "(d)".

On page 27, line 9, strike "subsection (a)" and insert in lieu thereof "subsections (a) and (c)".

ABDNOR AMENDMENT NO. 909

(Order to lie on the table.)

Mr. ABDNOR submitted an amendment intended to be proposed by him to the bill S. 1714, supra; as follows:

On page 459, between lines 18 and 19, insert the following new section:

IMPORTED BEEF, PORK AND LAMB

SEC. 1927. (a)(1) Notwithstanding any other provision of law—

(A) all beef, pork and lamb, and parts or products thereof, capable of use as human food, offered for importation into the United States shall be subject to the same inspection, sanitary, quality, species verification, and residue requirements and standards applicable to beef, pork and lamb, respectively, and to the products thereof, produced in the United States; and

(B) no beef pork, or lamb, or any product thereof, may be imported into the United States unless the Secretary of Agriculture determines that it has been processed in facilities and under conditions that are at least equal to those under which beef, pork and lamb, or the products thereof, as the case may be, are processed in the United States.

(2) Any imported beef, pork or lamb, or product thereof, that fails to meet the standards referred to in paragraph (1)(A) may not be permitted entry into the United States.

(3) The Secretary of Agriculture shall enforce this section through—

(A) random inspections for species verification and for residues; and

(B) random sampling and testing of internal organs and fat of carcasses for residues at the point of slaughter by the exporting country, in accordance with methods approved by the Secretary.

(b) This section shall becomes effective 180 days after the date of enactment of this Act.

DIXON AMENDMENT NOS. 910 AND 911

Mr. DIXON proposed two amendments to the bill S. 1714, supra, as follows:

AMENDMENT No. 910

On page 287, line 5, insert "(a)" after the section designation.

On page 287, between lines 8 and 9, insert the following new subsection:

(b) Section 1407(b) of such Act is amended by inserting before the last sentence the following new sentence: "To ensure that views of food technologists are considered by the Joint Council, two of the members of the Joint Council shall as determined to be appropriate by the Secretary, be appointed by the Secretary from among distinguished persons who are food technologists from accredited or certified departments of food technology, as determined by the Secretary.".

On page 287, between lines 14 and 15, insert the following new subsection:

(b) Section 1408(b) of such Act is amended—

(1) by striking out "twenty-five" in the matter preceding clause (1) and inserting in lieu thereof "27";

(2) by striking out "and" at the end of clause (10);

(3) by striking out the period at the end of clause (11) and inserting in lieu thereof ", and"; and

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

"(12) two members who are food technologists from accredited or certified departments of food technology, as determined by the Secretary.".

On page 287, line 15, by striking out "(b)" and inserting in lieu thereof "(c)".

AMENDMENT No. 911

On page 287, between lines 14 and 15, insert the following:

(1) in paragraph (8)—

(A) by striking out "and" at the end of subparagraph (N);

(B) by inserting "and" at the end of subparagraph (O); and

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

"(P) research on new or improved food processing or value-added food technologies;";

On page 285, line 15, strike out "(1)" and insert in lieu thereof "(2)".

On page 285, line 17, strike out "(2)" and insert in lieu thereof "(3)".

On page 285, line 19, strike out "(3)" and insert in lieu thereof "(4)".

GORTON AMENDMENT NO. 912

Mr. GORTON proposed an amendment to amendment No. 565 proposed by Mr. PRESSLER to the bill S. 1714, supra, as follows:

Senate Amendment No. 565 is amended striking all after "Section 1." and inserting in lieu thereof:

"(a) This section may be cited as the "Taxpayer Antitrust Enforcement Act of 1985".

(b) Section 4 of the Clayton Act (15 U.S.C. 15) is amended by adding at the end thereof the following:

"SEC. 4I. (a)(1) An action brought by the attorney general of a State on behalf of the State or a political subdivision thereof, pursuant to section 4 of this Act to secure monetary relief as provided for injury sustained by such State or political subdivision by reason of any violation of section 1 of the Sherman Act, by the United States pursuant to section 4A of this Act for injury sustained by the United States by reason of any violation of section 1 of the Sherman Act, or by an attorney general pursuant to section 4(C) of this Act, may be maintained when such State, political subdivision, the United States, or such natural persons on whose behalf the action is brought has or have purchased indirectly from the defendant: *Provided*, That nothing in this section shall preclude any existing right of any State, political subdivision, the United States, or an attorney general on behalf of natural persons, to sue under section 4, 4A, or 4C.

"(2) In any action arising out of indirect purchases by the United States, any State or political subdivision thereof, or by any natural person, permitted by subsection (a)(1), the court shall award to the United States, State, or political subdivision, threefold that amount which constitutes the damage which would have been sustained by any direct purchaser with respect to purchases, directly or indirectly, by the United States, State or political subdivision, or natural persons, had the damage not been passed on by the direct purchaser to any other person: *Provided, however*, That there shall be excluded from the amount of monetary relief awarded in such action any amount of monetary relief which (A) duplicates amounts which have been awarded for the same injury to another person who has proven, in fact, such injury in a previous action in which the defendant has asserted a defense under subsection (b) against such other person and in which notice has been properly given pursuant to such section, or (B) is properly allocable to any person who purchased directly from the defendant, upon proof, in fact, in such action that the damage was not passed on by such person. The court shall also award to the attorney general the cost of suit, including a reasonable attorney's fee.

"(b)(1) In any action brought under section 4 of this Act, the defendant shall be entitled to allege, as a partial or complete defense, that some or all of what would otherwise constitute plaintiff's damages were passed on by plaintiff to any other person and that with respect to such damages an action may be brought by the United States or an attorney general of a State pursuant to subsection (a)(1). The defendant shall set forth, in asserting such defense, with as much particularity as is reasonable, the identity of those to whom the defendant asserts the plaintiff has passed on, directly or indirectly, some or all of plaintiffs damages.

"(2) In the event that a defendant has pleaded the defense permitted by paragraph (1), the plaintiff shall have the burden of proving that all or part of the damages, as the case may be, have not been passed on by the plaintiff.

"(3) In the event that the defendant asserts the defense permitted by paragraph (1), the defendant shall provide written notice, by certified or registered mail, return receipt requested, to any attorney general who may be entitled to maintain an action against the defendant under subsection (a)(1).

"(4) Upon receipt of such notice, the Attorney General of the United States, or of any State, in addition to any other remedy, may, upon motion made within one hundred and twenty days, intervene in such action and shall be joined pursuant to rule 24 of the Federal Rules of Civil Procedures with respect to any issue arising under paragraph (1) of this subsection.

"(5) In any case in which the defendant has asserted a defense pursuant to this subsection and in which the court awards monetary relief, there shall be excluded from the amount of monetary relief awarded any amount which (1) duplicates amounts which have been awarded for the same injury to another person who has proven, in fact, such injury in a previous action, or (2) is properly allocable to the United States, any State or political subdivision, or any natural person based on the application of this subsection to any action.

"SEC. 4J. (a) An action brought by the attorney general of a State on behalf of a seller for damages resulting from any underpayment received on the sale of cattle, hogs, sheep, grains, or soybeans shall not be barred solely because such person on whose behalf the action is brought did not sell such products directly to the defendant, if such person possessed the livestock or grain plant for feeding or growing purposes for a period of at least 21 days prior to the date of any such sale.

"(b)(1) In any action brought under section 4 of this Act by a seller, for damages resulting form any underpayment on the sale of cattle, hogs, sheep, grains, or soybeans, the defendant shall be entitled to allege, as a partial or completed defense, that some or all of what would otherwise constitute plaintiff's damages were passed on by the plantiff to any other person and that with respect to such damages an action may be brought by the United States or an attorney general of a State pursuant to this section. The defendant shall set forth, in asserting such defense, with as much particularity as is reasonable, the identity of those to whom the defendant asserts the plantiff has passed on, directly or indirectly, some or all of plaintiffs damages.

"(2) If a defendant pleads the defense permitted by paragraph (1), the plaintiff shall have the burden of proving that all or part of the damages, as the case may be, have not been passed on by the plaintiff.

"(3) If the defendant asserts the defense permitted by paragraph (1), the defendant shall provide written notice, by certified or registered mail, return receipt requested, to any attorney general who may be entitled to maintain an action against the defendant under subsection (a)(1).

"(4) Upon receipt of such notice, the Attorney General of the United States, or of any State, in addition to any other remedy, may, upon motion made within one hundred and twenty days, intervene in such action and shall be joined pursuant to rule 24 of the Federal Rules of Civil Procedures with respect to any issue arising under paragraph (1) of this subsection.

"(5) In any case in which the defendant has asserted a defense pursuant to this subsection and in which the court awards monetary relief, there shall be excluded from the amount of monetary relief awarded any amount which (A) duplicates amounts which have been awarded for the same injury to another person who has proven, in fact, such injury in a previous action, or (B) is properly allocable to the United States, any State or political subdivision, or any person based on the application of this subsection to any action.

"(d) Notwithstanding the provisions of section 4C of this Act providing that an attorney general of a State may bring an action as parens patriae only on behalf of natural persons, such attorney general may bring an action on behalf of any person, residing in such State.".

(c) The amendments made by this Act shall become effective upon the date of the enactment of this Act.".

OMNIBUS BUDGET RECONCILIATION ACT

RIEGLE AMENDMENT NO. 913

Mr. RIEGLE proposed an amendment to the bill (S. 1730) to provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1986, and for other purposes; as follows:

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

SEC. . (a) The Secretary of the Treasury shall pay, from funds in the general fund of the Treasury, into each of the Social Security Trust Funds, amounts equal to any amount of interest which would have accrued to such Trust Fund but for actions which were taken by the United States with respect to investments of such Trust Fund which would not otherwise have been taken (as determined by the Secretary of the Treasury) if the increase in the statutory debt ceiling had been enacted into law on September 30, 1985, as provided in H.J. Res. 372 (99th Congress, 1st Session) as it was passed by the House of Representatives and reported by the Senate Committee on Finance.

(b) For purposes of subsection (a), the term "Social Security Trust Funds" means the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund.

ADDITIONAL STATEMENTS

WEEKLY BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report for the week of October 21, 1985, prepared by the Congressional Budget Office in response to section 5 of the first budget resolution for fiscal year 1986. This report also serves as the scorekeeping report for the purposes of section 311 of the Congressional Budget Act.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 28, 1985.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 32. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through October 25, 1985. The report is submitted under Section 308(b) and in aid of Section 311(b) of the Congressional Budget Act.

No changes have occurred since my last report.

With best wishes,
Sincerely,

RUDOLPH G. PENNER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99TH CONGRESS, 1ST SESSION, AS OF OCTOBER 25, 1985

[Fiscal year 1986—In billions of dollars]

	Budget authority	Outlays	Revenues	Debt subject to limit
Current level [1]	1,067.4	980.3	793.0	1,823.8
Budget resolution Senate Concurrent Resolution 32	1,069.7	967.6	795.7	[2] 2,078.7
Current level is:				
Over Resolution by		12.7		
Under Resolution by	2.3		2.7	255.0

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level exclused the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate Committee or passed by the Senate. Thus, savings from reconciliation action assumed in S. Con. Res. 32 will not be included until Congress sends the legislation to the President for his approval. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $1,823.8 billion.

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 1ST SESSION, AS OF OCT. 25, 1985

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			792,800
Permanent appropriations and trust funds.	717,652	631,009	
Other appropriations		185,348	
Offsetting receipts	−162,006	−162,006	
Total enacted in previous sessions.	555,645	654,351	792,800
II. Enacted this session:			
Famine relief and recovery in Africa (Public Law 99-10).		421	
Federal supplemental compensation phaseout (Public Law 99-15).			10
Appropriations for the MX missile (Public Law 99-18).		368	
Contemporaneous recordkeeping repeal bill (Public Law 99-44).			13
United States-Israel Free Trade Act (Public Law 99-47).			−8
Statue of Liberty—Ellis Island Coin Act (Public Law 99-61).	−15	31	
International Security and Development Cooperation Act (Public Law 99-83).	−25	−25	
Supplemental appropriations bill (Public Law 99-88).	36	3,138	
State Department authorization (Public Law 99-93).			2
Emergency Extension Act of 1985 (Public Law 99-107).	−49	−230	210
Simplification of imputed interest rules (Public Law 99-121).			−31
Health professions educational assistance (Public Law 99-129).		−8	
Total enacted this session	−53	3,694	195
III. Continuing resolution authority:			
Continuing appropriations, 1986 (Public Law 99-103).	521,043	338,964	
Offsetting receipts	−27,233	−27,233	
Total continuing resolution authority.	493,810	311,731	
IV. Conference agreements ratified by both Houses:			
Energy and water appropriations, 1986 (H.R. 2959).	15,252	8,245	
Amendments-special defense acquisition fund (S. 1726).	100		
Total conference agreements.	15,352	8,245	
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Payment to the CIA retirement fund.	10	10	
Claims, defense	7	3	
Payment to the Foreign Service retirement trust fund [1].	(7)	(7)	
Range improvements	1		
BLM: Miscellaneous trust fund.	([2])		
Payment to air carriers, DOT	18	17	
Retired pay—Coast Guard	21	19	
Maritime, operating-differential subsidies.		3	
BIA: Miscellaneous trust funds.	([2])	([2])	
Higher education facilities loans and insurance.	4		
Retirement pay for PHS officers.	12	6	
Medicaid	1,617	1,285	
Payment to health care trust funds [1].	(1,011)	(1,011)	
Child nutrition programs	254	234	
Advances to unemployment trust fund [1].	(516)	(516)	
Special benefits (general retirement and Federal employee retirement).	48	48	
Black lung disability trust fund.	85	85	
Assistance payments	573	573	
Veterans pensions	10		
Salaries of judges	3	1	
Payment to civil service retirement [1].	(214)	(214)	

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 1ST SESSION, AS OF OCT. 25, 1985—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
National wildlife refuge fund	(2)	(2)	
General revenue sharing [1]	(1,142)	(1,142)	
Total entitlements	2,663	2,284	
Total current level as of October 25, 1985.	1,067,417	980,306	792,995
1986 budget resolution (S. Con. Res. 32).	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution		12,706	
Under budget resolution	2,283		2,705

[1] Interfund transactions do not add to budget totals.
[2] Less than $500 thousand.
Note: Numbers may not add due to rounding.●

LEGAL SERVICES CORPORATION'S BOARD OF DIRECTORS

● Mr. EAST. Mr. President, this past spring the Senate confirmed the Legal Services Corporation's Board of Directors, the first confirmed Board in 5 years. This was the first step in shifting the direct control of the Corporation away from Congress and over to the Board where such control rightfully belongs. H.R. 2965 is the second step. It does not diminish, as previous appropriation bills have, the authority that is established in the original Legal Services Act of 1974. Passage of H.R. 2965 should bring to an end the micromanagement of the Corporation by Congress.

To be specific, the language in this bill does not include restrictions on the Corporation's basic grantmaking power. In last year's appropriation bill, Public Law 98-411, there was a requirement to maintain funding levels to grantees at the same levels as the fiscal year 1984 appropriation. Public Law 98-411 also contained the requirement that the Corporation follow a funding formula directing it to make available funds at specific amounts to every grantee. The absence of this language clearly demonstrates the confidence that this body has in the newly confirmed Board of Directors.

The importance of H.R. 2965 is that it restores the self-management to Legal Services, while retaining some good provisions that were contained in previous appropriations bills. The provisions that have been retained are restrictions on lobbying, class action lawsuits, representation of certain aliens, procedures for refunding, and local control of the LSC grantees.

I am concerned, however, by the language in the report which accompanies this bill. This language restores funding reductions proposed by the Corporation in their annual budget submission. It appears that there are still Members of this body who wish to act not only as Senators but also as directors of the Legal Services Corporation. When we confirmed this Board last spring, we expressed our trust in those nominees to act in a manner which is in the best interest of poor persons. Let's not abdictate that trust just because the Board has made some tough decisions.●

THE STATUE OF LIBERTY'S BIRTHDAY

● Mr. D'AMATO. Mr. President, it is with great pleasure that I rise today to call attention to a measure which will be signed by the President today. This measure, H.R. 407, designates the 12-month period beginning today as the "Centennial Year of Liberty in the United States." The signing ceremony is especially significant, for today also marks the 100th birthday of the Statue of Liberty.

The French gave the Statue of Liberty to the United States in 1884, and its erection on Liberty Island was completed the following year in 1885. Since that time, the Statue of Liberty has stood as a symbol of friendship and of the liberty citizens enjoy under a free form of goverment. A model of this statue, on a bridge above the Seine River in Paris, France, also stands as a symbol of every individual's right to liberty and freedom. While many nations have striven to uphold these individual rights, it is the United States which has had a longer period of constitutional, democratic government and uninterrupted freedom and liberty for its people than any other nation in history.

In 1776, the United States gained independence from Britain. For more than 200 years, Americans have enjoyed their fundamental rights to the pursuit of happiness through personal liberty and freedom. These rights are the foundation of America. These are God-given rights, which, unfortunately, many peoples of this world may never have.

As our beloved statue undergoes her final stages of renovation, well into the "Centennial Year of Liberty," let us all use this year to recommit ourselves to enjoying what we have here at home, and pray that some day all nations of this world will be free.●

PAUL W. REED III RECEIVES MELVIN T. DIXON AWARD

● Mr. BOREN. Mr. President, I rise to bring to the attention of my colleagues the fact that an outstanding young Oklahoman, Mr. Paul W. "Pete" Reed III, has been named the top Veterans' Affairs Director in the Nation. Reed, director of the Oklahoma Department of Veterans Affairs, was presented the Melvin T. Dixon Award by the National Association of State Directors of Veterans Affairs during their recent meeting in Mobile, AL.

The Melvin T. Dixon Award is the highest award given by the association and recognizes excellence in leadership and management. In presenting the award, Hoyt B. Hill, president of the association, described Reed as "one of the most dynamic young leaders in America today."

Under Reed's direction, the Department of Veterans Affairs in Oklahoma has reduced the cost per patient day by just under 17 percent while increasing services and maintaining a high quality care at Oklahoma's five veterans' centers. The department converted an underutilized hospital unit to provide additional nursing care beds for Oklahoma's war veterans and has consolidated consulting contracts. Both actions resulted in an annual cost savings of just under $500,000.●

EXECUTIVE SESSION

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now go into executive session to consider certain nominations on the Executive Calendar.

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

EXECUTIVE CALENDAR

Mr. SIMPSON. Mr. President, after conferring with the Democratic leader, I ask unanimous consent that the Senate proceed to consider the following nominations on the Executive Calendar: Calendar No. 494, Julius W. Becton, Jr., of Virginia, to be Director of the Federal Emergency Management Agency; Calendar No. 495, James P. McNeill, of Maryland, to be an Associate Director of the Federal Emergency Management Agency; Calendar No. 496, William R. Barton, of Virginia, to be Inspector General, General Services Administration; and Calendar No. 497, Francis S.M. Hodsoll, of Virginia, to be Chairman of the National Endowment for the Arts.

Mr. President, I ask unanimous consent that the calendar items just identified be considered en bloc and confirmed en bloc.

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

The nominations confirmed en bloc are as follows:

FEDERAL EMERGENCY MANAGEMENT AGENCY

Julius W. Becton, Jr., of Virginia, to be director of the Federal Emergency Management Agency, vice Louis O. Giuffrida, resigned.

James P. McNeill, of Maryland, to be an associate director of the Federal Emergency Management Agency, vice Fred Joseph Villella.

GENERAL SERVICES ADMINISTRATION

William R. Barton, of Virginia, to be Inspector General, General Services Administration, vice Joseph A. Sickon, resigned.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Francis S.M. Hodsoll, of Virginia, to be Chairman of the National Endowment for the Arts for a term of four years. (Reappointment.)

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

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

JOINT REFERRAL OF NOMINATION OF ALEXANDER HANSEN GOOD

Mr. SIMPSON. Mr. President, after conferring with the minority leader, I ask unanimous consent that the nomination of Alexander Hansen Good, to be Director General of the United States and Foreign Commercial Services, be jointly referred to the Committee on Commerce, Science, and Transportation and the Committee on Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Without objection it is so ordered.

LEGISLATIVE SESSION

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

ORDERS FOR TUESDAY

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. SIMPSON. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 9 a.m. on Tuesday, October 29, 1985.

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

RECOGNITION OF SENATOR PROXMIRE

Mr. SIMPSON. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order, there be a special order in favor of the Senator from Wisconsin [Mr. PROXMIRE] for not to exceed 15 minutes.

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

ROUTINE MORNING BUSINESS

Mr. SIMPSON. Mr. President, following the Proxmire special order, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

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

RESUME CONSIDERATION OF S. 1714

Mr. SIMPSON. Mr. President, following routine morning business, the Senate will resume consideration of S. 1714, the farm bill. Votes can be expected throughout the day on Tuesday, and a late session is expected Tuesday night in order to address the business before us.

RECESS FROM 12 NOON UNTIL 2 P.M. TOMORROW

Mr. SIMPSON. Mr. President, I ask unanimous consent that at the hour of 12 noon on tomorrow, the Senate stand in recess until the hour of 2 p.m. for the weekly party caucuses.

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

Mr. SIMPSON. Mr. President, when the Senate does reconvene at 2 p.m., the pending business shall be the farm bill.

ORDER OF BUSINESS

Mr. SIMPSON. Mr. President, I yield to the Senator from Minnesota. When he has concluded his remarks, in accordance with the previous order, he will conclude the Senate's activities for today.

The PRESIDING OFFICER. The Chair thanks the assistant majority leader.

THE FARM BILL

Mr. BOSCHWITZ. Mr. President, I should like to speak at some length about the farm bill, a subject that the Senate is now turning its attention to and certainly a subject that is going to be very meaningful, not only to the Middle West but to the entire country.

All of us here in the Senate have been made most aware of the farmers' problems—low prices, high interest rates, an expensive dollar; perhaps most of all, large debts. Those problems are not only the farmers', however. They are shared by the entire rural economy and the many businesses that depend on agriculture—farm equipment dealers and manufacturers, rural elevators, truckers, barges, suppliers of seed and fertilizer, and Main Street as well.

Twenty percent of the jobs, even more—25 percent of the jobs—are in the food and fiber industries. So our solution to the farm problem has to go beyond the farmer himself and include the infrastructure as well—all the people who service the farmer and who are served by him; all of rural America has to be put back to work and profitably.

My solution involves a greater reliance on the free market than what has come out of the Senate or the House Agriculture Committees. I would return halfway to the free market over a 6-year period. Certainly, that is gradually enough. The administration's plan, which was rejected by the committee, would have withdrawn supports entirely in 5 years. Clearly, that was too fast, considering the present condition of agriculture.

Both the Senate committee bill and the House bill continue existing programs despite overwhelming evidence, in my mind, that those programs have not served agriculture well. To me, existing programs are part of the problem. In combination with deficit-driven interest rates and the high dollar, which is also deficit-driven, the current programs have led to the worst times in agriculture in over 50 years. Many agree, and so do I, that balancing the budget is perhaps the primary cure for many things including agriculture.

Before we embark on what we all know will be a long farm bill debate, I would like my colleagues to look at some of the factors that caused this agricultural recession—indeed, in many areas, depression. Certainly, the high cost of land, combined with easy credit and an inflationary psychology, ignited the farm crisis we face today. The good agricultural years of the 1970's were translated into higher land costs at a rate never before experienced in agriculture. Consider the average cost of an acre of land in Minnesota from 1910-84. That includes everything from some pretty swampy stuff to rich black earth in south and central Minnesota. In 1910, the average cost of land was not quite $100 an acre. It rose to just above $200 an acre between 1910 and 1973, just 63 years. Then, fueled by inflation, land values exploded to more than $1,300 an acre. Over the past 75 years, lots of things have gone up in cost as much—but few things with such rapidity. Any farmer who could sign his name could get a loan—indeed, was encouraged to do so by the banker, the Government, and virtually all his advisers. Meanwhile, back in the city, lenders were making far larger but less creditworthy loans to foreign governments. It was considered good business to be highly leveraged. Was not inflation higher than interest rates, and on top of that, interest was deductible, and the Farm Credit System had access to some pretty cheap money?

Over coffee in the local cafe, lots of farmers with 500 acres found themselves to be millionares—at least on paper. Pretty heady stuff. Amazingly, most farmers did not bite. Or they paid cash! Remember that even today, the largest group of farmers, perhaps half have no debt at all.

Back in the 1970's, cash flow—even profit—was considered unimportant by many. You were making big bucks on the escalating value of your land and lots of institutions were anxious to loan money secured by those rising values.

And then, rather suddenly, the tune changed. It was cash flow that was required again and by the very same institutions that loaned on rising land values the year before. Suddenly, with expensive land and high interest rates, the squeeze was really on.

It is important in these discussions to understand farm cash flow. Take an acre of corn land bought at $2,000—which is high now but was low 5 years ago—yielding the national average of 110 bushels of corn per acre. Our farmer joins the Federal program so is guaranteed $3.03 a bushel but is allowed to plant only 90 percent of his land. He has a real estate loan from the Federal Land Bank. The fluctuating rate—out our way—is presently 12¾ percent. That 1 acre yields $333 in cash flow—that is how much comes in—less $33 toward the land that has to be set aside. So the farmer takes in $300 per acre. That is gross revenues.

What is his interest costs?

Well, if he financed all $2,000 with the land bank, he is paying $255 just for the interest. If he financed only three-fourths of his land, the cost drops to $191.

If he owed on only 50 percent of the land, which might be closer to the average, still $127.50 of the $300 of gross income goes to interest.

So interest—without considering all the costs of planting, seeds, fertilizer and harvesting—is taking a huge chunk of the farmer's gross income. This heavy investment in capital makes agriculture particularly vulnerable when interest rates shoot up as they did.

We should also keep in mind that there are many types of farmers. The Department of Agriculture tells us there are about 2.4 million farms in the United States. To be counted as a farm it must have $1,000 in gross sales per year. That is not very much. A whopping 35 percent of people classified as "farmers" produce less than $5,000 worth of commodities a year. Virtually half of all people counted as farmers produce less than $10,000 a year. Those are what we call hobby farmers, who get most of their income off the farm. Nearly three-quarters of all farmers produce less than $40,000 annually in gross income. All of them, certainly those below $20,000 get most of their income off farms. Yet they are all eligible for farm programs. That is just plain silly. Farm programs should concern themselves with family farms—those in the $30,000 to $500,000 category. There are about 800,000 of these family farmers and we should concern ourselves with them.

One benefit of this is that we could significantly reduce the work of the USDA. If we were to say that a farmer must be entitled to $1,000 in payments under farm programs to be considered a full-time family farmer whom we want to help, we'd eliminate slightly over half of the checks sent to farmers, though only 4 percent of the dollars paid. The work of the USDA bureaucracy would be enormously reduced.

I believe strongly that the farmer not only needs but deserves our help. Our embargoes plus pricing policies all affected his business negatively. But be should move back to free markets, half way in 6 years and then make a reappraisal.

The farmer has always done best when his income comes from the free market. That is what happened in the 1970s. One other thing. We have to adopt a program and we have to stick with it. Continuity and the ability to plan are terribly important to farmers and their lenders and by fiddling with farm programs every year—and sometimes we even do it more often—we are denying the central ingredient of success to rural America.

If prosperity is to return to agriculture, I believe we have to regain in addition our share of world markets.

In discussing world trade, I talk about grains—wheat, coarse grains, which include corn, sorghum, barley and oats, and rice. Oil seeds are also a part of the group that I will discuss. Oil seeds, of course, are soybeans and sunflowers. While the U.S. exports have been as high as 60 percent of the wheat we grow, 30 percent of the corn and 50 percent of the soybeans, only 13 percent of the world production of these grains, including ours, comes onto the world market; 87 percent of the grains that are produced in the world are consumed in the countries where they are grown.

Agricultural exports affect our Nation much more so than the ordinary nation. At their height, agriculture exports were nearly triple agriculture imports. We had a positive balance of trade in agriculture of $28 billion in 1981, and even today with agricultural suffering and exports lower than they have been, our agriculture exports exceed imports by $14 billion.

The world's markets have certainly begun to elude us. The high dollar, plus the American crop loan rate—that sets our minimum price—have priced the United States out of the world market. These prices have also brought about substantial new production worldwide, so despite starvation in many parts of Africa, the world is awash in grain.

Consider our corn exports. In 1980-81 we exported 2.3 billion bushels of corn. In 1984-85 that has dropped to 1.9 billion bushels of corn. The European Community alone has gone from 711 million bushels of grain from us in 1979 to a mere 60 million bushels in this past year. Exports of wheat show the same kind of trend. Despite a growing world market for grains, our share is shrinking.

During some years we exported 60 percent of our wheat, and those were good years for agriculture. As a matter of fact, if you draw a graph and look at land values in Minnesota, you see that they rise with extreme rapidity starting in 1973. That is when the agricultural exports took off, and you see that the lines of agricultural success follow very much the lines of agricultural exports.

Since so much of what we produce goes to the world market, we are indeed a dominating force in that market, though much less so than we have been in the past. We set the world prices, many farmers and others have told me, so why not set it high. Everybody will follow. Everybody will simply price his corn or wheat 5 cents under ours. I would agree if only markets and production would remain static.

The Brazilians used to have well over two-thirds of the world's coffee market, nearly 90 percent of the world's coffee market. Surely this was a situation they could take advantage of, or so they reasoned, and they jacked up the prices. But production and markets simply do not remain static. If they had, Brazil's debts today sure would look a lot better. At higher prices lots of people, of course, began what you would expect them to do, they started to grow coffee. Today, Brazil has one-third of the coffee market, not 90 percent, and that one-third at lower prices.

The Saudis and their friends in OPEC thought that they could control oil so they raised the price out of sight, catalyzed a deep world recession and developed a huge amount of cash. By controlling production, they would continue to raise prices and prosper, at least that is the way they reasoned. As we waited in gas lines, the predictions of experts of $100 per barrel oil seemed a possibility, if only markets had remained static, but they never do, whether it is conservation, smaller cars or new production stimulated by higher prices. Well, said the Saudis, we have such a large share of world production—and the Saudis really do—that if we curtail our production we will be able to hold world prices up.

Many in agriculture reason the same way. The Saudis used to produce 10½ million barrels a day. They are now down to slightly over 2. And that is oil—a finite resource produced by relatively few countries—not grain, a renewable resource produced by virtually all 180 countries of the world.

We simply cannot control world agricultural markets. You cannot fool economic realities. We will break rural America if we try, not to speak of the U.S. Treasury.

Also, given a chance, larger and larger world competitors worldwide will develop. Earlier this year, Pro

Farmer, a weekly newsletter, reported on a trip to South America by members of the House Agriculture Committee. They found that Brazil had 620 million acres of arable ground; 120 million is currently cropped. Argentina has 400 million acres. About 50 million are plowed. We farm 420 million acres in the United States. If, through high loan rates or continuing deficits and an expensive dollar, we keep giving them an incentive to plow up more land, American farmers and their sons will face a bleak future.

Clearly, all is not bright in Argentina and Brazil, which are unstable economies and Governments. One would think hard before investing there.

Nor is there much infrastructure in those countries. In our midwest heartland, every town has a grain elevator, modern loading and unloading equipment, good roads, rails nearby, and we are blessed with a river system that bisects and cuts across our farm belt in all directions, with locks and dams to provide cheap access to markets.

Clearly, much of the Brazilian/Argentinian land does not have these advantages. It costs those farmers many times as much to get their goods to the port as it does ours. At the farm gate, those farmers get far less for their crop than our farmers do. Our infrastructure not only creates millions of jobs. It gives us our biggest advantage.

If our policies and our dollar continue to give them incentives to produce and develop their infrastructure—well, watch out. Generations of our farmers will suffer.

While I agree that the Europeans have export subsidies that hurt us—most other subsidies are exaggerated or smaller than our own—and Japan does not give us full market access, Europe and Japan remain our two largest markets. Those subsidies and barriers have to be dealt, with, and aggressive, market-oriented, long-term farm legislation is probably the best way, because you can not fool economic realities for long. But those realities certainly include propping us a faltering farm economy while the transition to more market-oriented policies is made.

I plan to offer many new ideas about how we can maintain farm income, regain those world markets that have brought prosperity in the past, and put the entire rural economy to work. That rural economy is on its knees now. We must give it the change for prosperity. We can do it with a progressive, market-oriented farm bill.

CARGO PREFERENCE

Mr. BOSCHWITZ. Mr. President, the current cargo preference law requires that 50 percent of the cargo generated by the Federal Government must be shipped on U.S.-flag vessels. This means that the U.S. Government must pay the price difference between the more expensive U.S. vessel and its foreign flag competitor. Over the past year USDA data shows that for the Public Law 480—or Food For Peace Program—this difference has averaged about $40 per ton—over a dollar per bushel of wheat—meaning the U.S. rate has been double that of the going market rate. This differential cost $150 million in fiscal year 1985.

So, when this differential is applied to commercial export programs such as blended credit, the cost either wipes out any price advantage the program may offer, or makes the program so expensive to that it is no longer cost-effective. This is the situation we now find ourselves in.

The farm bill now includes language to exempt commercial export programs from the preference laws, but the merchant marine has strongly opposed any efforts to keep them from expanding into the commercial credit programs of the Department of Agriculture.

So in response it appears that some Senators may come forward with a proposal which they argue will resolve this problem by giving the merchant marine an increase from the current 50 percent cargo preference requirement to 75 percent on the following programs: Public Law 480; section 416 donations; the African Food Aid Program; and USAID.

And then exempting the Blended Credit Program, and export PIK from the having cargo preference apply to them.

Unfortunately, this is not a real compromise. Instead it is inequitable, costly, and extremely detrimental to the Great Lakes ports.

So, Mr. President, I simply wanted to put the Senate on notice that the so-called Cochran compromise is not noncontroversial, and will be opposed by this Senator for several reasons. And I hope that those Senators and staffs listening on the box will take note that I am not alone in my opposition.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Secretary Block in opposition to the Cochran amendment.

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

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, October 28, 1985.

Hon. RUDY BOSCHWITZ,
U.S. Senate,
Washington, DC.

DEAR RUDY: In accordance with your request, I am enclosing a memorandum covering our interpretation of the Cargo Preference Compromise. The Department is opposed to such a scheme because, in our judgment, it will be expensive, contrary to the Administration's policy not to expand cargo preference requirements and could result in less food aid to needy nations than would otherwise be sent without this type of legislation.

Sincerely,

JOHN R. BLOCK, *Secretary.*

PROPOSED CARGO PREFERENCE COMPROMISE

Our basic assessment is that the compromise, however well intended, would result in an immediate increase in U.S. Government subsidy payments to the U.S. maritime industry. In addition, the proposed amendment provides no assurance that the application of cargo preference to agriculture exports would be satisfactorily resolved.

For FY 1985, USDA subsidized the U.S. Merchant Marine with ocean freight payments of between $150 and $160 million (ocean freight differential) in the PL 480 program (both Title I and Title II).

Under the compromise, an additional 1.6 million tons of U.S. food aid would ultimately have to be shipped on U.S. vessels every year (i.e., beginning in the third year a 25 percentage point increase over FY 1985 Title I and II U.S. flag shipments of approximately 4.1 million tons). (Current depressed freight rates and the need to reactivate old U.S. vessels, including tankers to handle this additional tonnage would contribute significantly to USDA estimates as average U.S. freight rates would rise by 20-30 percent for all preference cargo.)

Thus, the compromise could increase total subsidy costs (paid by USDA and MARAD under the proposal) to well over $200 million a year in the PL 480 program alone.

Since the funding of these large subsidies would be divided between USDA and MARAD under the proposal, there appears to be substantial risk of controversy over relative contributions. Moreover, there is a risk that MADRAD funding might at some point become unavailable. The proposal recognizes this and provides that the entire compromise will dissolve in this event.

There is no assurance that the proposal will resolve the cargo preference questions. It could terminate at any time, with an immediate risk that court actions by the maritime industry could again disrupt USDA commercial export programs.

It makes no sense to increase cargo preference for what would be primarily bulk grain tonnage in the PL 480 program, with the result that old U.S. vessels would be reactivated to earn high freight rates. This would only inflate U.S. budgetary costs.

The Administration opposes an expansion of our cargo preference laws and thus opposes this cargo preference compromise because it is a costly expansion of cargo prefernce and would create a substantial administrative burden for both USDA and DOT.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the Senate stand in recess in accordance with the previous order.

There being no objection, the Senate, at 4:55 p.m., recessed until tomorrow, Tuesday, October 29, 1985, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 28, 1985:

DEPARTMENT OF STATE

Laurence William Lane, Jr., of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Australia and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Nauru.

John Edwin Upston, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

DEPARTMENT OF DEFENSE

Sam A. Nixon, of Texas, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 1991, vice Caro Elise Luhrs, term expired.

DEPARTMENT OF COMMERCE

Alexander Hansen Good, of the District of Columbia, to be Director General of the United States and Foreign Commercial Services, vice Kenneth S. George.

NATIONAL MEDIATION BOARD

Helen M. Witt, of Pennsylvania, to be a member of the National Mediation Board for the term expiring July 1, 1988, reappointment.

U.S. INFORMATION AGENCY

Charles Edward Horner, of the District of Columbia, to be an associate director of the U.S. Information Agency, vice Charles E. Courtney.

DEPARTMENT OF STATE

The following-named career member of the Senior Foreign Service, class of career Minister, for the personal rank of career Ambassador in recognition of especially distinguished service over a sustained period:

Richard W. Murphy, of Maryland.

FOREIGN SERVICE

The following-named career members of the Senior Foreign Service of the Department of State for promotion in the Senior Foreign Service to the classes indicated:

Career members of the Senior Foreign Service of the United States of America, class of career Minister:

L. Paul Bremer III, of Connecticut.
Edwin G. Corr, of Oklahoma.
Maynard W. Glitman, of Vermont.
John Dimitri Negroponte, of New York.
Nicholas Platt, of the District of Columbia.
Anthony Cecil Eden Quainton, of Washington.
Frank George Wisner II, of the District of Columbia.

Career members of the Senior Foreign Service of the United States of America, class of Minister-Counselor:

Laurence Desaix Anderson, Jr., of Mississippi.
Richard Clark Barkley, of Michigan.
Nicholas S. Baskey, Jr., of Ohio.
Felix S. Bloch, of North Carolina.
Richard Wayne Bogosian, of Maryland.
Warren Clark, Jr., of New York.
Richard E. Combs, Jr., of California.
Frances D. Cook, of Florida.
Timothy E. Deal, of California.
Carl Edward Dillery, of Washington.
Emil P. Ericksen, of South Dakota.
Vincent J. Farley, of New York.
Alan H. Flanigan, of Tennessee.
Robert A. Flaten, of Virginia.
Myles R. René Frechette, of Washington.
Charles A. Gillespie, Jr., of California.
Richard C. Howland, of New York.
David George Newton, of Virginia.
Leo J. Reddy, of South Carolina.
Robert C. Ribera, of Virginia.
William Frederick Rope, of New York.
Charles Evan Rushing, of Illinois.
Mary A. Ryan, of Texas.
M. James Wilkinson, of California.
Richard L. Wilson, of Iowa.

The following-named career members of the Foreign Service for promotion into the Senior Foreign Service, and Consular officer and secretary in the Diplomatic Service appointments, as indicated:

Career members of the Senior Foreign Service of the United States of America, class of Counselor:

John H. Adams, of California.
Eric J. Boswell, of California.
Charles H. Brayshaw, of Colorado.
William T. Breer, of California.
Albert Peter Burleigh, of California.
Jose J. Cao-Garcia, of Maryland.
Marshall L. Casse III, of Georgia.
Jeffrey Davidow, of Minnesota.
John S. Davison, of Maine.
Jon G. Edensword, of Washington.
Wesley William Egan, Jr., of North Carolina.
Adolph H. Eisner, of Florida.
Thomas Austin Forbord, of California.
Harold W. Geisel, of Illinois.
Edward W. Gnehm, Jr., of Georgia.
Dennis C. Goodman, of Ohio.
William Bruce Harbin, of California.
H. Kenneth Hill, of California.
Genta Hawkins Holmes, of California.
Robert Onan Homme, of Minnesota.
Mark Johnson, of Montana.
Ralph T. Jones, of Maryland.
Patricia A. Langford, of Mississippi.
Edward Gibson Lanpher, of Virginia.
Alan P. Larson, of Iowa.
Warren E. Littrel, Jr., of Illinois.
Robert A. MacCallum, of Oregon.
John F. Maisto, of Pennsylvania.
Philip R. Mayhew, of the District of Columbia.
Joseph H. Melrose, Jr., of Pennsylvania.
Joseph P. O'Neill, of New York.
Donald K. Parsons, of California.
Robert Stephen Pastorino, of California.
Samuel R. Peale, of the District of Columbia.
Lauralee M. Peters, of Virginia.
H. Clarke Rodgers, Jr., of Georgia.
William E. Ryerson, of Maryland.
David H. Shinn, of Washington.
Leonard G. Shurtleff, of Massachusetts.
Keith C. Smith, of Virginia.
Elizabeth A. Swift, of the District of Columbia.
James Tarrant, of California.
David S. Wilson, of California.
John Melvin Yates, of Washington.

Career members of the Senior Foreign Service, class of Counselor, and Consular officers and secretaries in the Diplomatic Service of the United States of America:

Joseph F. Acquavella, of Virginia.
Laurence G. Brown, M.D., of Oregon.
Marvin T. Doig, of Virginia.
Thomas M. Farley, of Florida.
Ralph F. Laurello, Jr., of Florida.
Jerome F. Tolson, Jr., of Pennsylvania.

FOREIGN SERVICE

The following-named persons of the Agency for International Development for appointment as career members of the Senior Foreign Service of the classes states, and also for the other appointments indicated herewith:

For reappointment in the Foreign Service as a career member of the Senior Foreign Service, class of Counselor, and a Consular officer and a secretary in the Diplomatic Service of the United States of America:

Hugh L. Dwelley, of Maine.

For appointment as a career member of the Senior Foreign Service, Class of Counselor, and a Consular officer and a secretary in the Diplomatic Service of the United States of America:

Robert Schmeding, of Maryland.

The following-named persons of the agencies indicated for appointment as Foreign Service officers of the classes stated, and also for the other appointments indicated herewith:

For reappointment in the Foreign Service as a Foreign Service officer of class 1, a Consular officer and a secretary in the Diplomatic Service of the United States of America:

U.S. INFORMATION AGENCY

Frederick E.V. LaSor, of Ohio.

For appointment as Foreign Service officers of class 1, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Richard Albores, of Maryland.
Peter Benedict, of Virginia.
Douglas J. Clark, of Colorado.
Willie F. Cook, of Texas.
Michael C. DeMetre, Of California.
Richard E. Derrick, of Texas.
Leticia Diaz, of Texas.
Ernest Stanley Hardy, of the District of Columbia.
Stanley Dale Mitchell, of Florida.
Robert W. Resseguie, of Texas.
Roger J. Simmons, of Virginia.
Stephen J. Spielman, of New Hampshire.
Robert Merritt Traister, of Florida.
Julio A. Villafane, of Florida.
Adolph Yarbrough Wilburn, of the District of Columbia.
Eric N. Witt, of Hawaii.

For reappointment in the Foreign Service as a Foreign Service officer of class 2, a Consular officer and a secretary in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Leo Cecchini, of California.

For reappointment as Foreign Service officers of class 2 Consular officers, and secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Guido, A. Del Prado, of California.
Constance J. Freeman, of New York.

AGENCY FOR INTERNATIONAL DEVELOPMENT

D. Annette Adams, of Ohio.
David Lee Alverson, of Florida.
Mark E. Anderson, of New Jersey.
Gordon Bertolin, of Washington.
George Phillip Cavanagh, of New York
Lisa Chiles, of the District of Columbia.
Joel Quentin Cotten, of Virginia.
Arthur H. Danart, of the District of Columbia.
Leopoldo Garza, of Texas.
Richard J. Greene, of New York.
Julian C. Heriot, Jr., of Florida.
Blaine W. Jensen, of Idaho.
Howard B. Keller, of Virginia.
Barbara L. Kennedy, of California.
Jon Powers Kindice, of Tennessee.
David Southworth Kitson, of Virginia.
Robert J. Kramer, of Florida.

John Van Dusen Lewis, of District of Columbia.
Robert Edward Mitchell, of Florida.
Amy Upton Nolan, of Maine.
Louis Anthony O'Connor, of Iowa.
Allen Paul Rossi, of Florida.
Marian J. Salay, of Virginia.
Alexander W. Shapleigh, of the District of Columbia.
Jonathan Arthur Sleeper, of New Hampshire.
Danny Frank Veno, of Virginia.
Hyatt Abdul Wahab, of Washington.

For appointment as Foreign Service officers of class 3, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Joyce Ellen Leader, of Maryland.
Elaine S. Papazian, of the District of Columbia.
Adolfo Afredo Ramirez III, of California.
Laurel M. Shea, of Wyoming.
Henry Frazier Webb, Jr., of Wisconsin.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Jeffrey H. Allen, of Arkansas.
Douglas A. Chiriboga, of Virginia.
Gary R. Cohen, of Connecticut.
James Edward Corley, of Massachusetts.
George Deikun, of California.
Michael C. Foster, of Wyoming.
David Steven Gardella, of California.
Rudolfo Ricardo Griego, of New Mexico.
Michael Gordon Huffman, of Virginia.
John Stephen Johns, of Virginia.
David Leong, of California.
Michael H. Lofstrom, of Illinois.
Timothy M. Mahoney, of Wisconsin.
Dorothy M. McClellan, of Florida.
John Patrick McEnaney, of New Hampshire.
Kevin J. Mullally, of Texas.
Walter Elliott North, Jr., of Washington.
James B. Pagano, of Virginia.
Viviann G. Pettersson, of Washington.
Christopher Eaton Phelps, of Montana.
Donald R. Soules, Jr., of Oklahoma.
Linda D. Tarpeh-Doe, of Colorado.
Paul Christian Tuebner, of Florida.
Louise Berry Wise, of Maryland.
Francisco Javier Zamora, of Arizona.

For appointment as Foreign Service officers of class 4, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Clarissa Jean Aldridge II, of California.
Kathleen Hatch Allegrone, of Virginia.
Rosalyn H. Anderson, of Texas.
Dianne McIntyre Andruch, of Arizona.
Abelardo A. Arias, of the District of Columbia.
David Avery, of New Hampshire.
Christopher J. Beede, of New York.
Gale Ellen Berghoefer, of Virginia.
Elizabeth Rhea Beyene, of New York.
Marcia S. Bloom, of New Jersey.
Peter William Bodde, of Maryland.
Hazel Robinson Boone, of Pennsylvania.
Paul Lawrence Boyd, of New Mexico.
R. Wayne Boyls, of Texas.
Ruth E. Bright, of Florida.
William E. Brooks, of Virginia.
Kevin Brown, of New York.
R. Nicholas Burns, of New Hampshire.
Wayne Jeffrey Bush, of Oregon.
Steven Allen Candy, of Michigan.
Joel Franklin Cassman, of California.
Francis Sargent Cheever, Jr., of Illinois.
Paul G. Churchill, of Illinois.
Frank Collins III, of Virginia.
Thomas More Countryman, of Washington.
Ann Vaughn Covington, of Nevada.
Cheryl Jane Cox, of Wisconsin.
Gene Allan Cretz, of New York.
Barbara Cecelia Cummings, of Virginia.
Terrence J. Daru, of Florida.
Christopher William Dell, of New Jersey.
Stephen J. Del Rosso, Jr., of New Hampshire.
Marc Langley Desjardins, of New York.
Keith A. Eddins, of Mississippi.
Stephen Anthony Edson, of Kansas.
Deborah Leslie Elliott, of Florida.
Thomas F. Farr, of Virginia.
Paul Michael Fitzgerald, of Massachusetts.
John M. Gieseke, of California.
Grace Carolyn Gilinger, of Pennsylvania.
Jeffrey L. Goldstein, of California.
Wilson Fletcher Grabill III, of Ohio.
Deborah E. Graze, of Virginia.
Bradford E. Hanson, of California.
Brent R. Hartley, of Oregon.
Llewellyn H. Hedgbeth, of California.
John Ashwood Heffern, of Missouri.
Leonard Allen Hill, of Washington.
Stanley R. Hunter, of Washington.
Kenneth H. Jarrett, of New York.
Peter Jensen, of New Hampshire.
Deborah K. Jones, of California.
Thomas E. Joseph, of New York.
James Chris Kaddaras, Jr., of Massachusetts.
Alexander Karagiannis, of Missouri.
Stephen R. Kelly, of New Hampshire.
Brian Russell Kelsey, of Maryland.
Edward William Kloth, Jr., of Virginia.
George Albert Krol, of New Jersey.
Rose Marie Likins, of Virginia.
Susan Pierce Lively, of Kentucky.
Frank Stephen Malott, of Alaska.
Dundas C. McCullough, of California.
Lawrence Mire, of California.
Daniel K. Moore, of Virginia.
Héctor Emilio Morales Colón, of Puerto Rico.
David W. Mulenex, of Washington.
Patricia A. Murphy, of Virginia.
Marc Emanuel Northern, of Kansas.
Atim Eneida George Ogunba, of California.
Gordon R. Olson, of California.
Richard Gustave Olson, Jr., of Minnesota.
Michael Philip Oreste, of Georgia.
Deborah P. Park, of the District of Columbia.
Ernest J. Parkin, Jr., of Maine.
Patricia Blanche Payne, of Illinois.
Charles Evans Peacock, of California.
Sheila Jane Peters, of Pennsylvania.
Bruce Donald Peterson, of Virginia.
Mary Lynn Porto, of Texas.
Maureen Quinn, of New Jersey.
David J. Rabadan, of New Jersey.
Thomas Bolling Robertson, of Virginia.
Richard Patrick Rodgers, of Virginia.
Dorothea-Maria Rosen, of California.
David Henry Rundell, of Texas.
Marlene J. Sakaue, of California.
Edward J. Salazar, of California.
Barbara M. Sand, of California.
William P. Schofield, of Georgia.
Margaret Scobey, of Tennessee.
Robert Hayes Seibold, of Pennsylvania.
David Bruce Shear, of New York.
Mary Ann Singlaub, of Colorado.
Michele J. Sison, of Maryland.
Jay Thomas Smith, of Indiana.
Renny Travers Smith, of New Jersey.
Madelyn Elizabeth Spirnak, of the District of Columbia.
John C. Stepanchuk, of California.
Jean Rene Surena, of New York.
Theodore Tanoue, of California.
Lawrence A. Urli, of Michigan.
Robert Weisberg, of New Hampshire.
Peter Whaley, of Massachusetts.

U.S. INFORMATION AGENCY

James H. Williams, of Puerto Rico.

The following-named members of the Foreign Service of the Departments of State and Commerce, and the U.S. Information Agency, to be Consular officers and/or secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular officers and secretaries in the Diplomatic Service of the United States of America:

Paul Vincent Aceto, of New York.
Perry Mason Adair, of California.
Karl Philip Albrecht, of Colorado.
Jess L. Baily, of Ohio.
Michael Lee Bajek, of Texas.
John L. Balliff, IV, of Utah.
George F. Beasley, of Maryland.
Jeffrey Adam Beller, of Illinois.
Bonnie S. Bennett, of California.
Shelia Beth Bindman, of Virginia.
Robert H. Blair, of Hawaii.
James E. Borup, of Washington.
Thomas Mann Bovaird, of New Hampshire.
Upton Beall Bowden III, of Tennessee.
Douglas Martin Boyle, of Florida.
Gene Winston Brownfield, of California.
Michael Gawen Brownrigg, of California.
George Buchanan, of New Jersey.
John David Burnim, of Virginia.
Catherine Camp, of New York.
Elroy J. Carlson, of Washington.
Gerald D. Carr, of Kansas.
Thomas P. Carroll, of California.
Lois Ann Cecsarini, of Massachusetts.
Daniel French Christiansen, of Wyoming.
Patricia Clayton, of California.
Maura Connelly, of New Jersey.
J. Thomas Converse, of Kentucky.
Ellen Mary Conway, of New York.
Edward Cook, of Virginia.
Robert M. Dannenberg, of Missouri.
Caryn Danz, of the District of Columbia.
Kenneth A. Davis, of West Virginia.
John Walter Davison, of Pennsylvania.
David Anthony Denny, of Texas.
Liane Renée Dorsey, of New York.
Michael E. Dougherty, of the District of Columbia.
John Driscol, of Indiana.
Dennis A. Droney, of Florida.
James Lawrence Dudley, of Georgia.
Maria Elizabeth Elmore, of Florida.
Terence Elton, of the District of Columbia.
Mark A. Fowler, of Florida.
John Gilmore Fox, of California.
Stuart E. Friedman, of California.
Candy Green, of California.
Marshall Freeman Harris, of Virginia.
Todd Philip Haskell, of New York.
Charles Martin Heffernan, of Washington.
Christopher Paul Henzel, of New York.
Catherine M. Hill, of the Distrtict of Columbia.
Daniel Menlo Hirsch, of the District of Columbia.
Richard Eugene Hoagland, of Indiana.
Greta Christine Holtz, of Michigan.
Elizabeth A. Hopkins, of the District of Columbia.
Lydia M. Hubac, of Virginia.
Lauren McClanahan Hueber, of Georgia.
Franklin E. Huffman, of New York.
Gregory Paul Hulka, of California.
Michael J. Hurley, of Virginia.
John J. Hussa, of the District of Columbia.
Amy J. Hyatt, of California.

Carole Ann Jackson, of Florida.
Jeanine Jackson, of Wyoming.
Justin J. Jackson, of New York.
Merrilee Bolinger Jacobson, of Ohio.
Mary V. Jeffers, of the District of Columbia.
F. Faye Johnson, of the District of Columbia.
Lauren Spivak Johnson, of New York.
Matthew Eric Johnson, of Maryland.
Lena Joseph, of Florida.
Robert A. Kandra, of Connecticut.
Randall E. Kappesser, of Maryland.
Kathleen Ann Kavalec, of California.
John H. Kavanaugh, of New York.
Thomas Patrick Kelly III, of California.
Holly Anne Kenworthy, of Connecticut.
Stewart R. King, of Oregon.
Susan Gae Kirstein, of North Carolina.
Michael S. Klecheski, of New York.
Virginia Idelle Kurapka, of Maryland.
Todd Andrew Kushner, of California.
Christopher Jon Lamb, of Virginia.
Lynne A. Larkin, of Wisconsin.
Lynn A. Levenson, of California.
Imre Lipping, of New York.
Meridy S. Lippoldt, of Florida.
Carol Lynn MacCurdy, of the District of Columbia.
Robert A. Mackay, of Virginia.
Karen Lee Malzahn, of Maryland.
Andrew Cooper Mann, of Washington.
Joseph Manso, of New York.
John Mathers McCaslin III, of Virginia.
Daniel J. McLaughlin, of Maryland.
Gerald McLoughlin, of Connecticut.
James Desmond Melville, Jr., of New York.
Dennis Wayne Merz, of Washington.
Patrick Meyering, of Illinois.
John G. Moran, of North Carolina.
Thomas Frederick Morrow, of Virginia.
Kenneth Moskow, of Massachusetts.
Ken Moskowitz, of the District of Columbia.
Julie Ann Nauman, of the District of Columbia.
George Noroian II, of California.
Hugh Scott Novins, of New Jersey.
Mary Monica O'Keefe, of Virginia.
John A. Olson, of Virginia.
Richard J. Patard, of New Jersey.
Robert Patterson, of New York.
Kathryn Lynn Payne, of Missouri.
Randal Lee Phillips, of Virginia.
Anthony DeSales Pinson, of Florida.
Janet R. Potash, of Massachusetts.
David Queen, of Illinois.
Thomas Charles Raezer, of California.
Juan F. Ramirez, of Virginia.
Robert A. Rastetter, of New Mexico.
George Douglas Reasonover, Jr., of Texas.
Charles M. Reese, of California.
Rebecca Sue Replogle, of Indiana.
Nancy L. Rider, of Missouri.
Michael J. Rishling, of Virginia.
David Malcolm Robinson, Jr., of New Hampshire.
David Alexander Rollman, of Colorado.
Matthew Morrow Rooney, of Texas.
Ilma Rosskopf, of Maryland.
Eric Seth Rubin, of New York.
Sue Saarnio, of Montana.
Daniel T. Saint-Rossy, Jr., of the District of Columbia.
Eric Clark Sandberg, of Ohio.
Eugene Charles Santoro, of Florida.
Robert C. Schmidt, of Hawaii.
Jack Schnur, of Ohio.
Michael J. Scown, of California.
Edmond Eggleston Seay III, of California.
John Woodley Shearburn, of Tennessee.
David Lawrence Shuler, of Idaho.
Anne Winifred Simon, of Colorado.
Sally Virginia Slocum, of Nevada.
Alfred E. Smith, of Florida.
John W. Smith, of Illinois.
Celia M. Solh, of California.
Michael Speck, of New York.
Phyllis Danhof Speck, of Texas.
Dennis E. Stallings, of Virginia.
Barbara Stephenson, of Florida.
Robert K. Stevens, of California.
Monty Jay Tilles, of Florida.
Roger G. Titus, of Virginia.
Heather Anne Troutman, of Ohio.
Matthew Heywood Tueller, of Utah.
Mary F. Van Natta, of Califronia.
Michael J. Varga, of Pennsylvania.
Stephen W. Walker, of Massachusetts.
Patrick William Walsh, of Virginia.
Philena B. Werden, of Illinois.
Michele Renée Williams, of Florida.
Paul Edward Wilson, of Maryland.
Bradly R. Wride, of California.
Phillip E. Wright, Jr., of North Carolina.
John Anthony Wysham, of Oregon.
Michael James Zak, of Illinois.
Philip D. Zelikow, of Texas.
Karen Zens, of Michigan.
Kevin A. Zerrusen, of Illinois.
Jerry N. Zimmerman, of Rhode Island.

Consular officers of the United States of America:
Raymond Eveland, of Louisiana.
Donald Lachman, of Maryland.

Secretaries in the Diplomatic Service of the United States of America:
William H. Brown, of the District of Columbia.
Bernard Engel, of Maryland.
Peter S. Flynn, of Massachusetts.
Jane T. Glidden, of the District of Columbia.
Paul Huygelen, of Colorado.
Carlton R. Stoiber, of the District of Columbia.
M. Patricia Wazer, of Connecticut.
John C. Zimmerman, of Virginia.

IN THE AIR FORCE

The following-named officers for promotion to the grade indicated in the Reserve of the Air Force, under the provisions of section 307, title 32, United States Code, and sections 8363 and 593, title 10, United States Code:

LINE OF THE AIR FORCE

To be colonel

Aldridge, Alfred G., Jr., [redacted]
Asbury, William D., [redacted]
Athas, William J., [redacted]
Belfiore, Rocco A., [redacted]
Bowers, Michael J., [redacted]
Butler, John R., [redacted]
Carter, Patrick L., [redacted]
Curran, John C., Jr., [redacted]
Deschane, Rollin J., [redacted]
Drahn, Peter L., [redacted]
Durso, Francis X., [redacted]
Easley, Donald W., [redacted]
Frye, Buddy D., [redacted]
Fuelling, Lynwood N., [redacted]
Gillman, Wallace M., [redacted]
Greene, John V., [redacted]
Hall, Gene W., [redacted]
Haslam, David J., Jr., [redacted]
Hearon, Adolph P., [redacted]
Howell, Roger B., [redacted]
Jett, Richard H., [redacted]
Johnson, Jan P., [redacted]
Jones, Richard A., [redacted]
Kenney, Richard S., [redacted]
Knight, Kenneth D., [redacted]
Leach, Charles A., [redacted]
Markley, Richard A., [redacted]
McAuliffe, Donald E., [redacted]
Mounts, Timothy L., [redacted]
Murrie, David E., [redacted]
Porter, Charles E., [redacted]
Pounds, Dwight R., [redacted]
Rist, David J., [redacted]
Sharp, Richard E., [redacted]
Simmons, Elmer L., Jr., [redacted]
Smith, Michael B., [redacted]
Snead, William H., [redacted]
Strang, Billy J., [redacted]
Thomas, Thomas S., [redacted]
Wells, Sidney I., [redacted]
Williams, Raymond W., [redacted]

MEDICAL CORPS

Curry, Leon E., [redacted]
Dickinson, Grady L., [redacted]
Fortson, Luther G., [redacted]
Grande, Donald J., [redacted]
Harpster, Gene O., [redacted]
Hughes, Eugene F., [redacted]
Loos, Gerald D., [redacted]
Majercik, Donald A., [redacted]
Reider, Daner R., [redacted]
Reiland, Bernard F., [redacted]
Stewart, Calvin R., [redacted]
Whiteford, Edwin W., [redacted]

JUDGE ADVOCATE

Johnson, Allan B., [redacted]
Woods, Terrence P., [redacted]

NURSE CORPS

Ausen, Ardyce M., [redacted]

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the provisions of section 628, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force:

LINE OF THE AIR FORCE

To be major

Bethards, Daniel E., [redacted]
Bloomer, Daniel L., [redacted]
Filzen, Ted W., [redacted]
Harper, Michael C., [redacted]
Kiser, Thomas W., [redacted]
Ligocki, Matthew K., [redacted]
Paulsen, Stephen J., [redacted]
Smith, Randall N., [redacted]
Snapp, Frank H., [redacted]
Whitt, Earl E., Jr., [redacted]

IN THE ARMY

The following-named Army National Guard of the United States officers for promotion in the reserve of the Army of the United States, under the provisions of title 10 United States Code, section 3385:

ARMY PROMOTION LIST

To be colonel

Bean, Wyont B., Jr., [redacted]
Byrne, Robert J., [redacted]
Daane, Robert D., [redacted]
Eskijian, Gregory, [redacted]
Janssen, Wayne G., [redacted]
Kearney, Frederick A., [redacted]
Kersey, Donald H., [redacted]
McDonald, John H., [redacted]
Ocasio-Belen, Felix E., [redacted]
Otero, Julio C., [redacted]
Permenter, Larry M., [redacted]
Porter, Gerald W., [redacted]
Pouliot, Joseph N., [redacted]
Schmidt, Richard K., [redacted]
Sloan, Glenn N., [redacted]
Tellier, Gary J., [redacted]
Uttley, Harold A., Jr., [redacted]
Vowell, Leonard G., [redacted]
Whitehead, James E., [redacted]
Worthington, Henry W., [redacted]

To be lieutenant colonel

Averitt, Richard W., [redacted]

51-059 O-87-26 (Pt. 21)

Biscomb, David A., [redacted]
Boddy, George W., [redacted]
Carter, Christiane K., [redacted]
Chapulis, Ronald A., [redacted]
Cox, Lawrence R., [redacted]
Dalton, Robert A., [redacted]
Delaney, John F., [redacted]
Deliz-Barreda, Hector A., [redacted]
Flatley, Joseph T., [redacted]
Flynn, Cornelius J., III, [redacted]
Fraiser, John A., [redacted]
Gage, Fred W., II, [redacted]
Gordon, Stanley J., [redacted]
Hale, Garry P., [redacted]
Hammer, Armand M., [redacted]
Hawkins, David S., [redacted]
Hawkins, Donald F., [redacted]
Hoenke, Jerry F., [redacted]
Howard, Lloyd L., Jr., [redacted]
Jacobs, William L., III, [redacted]
Johnson, Roger I., [redacted]
Jones, Robert L., [redacted]
Kozacek, Donald E., [redacted]
Looney, Victor N., Jr., [redacted]
Maxwell, Larry H., [redacted]
McLendon, Michael D., [redacted]
Messer, John D., Jr., [redacted]
Millner, Jon M., [redacted]
Nix, Virgil W., [redacted]
Norris, Warren E., [redacted]
O'Mell, Ronald M., [redacted]
Ortiz, Ezequiel L., [redacted]
Perkins, James I., [redacted]
Ruiz, Ricardo, [redacted]
Sermon, Fredrick H., [redacted]
Sexton, Hugh D., Jr., [redacted]
Shriner, John L., [redacted]
Simmons, Raymond H., Jr., [redacted]
Sisco, Bertus L., [redacted]
Spafford, Dealvia J., [redacted]
Thomas, Thomas P., Jr., [redacted]
Thomasson, Bobby D., [redacted]
Vassar, Clarence, [redacted]
Vollintine, James R., [redacted]
Watkins, Otis W., [redacted]
Williams, Jesse R., [redacted]

CHAPLAIN

To be lieutenant colonel

Welton, Arthur T., [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

Parrish, Helen D., [redacted]

MEDICAL CORPS

To be lieutenant colonel

Christopher, Charles A., [redacted]
Pike, Benjamin F., [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

Beckenhauer, Jon R., [redacted]
Howard, Dale W., [redacted]
Meaney, Thomas P., [redacted]

The following-named Army National Guard of the United States officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, sections 593 and 3353:

MEDICAL CORPS

To be colonel

Moak, Wilson E., [redacted]

To be lieutenant colonel

Ferrari, Victor J., Jr., [redacted]
Fischer, Thomas J., [redacted]
Hayes, Matthew Jr., [redacted]
O'Neal, David M., [redacted]

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, sections 3353:

MEDICAL CORPS

To be colonel

Costea, Nicolas V., [redacted]
Deiss, Elmer A., Jr., [redacted]
Gerkin, David G., [redacted]
McDonald, Larry W., [redacted]
Morelli, Robert J., [redacted]
Winslow, Robert, [redacted]

To be lieutenant colonel

Aliseda, Jose L., [redacted]
Ansari, Azizullah N., [redacted]
Baily, Stephen M., [redacted]
Dagi, Teodoro F., [redacted]
Deleon, Francisco S., [redacted]
Figlock, Thaddeus, A., [redacted]
Gruber, Louis N., [redacted]
Johnson, Robert L., [redacted]
Kurlan, Marvin Z., [redacted]
Larson, Dean W. [redacted]
Meyer, William J., [redacted]
Moore, Conner M., [redacted]
Morgan, Jerome G., [redacted]
Roeder, Max B., [redacted]
Rubino, Frank A., [redacted]
Spiegler, Enrique, [redacted]
Zeichner, Ben, [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate October 28, 1985:

FEDERAL EMERGENCY MANAGEMENT AGENCY

Julius W. Becton, Jr., of Virginia, to be Director of the Federal Emergency Management Agency.

FEDERAL EMERGENCY MANAGEMENT AGENCY

James P. McNeill, of Maryland, to be an Associate Director of the Federal Emergency Management Agency.

GENERAL SERVICES ADMINISTRATION

William R. Barton, of Virginia, to be Inspector General, General Services Administration.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Francis S.M. Hodsoll, of Virginia, to be chairman of the National Endowment for the Arts for a term of 4 years.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

HON. ALLARD K. LOWENSTEIN

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. JACOBS. Mr. Speaker, the following article from the New York Times speaks eloquently for itself about some false, absurd, and ridiculous efforts at character assassination made by one person against our former colleague, the late and honorable Allard K. Lowenstein.

"Truth crushed to earth shall rise again . . ."

THE SECOND ASSASSINATION OF AL LOWENSTEIN

(By Hendrik Hertzberg)

People who get written about in newspapers know that a correction never catches up with a mistake. The correction, if it is made at all, straggles in days or weeks later, and is printed in an obscure part of the paper, under an unexciting heading like "Editor's Note." It is an imperfect procedure at best.

The victims of mistakes made in books are less lucky. Publishers occasionally promise a corrected second edition but they usually don't regard themselves as responsible for the accuracy of what they publish; accuracy is something for authors to worry about. Nor do careless publishing houses pay much of a price in reputation. Most of us know what newspaper Janet Cooke wrote for, but how many people outside the book industry know who Clifford Irving's publisher was? Apart from a lawsuit, there is little a person about whom an inaccurate book has been written can do; and if that person is no longer living, even the courts are closed.

Still, there are times when one must try to set the record straight; and seldom has the effort been made with such cause as in the present case. More is involved here than mere error. For Richard Cummings has committed, with the collaboration of his publisher, Grove Press, what is more than a series of mistakes, something closer to the attempted murder of a dead man's honor.

Allard L. Lowenstein, born in Newark, New Jersey, on January 16, 1929, and assassinated in New York City on March 14, 1980, was a remarkable politician. He was the son of Jewish immigrants from Lithuania. His father, who gave up a professorship of biochemistry at Columbia to join the family restaurant business, was an active socialist and a prominent supporter of Jewish educational charities. Allard Lowenstein went to the Ethical Culture School and to Horace Mann; to the University of North Carolina at Chapel Hill, whose liberal president, Frank Graham, became his mentor, and where he got involved in civil rights and student politics; and to the Yale Law School. In 1950, at the age of twenty-one, Lowenstein became president of the National Student Association. For the next thirty years he was a restless samurai of American liberalism, moving from cause to job to campaign.

He agitated against fascism in Spain and racism in South Africa; wrote a fine book, *Brutal Mandate*, about a trip he took to South-West Africa; worked in reform Democratic politics in Manhattan. He was at one time or another a foreign-policy assistant to Senator Hubert Humphrey; a teacher at Stanford and at North Carolina State College; the national chairman of Americans for Democratic Action; a campaign organizer for many liberal politicians, including Adlai Stevenson, Eugene McCarthy, Jerry Brown, and Edward Kennedy; a lawyer in New York and Mississippi; a member of Congress; the only white board member of Martin Luther King, Jr.'s Southern Christian Leadership Conference; and an ambassador to the Human Rights Commission of the UN under Andrew Young.

Lowenstein played a singular role in the civil rights and antiwar movements, the upheavals that shaped so much of the politics of the 1960s. He was as responsible as anyone else for two efforts that hastened the end of black disfranchisement in the Deep South: the Mississippi Freedom Vote of 1963, which led to the formation of the Mississippi Freedom Democratic Party and the destruction of Jim Crow in the national party; and the Freedom Summer of 1964, which brought one thousand student volunteers (including Andrew Goodman and Mickey Schwerner) to Mississippi, and helped guarantee the passage of the Voting Rights Act. In 1965 Lowenstein began organizing students against the Vietnam War. He deliberately recruited young people whose participation would get sympathetic public attention: student-body presidents against the war, Peace Corps returnees against the war, seminarians against the war, Rhodes scholars against the war.

He is perhaps best known for leading, with Curtis Gans, the movement that brought Eugene McCarthy and then Robert Kennedy into the 1968 Democratic presidential race and forced Lyndon Johnson to withdraw as a candidate for reelection. Lowenstein pleaded repeatedly with Kennedy to run, and after Kennedy gave his final refusal Lowenstein told him, "You understand, of course, that there are those of us who think the honor and direction of the country are at stake. . . . We're going to do it without you, and that's too bad because you could have been president of the United States." By the time Kennedy got around to announcing his candidacy, Lowenstein was firmly committed to McCarthy. Kennedy never stopped trying to persuade Lowenstein to join with him. Before Kennedy made his victory speech the night of the California primary he asked an aide to get Lowenstein on the telephone; Lowenstein was in his bedroom on Long Island, holding the line, when Kennedy was shot.

Lowenstein ran for office himself—twice for the Senate and ten times for Congress, from six different districts in and around New York. He won only once—in 1968, in a Long Island congressional district to which he had gone partly to escape the conflict he felt between his public commitment to McCarthy and his private preference for and friendship with Kennedy. The Republicans in the state legislature (with the acquiescence of the machine Democrats) promptly gerrymandered him. In 1970 he ran more strongly than before in the parts of his old district left to him, but he lost that election and never won another.

This summary suggests the extent of Lowenstein's activities. It also suggests the fragmented quality some people saw in him. Actually, Lowenstein's many passions were all of a piece; the wildly varied things he did were all in the service of a coherent political vision. He was always being told that he was too old to be running around stirring up students, that he had better settle on some sort of conventional career or he would lose his "credibility." Yet if he had not been something of a vagabond, he probably could never have performed the special political role he devised for himself—the role of an intermediary. He tried to link Mississippi blacks with Notre Dame fraternity boys, Spanish exiles with West Side reformers, Afrikaners with third world revolutionaries, "the kids" with "the system." He was that rarity, a political figure at home in both electoral and protest politics. The mixture opened him to the risk of being thought a dreamer by practical politicians and a manipulator by radical idealists. But at his best he was able to fuse the two, bringing the energy and moral witness of protest into electoral politics and introducing protesting groups to the disciplines and practical possibilities of elections.

Lowenstein was always late, he lived on junk food and milkshakes, and his clothes were a mess. But he had immense energy, and he was able to concentrate it on the person or the task at hand with exceptional clarity of mind. He was a powerful extemporaneous speaker. Sam Brown, the antiwar organizer who became a Colorado politician, once called him the "white Martin Luther King"; and with an audience of students or liberals he could establish an emotional rapport as strong as King's with black churchgoers. Lowenstein spoke constantly—David Halberstam calculated that in the eighteen months leading up to the 1968 Democratic national convention he made 2,367 speeches in 1,392 cities [1]—and he could be as persuasive with one person as with an audience of a thousand.

He was himself a protege—of Frank Graham, Eleanor Roosevelt, and Norman Thomas, the three people he most admired—and in his campus travels he in his turn acquired proteges, by the dozen. I never became one of them, but I was part of a larger network of thousands who were drawn to him. I met him in 1963, when he came to Harvard to give a talk about South Africa and Mississippi. Afterward a half-dozen of us went with him to the Hong Kong restaurant, on Massachusetts Avenue, and ate terrible Chinese food and talked until the place closed for the night.

[1] Halberstam's article may be found in Lowenstein: Acts of Courage and Belief, edited by Gregory Stone and Douglas Lowenstein (Harcourt Brace Jovanovich, 1983). The book also contains transcripts of about a dozen of Lowenstein's speeches.

Lowenstein had a thick, weightlifter's neck and torso which made his head seem a little too small for his body, and he had thinning hair, Coke-bottle glasses, a big nose, and a delicate mouth. Yet he had "presence," which came, I suppose, from his limitless self-confidence and from the infectious urgency of his mind and voice. At the Hong Kong we all talked mostly about the excitement of changing the world (as well as about old Humphrey Bogart movies, and we gossiped about famous liberals). Lowenstein dominated the table, as we wanted him to, but he let the talk take its own course, and somehow he made each of us feel almost as brilliant, as funny, and, potentially, as dedicated to light and truth as he so obviously was himself.

There were other such evenings over the years. I was active in the National Student Association, and Lowenstein, NSA's most illustrious old boy, could be relied on to turn up each August at the association's annual congress. (Lowenstein is said to have inspired George S. Kaufmann's remark, "The student leader of today is the student leader of tomorrow.") At the 1967 NSA congress, at the University of Maryland, I saw Lowenstein launch the "Dump Johnson" campaign with an exhilarating extemporaneous speech. (I've never heard a better one, before or since.) During the 1970s Lowenstein maintained a semipermanent lunchtime symposium at the Hyde Park Delicatessen on Madison Avenue, one of several Manhattan restaurants owned by his family, and I occasionally joined it. I wrote two "Talk of the Town" stories about him for the *The New Yorker*.

I also worked as a volunteer in two or three of his congressional campaigns. Whenever I did, I made sure I had some specific task to do—usually it was editing a campaign tabloid—and then left as soon as the task was done, a few days later. Lowenstein could be immensely demanding. He consumed other people's energy, physical and emotional, almost as extravagantly as he expended his own. I knew people who had broken with him over this—people who had "burned out"—and I didn't want to join them. As it was, at the end of a sixteen-hour day of campaigning Al would come to the print shop where I was working on a campaign flyer and argue with me about the wording of headlines until three in the morning. He liked to do everything himself, which was both a strength and a weakness.

The last time I saw Al Lowenstein was toward the end of 1979, when I was living in Washington. He called one afternoon to ask if I could put him up for the night. His custom all his life was to cadge a bed from friends when he traveled. It held down expenses and helped him to maintain his vast circle. He was good company, and people were usually happy to oblige. This time he arrived at around midnight, and we stayed up talking until one-thirty or so. He was gone very early the next morning, the guest bed neatly made. A few months later he was murdered, shot in his law office by a former protégé, a civil rights worker whom he had brought into the movement. The man had gone insane, and Al was trying to help him. I went to the memorial service for Lowenstein at the Central Synagogue, on East Fifty-fifth Street, an emotional event attended by 2,500 people whose political, racial, and national heterogeneity was a reflection of the dead man's skill at building unlikely coalitions.

I mention these personal details by way of full disclosure. I liked and respected Al Lowenstein. Even so, I made a conscientious effort to approach Richard Cummings's book with an open mind.

Much of The Pied Piper is a querulous, spottily inaccurate, unperceptive biography. Had Cummings stopped there he would have been guilty of nothing worse than having written a bad book. But he did not stop there. He went on to interlard his narrative with a series of grave and ugly accusations.

Cummings's central accusation is that Allard Lowenstein was an agent of the Central Intelligence Agency between 1962 and 1967. More vaguely but hardly less confidently, he also asserts that much of Lowenstein's work before and after those dates was performed with the connivance or cooperation or encouragement—or something—of the CIA. He further asserts that Lowenstein was an informer who reported to government police agencies on people in the civil rights movement whom he regarded as Communists or subversives.

When Lowenstein's friends and family learned that these accusations were about to be made—some of them had been advanced earlier in an article by Cummings in Evergreen Review, also published by Grove Press—they decided to answer them, even at the risk of giving them greater currency. Gary Bellow, a professor at Harvard Law School, and two other lawyers, Jeffrey S. Robbins and Ronald J. Tabak, collected a great deal of material, including affidavits from more than two dozen people who had been interviewed by Cummings and whose statements to him had been used to provide incidental support to the CIA-agent thesis. The result is a curious volume the size and shape of the Manhattan telephone directory, in which many of the characters, as it were, from Cummings's book rise up, rebel, and speak for themselves. Documents Concerning Serious Factual Errors, etc., is a sort of Lowenstein reunion—a gathering of his friends and ex-friends brought together for one last cause.

A close reading of *The Pied Piper*, together with the response it generated, yields a conclusion at odds with the one Cummings intended. Notwithstanding the notorious difficulty of proving a negative, it can be said with fair certainty that Allard Lowenstein was not an agent of the Central Intelligence Agency between 1962 and 1967, or at any other time. Cumming's assertions and the proof he adduces for them are worth examining in some detail, however, for what they tell us about the standards of evidence considered acceptable by at least one more or less respectable publishing house.

Cummings sidles into his spy story in the fifteenth of his sixty-six chapters. He has been describing the trip Lowenstein took in 1959 and wrote about in *Brutal Mandate*. Taking leave from his job with Senator Humphrey, Lowenstein, with two friends, went to South Africa. Their plan was to buy a car and drive it to South-West Africa, where they would travel around collecting testimony about the situation in that territory, which was (and is) ruled by the Pretoria government under a League of Nations mandate. Then, back in New York, they would present the testimony to a committee of the United Nations General Assembly. All of this they did in due course, but first there was a detour.

While his friends shopped for a cheap used car, Lowenstein went to Johannesburg to speak to the annual congress of the National Union of South African Students, the multiracial, fervently antiapartheid federation of English-speaking university students. There he heard an eloquent speech by Hans Beukes, a "Coloured," or mixed-race, student from South-West Africa who had won a scholarship to Norway and then been denied a passport—partly because he had been caught with a book written by Adlai Stevenson. Beukes asked Lowenstein to help him get out of the country, and Lowenstein agreed to try, thinking Beukes would make an excellent witness before the UN committee. (A few days later, Lowenstein and his friends managed to sneak Beukes across the border into Botswana by stuffing him behind the back seat of their used Volkswagen and covering him with boxes and suitcases. Beukes testified at the UN and made a strong impression.)

In the middle of telling this story, Cummings writes:

"Sources report that while Lowenstein was in Johannesburg he was contacted by the CIA and asked to perform a mission which must have been highly appealing to his romantic side, while at the same time allowing him to strike what he felt was a telling blow against the apartheid government of South Africa. This mission was to smuggle Hans Beukes out of the country.

"Just who it was who recruited Lowenstein for this assignment remains a matter of conjecture. . . ."

And who are these sources? In the back of the book, where Cummings has put together twenty-six impressively dense-looking pages of reference notes keyed to quotes and facts or purported facts, we find this:

"*Sources report that* . . . July 13, 1982. One of these sources served with US Army Intelligence. The others, also with backgrounds in intelligence work, are close to the CIA."

Five chapters and two or three Lowenstein jobs later, just when Lowenstein has resigned his Stanford deanship, Cummings sets forth the assertion on which his book stands or falls:

"This was Lowenstein's situation in 1962 when, according to sources with background in intelligence work, he was formally recruited by the Central Intelligence Agency."

He immediately adds:

"Although the author's attempts to obtain Lowenstein's CIA file under the Freedom of Information-Privacy Act from the CIA and from his lawyer Gary Bellow proved unavailing, other evidence overwhelmingly supports these sources."

Turning once more to the reference notes in the back of the book, we find: "*according to sources* . . . These are the same sources referred to in Chapter 15."

Later we are told that "Lowenstein was separated from the CIA sometime in 1967," again on the authority of "sources"—"the same sources referred to in Chapters 15 and 20."

This is all Cummings provides by way of anything remotely resembling hard evidence for his central accusation—an accusation that if true would make a mockery of Lowenstein's passionately professed belief in democratic openness.

Cummings's one-line descriptions of his "sources" do not inspire confidence. A person who "served with US Army Intelligence" could be anyone from a three-star general to an ex-reservist who put in six months clipping newspapers at Fort Dix. Neither general nor clerk, however, would be in any better position to know the identity of a particular CIA agent than would tens of thousands of other federal employees, and Cummings makes no effort to ex-

plain why he thinks his "source" is exceptional. And Cummings's "others" could be anyone at all—though if they were "close to the CIA," whatever that means, then clearly they were never *in* the CIA.

Cumming's remarks about Lowenstein's * * * leaves the impression that Gary Bellow somehow prevented him from seeing it. This does not appear to be true. In 1975, with Bellow's help, Lowenstein himself filed a Freedom of Information Act request for any and all CIA materials concerning his background and activities. (A curious thing for an agent to do, though no doubt Cummings would dismiss it as part of a cover.) After some prodding, the agency replied that its search of its files had turned up seventy-six items. Nine of them were provided in full, twenty-eight were provided in expurgated form, and thirty-nine were withheld entirely. The material yielded by the CIA, a total of forty-eight pages, was available in the Lowenstein archive at Chapel Hill when Cummings was there doing his research. That material is reprinted in *Documents Concerning.* It consists almost entirely of clippings and tiny excerpts from what appear to be routine embassy cables (sample: "Advised that Congressman Allard K. Lowenstein (D-NY) planning trip to Tunisia, arriving 5 Jan. . . .").

The only item that is at all suggestive from the point of view of Cumming's thesis is a 1962 memorandum from "Chief, Contract Division" to "Chief, Personnel Security Division," asking for "approval to contact Subject [Lowenstein] on an ad hoc basis" to question him about "the Soviet educational system; teaching methods; caliber of faculty; subjects emphasized; etc." (It was then standard procedure for the CIA to try to interview Americans who visited the Soviet Union, as Lowenstein, accompanying Eleanor Roosevelt, had done in 1957.) The memo continues:

"Subject, reportedly, has stated that he has done some work for CIA. If he were used in a [six-letter word obliterated] capacity, then this is an indiscretion regarding which our field representative should like to know something about the background before any contact is made. We shall appreciate your checking this out as far as possible. Thanks."

This memo, provided by Lowenstein's friends, and more provocative by far than anything Cummings came up with in four years of research, is ambiguous. Even the significance of the subjunctive ("were used") is obscure; it is unclear whether the memo writer is talking about the past or the future.

A free-lance do-gooder of left-wing anti-Communist leanings, working with opposition groups in the third world in the late 1950s and early 1960s—as Lowenstein was—would almost certainly have encountered CIA people along the way. In some countries the CIA station chief would be the best-informed person in the US embassy, and the most sympathetic to the notion that the long-term interests of the United States lay with members of the democratic opposition rather than with the local autocracy. As was revealed in 1967, the CIA had an extensive program of channeling support to such dissidents. It is entirely possible that Lowenstein met CIA people during his travels, even that he traded information with them. There would be nothing scandalous about that. It's also possible that Lowenstein—given what another CIA document calls his "propensity for name-dropping" [2]—bragged about such contacts. A garbled version of some such boasting was probably at the root of this memo.

Or the memo could simply be wrong. It doesn't pretend to be anything more than hearsay. In any event it doesn't prove that Lowenstein was a CIA agent. And while the omissions in Lowenstein's CIA file make any definitive judgment impossible, the overall effect of what has been made available is rather to undermine than to support the accusation.

As for the "other evidence" that "overwhelmingly supports" Cummings's "sources," none of it is convincing, and much of it is self-refuting. It is of three kinds: defective tautology, outrageous misreading, and financial perplexity. To give an example or two of each:

Defective tautology.—Cummings writes that the CIA divides its work into two categories, intelligence collection and covert action. "Lowenstein," he writes, "was involved in both of these activities." The proof that he was involved in intelligence collection is the following:

"He clipped and analyzed newspaper reports on African affairs extensively. He saved thousands of newspaper and magazine articles, which he outlined carefully. He subscribed to numerous magazines on Africa, and to others likely to carry information of relevance."

The proof that he was involved in covert action is the following:

"Lowenstein, became involved in the politics of Spain and in Africa in ways that constituted 'covert action.' As Richard Bissell explained [to Victor Marchetti and John D. Marks, authors of *The CIA and the Cult of Intelligence],* the 'operational types' would be risk-takers, which Lowenstein was. Bissell, who was chief of Clandestine Services of the CIA under President Kennedy until he was forced to resign after the Bay of Pigs, classified the various forms of covert action: "(1) political advice and counsel; (2) subsidies to an individual; (3) financial support and "technical assistance" to political organizations, including labor unions, business firms, cooperatives, etc. . . .'."

And so on for four more items, culminating in Bay of Pigs-style military efforts to overthrow governments. Then comes Cumming's conclusion:

"Lowenstein's actions can be seen to fall into most, if not all, of these categories."

Cummings makes no effort whatever to show that Lowenstein's newspaper clipping or advice giving or support providing had any connection of any kind to the CIA. His reasoning is as follows: CIA employees clip newspapers, give advice, and provide support. Allard Lowenstein clipped newspapers, gave advice, and provided support. Therefore Allard Lowenstein was a CIA employee.

Outrageous misreadings—.Lowenstein, a journalist *manqué* (at the Horace Mann School, he edged out Roy Cohn in a competition for editor of the school paper), turns out to have kept an oddly touching diary in which he recorded his public and private doings in the style of the headlines in *The New York Times.* A single word on one entry in this diary is the sole source for Cummings' accusation that Lowenstein was an informer against his fellow civil rights workers. Cummings' text is a diary entry for mid-April 1964, when Lowenstein was touring the country recruiting student volunteers for the Freedon Summer project but was thinking of withdrawing from the project altogether because of the increasing involvement of the National Lawyers Guild, which began as a Communist front and retained its fellow-traveling politics into the 1960s. Here is the diary entry in full:

"Mississippi Mire: Frenzied Recruiting + Firm Withdrawal = Schizophrenia.

"A summary of the situation.

"In Mississippi—

"At Campus 'Centers'—

"In National Orgs—

"Amongst Ind. Groups—

"'Wrong' Decisions and 'Wrong' Group Making Them Combine to End 'Deep' Commitment; Problem Rises of Who to Tell How Much.

"Campus 'center' leaders in mixed roles.

"Obligation to Keep Them Informed Called 'Great' But Particularly on Question of 'Infiltration' Dilemma Is Acute and Has Not Been Solved.

"Project Still 'Right,' Desire to Help—Strong, But Policy Disagreements Make Presence During the Summer Seem 'Unwise'.

"So speech schedule will be fulfilled.

"Participation as Lawyer 'In Ranks' Still Possible but 'Priorites' Make It Unlikely If LG [3] Stays; 'Success' of Drive for Students Is a Surprise."

The single word, of course, is "informed." That word, especially in such close conjunction with the word "infiltration," is for Cummings sufficient proof that Lowenstein was an "informer." Cummings still has the problem that the people whom Lowenstein felt obliged to keep informed were "campus 'center' leaders," not government police agencies. He solves that problem with the following assertion: "It is known that the CIA had established centers on the campuses of many American universities." No evidence is adduced for the existence of these purported CIA "centers"—it is simply "known."

Cummings then suggests that these "centers" were being staffed by people Lowenstein was working within the civil rights recruitment effort, "people who had been affiliated with the CIA or had participated in CIA-sponsored projects." He names two such people: William Sloane Coffin, the Yale chaplain, who had worked for the CIA before becoming a clergyman, and Barney Frank, now a Congressman from Massachusetts, who as a college student in 1962 had attended a summer youth festival in Europe under the auspices of a program that later turned out to be funded by the CIA.

It is hard to know which is more contemptible, Cummings' sophistry or his smearing of Coffin, Frank, and, of course, Lowenstein.

The "campus centers" in Lowenstein's diary entry were of course the recruiting centers he himself had helped to set up. In an affidavit reprinted in *Documents Concerning,* Coffin remarks, "Mr. Lowenstein was not my friend *because* I had worked for the CIA from 1950-53 but, rather, *in spite* of it." Coffin writes that he thinks Lowenstein was "a bit paranoid about the possibility that radicals would take over the Mississippi Freedom Democratic Party," but adds,

"It was Mr. Lowenstein's concern about the possible unjustified damage to students'

[2] The document, apparently a cable from the CIA station at the US embassy in Madrid, calls Lowenstein "among other things a troublemaker out to establish himself as American through whom Spanish opposition leaders should deal," and adds, "To our knowledge he represents no one but himself in spite of propensity," etc.

[3] Lawyers Guild.

reputations through guilt by association that undoubtedly was the cause of the dilemma which his notes describe. Thus, the following is likely the meaning of Mr. Lowenstein's notes: With the McCarthy era fresh in mind, Allard Lowenstein was concerned about the possibility that if radicals took over the Mississippi effort, non-radical students whom he recruited to go there would later be falsely accused of being subversives. Thus, he felt some obligation to them to warn them about what he—somewhat paranoiacally, in my view—perceived to be a danger. Yet, he also worried that by providing the students with these warnings he might harm the important civil rights effort in Mississippi by discouraging many students from coming."

Calling Lowenstein an informer enables Cummings to find low irony in the fact that Lowenstein ended up on Nixon's enemies list. ("Lowenstein. . . . Now he was on Nixon's list.") There was no irony. Lowenstein earned his place on Nixon's list—No. 7—by honest work.

Another of Cummings' fantasies was occasioned by his discovery in the Lowenstein papers at Chapel Hill of some photocopies of letters home written by young Americans—all of them friends or the offspring of friends of Lowenstein's—who were teaching and living abroad. Some of the letters opened with the salutation "Dear Family"—a common enough salutation, one I often used myself when writing home from abroad to my parents and sister. But for Cummings these letters are deeply sinister:

"They were not letters home to mom and dad. There was nothing personal in them. They were intelligence reports to the "family" of trusted Americans within or at the periphery of that amorphous mass "known as the 'intelligence community.' "

But they were precisely letters home to mom and dad. In one instance, as we learn from an affidavit in *Documents Concerning* by the former Kennedy administration official Harris Wofford, mom and dad were Mr. and Mrs. Chester Bowles. The Bowleses proudly circulated copies of letters from their son Sam to their friends, including Wofford and Lowenstein. None of it had anything to do with the "intelligence community."

Financial perplexity.—Cummings writes that Lowenstein's "ability to travel abroad extensively and stay at excellent hotels when he was, for example, on leave of absence from his job as a professor and received no salary, reinforces the conclusion that the sources"—the purported sources who say Lowenstein was a CIA agent—"are correct."

Lowenstein's finances were unconventional, but there is no need to invoke the CIA in order to balance his books. When he traveled in the US, he stayed with friends and called collect from airport booths. He seldom bought clothes and was indifferent to luxury. There was always a campus group, liberal organization, or rich patron ready to pay his plane fare. In New York, he and his often numerous guests ate free at the Hyde Park and the other restaurants his family owned. He lived rent-free in his stepmother's large apartment. His wife, who was from a well-to-do family, had her own income. He never had a steady job, but he did have a more or less steady subsidy from his father and from the family restaurant business. In 1967, for example, a year in which Cummings asserts that Lowenstein's income from the restaurants was "insignificant" it was in fact $15,519, according to Lawrence Lowenstein, Allard's older brother. The equivalent in 1985 dollars is $49,600.

Cummings's CIA theorizing reaches a zany climax at the beginning of his account of Lowenstein's leadership of the Dump Johnson movement. "It has been suggested," he writes, "that Lowenstein's opposition to the war in Vietnam is proof that he could not possibly have been involved with the CIA: in actuality, his opposition to the war confirms his CIA involvement as much as anything." Cummings's reasoning—and I am not caricaturing his view—is that because (a) liberals opposed the war and (b) the CIA "was partly a liberal institution," then (c) Lowenstein's antiwar views are proof of his CIA connection. Cummings even asserts that the CIA, or rather its "good wing," had decided that Johnson had to go and was using Lowenstein as its instrument to get rid of him. Again, no evidence is provided for any of this—only circular deductive reasoning.

Although Cummings never admits of any doubt that Lowenstein worked for the CIA, he asks none of the questions that this would raise. Who made the decision to hire Lowenstein? Were there internal battles over that decision? Why did Lowenstein never call on the CIA when he and other civil rights workers were in mortal danger in Mississippi? How did he manage to fool so many people about his true identity—his wife, his friends, his associates? How did the conspiracy to keep his CIA affiliation a secret come to include enemies of his as well as friends? Why wasn't the story of Lowenstein's secret CIA job leaked to the press by LBJ, who Cummings says knew about it, in order to destroy the effectiveness and credibility of the leader of the Dump Johnson movement?

The accusation that Lowenstein worked for the CIA is not original with Cummings, of course. It was a staple of leftwing suspicions for years, though in a different and more plausible form: it always revolved around Lowenstein's ties to the National Student Association. The matter has been raked over thoroughly, beginning with *Ramparts* magazine's disclosure in 1967 that the CIA had been funding and manipulating the NSA since 1952, the year after Lowenstein was its president. Although many have tried, no one has ever succeeded in coming up with a shred of evidence that Lowenstein was witting or "witty," as those privy to the arrangement called themselves.

Moreover, there is good evidence to the contrary. The clique of ex-NSA officers later revealed as CIA agents was always cool, even hostile, to Lowenstein. Lowenstein was never invited to sit on any of the NSA's many advisory boards. When the NSA's president and vice-president finally told Lowenstein the truth, a few months before the *Ramparts* article appeared, he advised them to break the link quickly, completely, and publicly, although at that point the CIA was still hoping to keep the connection quite. After the revelation Lowenstein had a number of awkward confrontations with "witty" ex-NSAers.

Still, many people, friends as well as opponents of Lowenstein among them, * * * to believe that a man of Lowenstein's political sophistication could have been kept in dark for fifteen years about the finances of an organization with which he had such extensive dealings. I find it all too easy to believe. As it happens, I worked full time during 1965 and 1966 on the NSA staff, editing a magazine. A few months after I left, I learned, along with the rest of the world, that the organization had been financed by the CIA. I also learned that the foundation that had paid my salary and my magazine's costs was a CIA front; that a summer training program I had attended was wholly run by the CIA; that during the year I spent at NSA its top officers, all of whom I worked with nearly every day, had been engaged in a frantic debate over whether and how to break the link; and that people I had regarded as intimate friends had known all of this and more. Yet I had no inkling of any of it.

A few years later, at one of those lunches at the Hyde Park, I asked Lowenstein what he thought about the morality of the NSA-CIA connection, and I agreed with his assessment. He said that although he wouldn't agree with it or excuse it, he could make a case for the CIA's having subsidized the NSA's international activities during the early 1950s—as long as the subsidy was kept secret from its recipients. But he added he was glad he hadn't known about it, because he didn't know what he would have done with the knowledge.

He said he could see no excuse whatever for what the CIA actually did, which was to compromise and corrupt young NSA officers, most of them just out of college, by telling them about the arrangement, threatening them with jail or other harm if they exposed it, and then using them as spies in gathering intelligence on student leaders in other countries. It still seemed almost too monstrous to believe; it certainly had been too monstrous to be guessed.

The CIA-NSA revelation had a far greater effect than is generally appreciated upon the views of a generation of politically active young people. The most moderate student leaders at once understood that the government was capable of lying to its citizens to a shocking degree. The news helped to "radicalize" untold numbers of students. I'm convinced it had a similar impact upon Lowestein, who set out almost immediately to overthrow the government—or at least to overthrow a president still regarded by most of the leaders of the liberal establishment as an indispensable ally.

In a letter reprinted in *Documents Concerning*, William F. Buckley, Jr., himself a former CIA agent, writes, in his customary confident style:

"You ask whether I ever had any reason to suppose that Al Lowenstein was engaged in undercover work for the CIA. My answer: no. To be sure, if Al had been a trained undercover operative, he'd have given me no suspicion to guess this. On the other hand, with my background I might have suspected something there if something had been there. But at this point I draw on transcendent knowledge of Lowenstein: this is not the sort of thing he'd have done. And those of us who knew his character, and I was one of them, would feel safe in saying that the very idea is preposterous."

Buckley's comment suggests the most telling refutation of Cummings's thesis. As the calmer portions of his own book show, Lowenstein was too independent, too uncontrollable, too inclinded to try to run whatever show he was part of, and too talkative to be amenable to the kind of discipline under which CIA agents necessarily labor.

There was a secret in Lowenstein's life, but it has nothing to do with the CIA. Rather it had to do with his personal life and his relations with some few of the hundreds of young men he inspired and befriended. In various books and articles there are accounts of perhaps a half-dozen almost

identical incidents—incidents in which Lowenstein evinced a desire to hold and be held by a young man. David Harris provided his own account of such an encounter in his interesting memoir of the 1960's *Dreams Die Hard*.[4] In each instance, Lowenstein and a young man share a room with one bed, purportedly because no other is available; after the light is out, the protégé finds himself being hugged wordlessly by Lowenstein; he indicates somehow that the hugging is unwelcome, and Lowenstein immediately stops; afterward, the matter is never mentioned. The protégé is left with a complicated mixture of feelings: his hero worship weakens if it does not vanish altogether, and he feels manipulated; yet he feels sympathy and compassion for what seems a private torment.

Lowenstein was married between 1966 and 1977, and had three children. His separation from his wife was by all accounts caused by the demands of Lowenstein's frenetic schedule, not by any lack of affection. She and the children were with him at the hospital when he was dying. It seems unlikely that Lowenstein was an active homosexual. Approaches like the one Harris experienced were apparently as rare as they were confused and uncertain.

Yet the mostly repressed feelings those approaches reflected were obviously important. Those feelings, one can speculate, were somehow related to the potency of Lowenstein's leadership. He evoked feelings that had an intensity reminiscent of adolescent friendship. There is a sense in which charismatic leadership always draws upon a kind of libidinal force—the generalized erotic energy Whitman called "adhesiveness." That mysterious energy helped Lowenstein turn his appeals to reason and idealism into powerful bonds between himself and his thousands of young followers.

Toward the end of his life, Lowenstein was apparently trying to deal with the feelings that had led him into furtive encounters like the one with David Harris. In 1980 he campaigned successfully for Edward Kennedy in the homosexual community in Florida and had a number of earnest, private conversations with leaders of the gay movement there. According to Harris, Lowenstein spoke of wanting intimacy and affection, not sex, in his relations with men, and wondered aloud what that made him. He seemed eager to understand himself and to do away with whatever deceit his emotional life had entailed. He was worried about the effect on his children. Had he lived, he might well have become a political intermediary between homesexuals and other constituencies in the Democratic party, much as he had been an intermediary for students.

Cummings's discussion of this aspect of Lowenstein's life is relatively restrained. The conclusion he draws from that discussion does not come as a surprise. It is this: "In his personal life, as in his political life, Lowenstein was not able to reveal his relationships fully." The CIA again.

Why, finally, does Cummings find the fantasy of Lowenstein-as-CIA-agent so congenial? Why was that fantasy judged appealing enough to justify publication? I suspect it has something to do with a fundamental incomprehension of Lowenstein's politics. Lowenstein was a serious democrat and a serious liberal. He was, therefore, opposed to racism in North Carolina and Mississippi, colonialism in Angola and Mozambique, apartheid in South Africa and Namibia, dictatorship in Franco's Spain and Somoza's Nicargua, military dictatorship in Greece—and Communism in Russia and Cuba. That is, he was opposed to injustice without distinction, except the distinction of degree. Cummings understands that Lowenstein was a passionate person—in the best line in his book, he calls Lowenstein "a kind of Trotsky of the middle class"—but he does not understand what Lowenstein was passionate about. Again and again, he tests Lowenstein's—anti-communism as somehow undermining or contradicting his other professed value:

"Lowenstein was, before anything else, an anti-Communist, to whom liberalism was the most effective strategy for defeating Communism.

"And while Lowenstein spoke frequently of the need for change and for justice, it was also his burning anti-Communism that motivated him to act.

"Lowenstein became a leading liberal spokesman against the HUAC,[5] stressing the need for a more subtle brand of anti-Communism that did not overtly (!) challenge the civil liberties guaranteed by the Constitution.

"Liberals, including Humphrey and Lowenstein, feared that Communists would exploit the unrest, and this led to American support of the anti-apartheid struggle."

These formulas miss the point. Certainly there are anticommunists who are not antifascist, and antifascists who are not anticommunist, and antiracists who are neither—and Lowenstein thought there were times and purposes that required alliances with all of them. But like his hero Norman Thomas, Lowenstein was indiscriminate in his commitment to a liberal, democratic, and humane social order. Lowenstein had learned from the Spanish civil war, which he passionately followed as a child (when Madrid fell, Cummings was told, the ten-year-old Allard stayed in his room for two days, weeping), that antifascism and anticommunism alike are inseparable from the defense of democracy.

He was sometimes impatient with those whose experience had not taught them this lesson. In the civil rights and antiwar movements, he was often at odds with those who regarded his emphatic anti-communism as anachronistic or irrelevant—to say nothing of those who saw it as evidence of hypocrisy or even hostility to the cause at hand. His argument in 1964 with some of his civil rights comrades about the National Lawyers Guild caused a bitter split with them, foreshadowing the larger break between integrationists and nationalists that finally broke up the movement. The sort of radicals who used the epithet "liberal" as an insult naturally hated him, but it must be said that he also quarreled with people who were his natural allies. For example, when Sam Brown, David Hawk, and David Mixner were organizing the Vietnam moratorium in 1969, Lowenstein, then in Congress, advised them to exclude Communists and others who might carry pro-Viet Cong banners. When Brown and the others demurred, Lowenstein tried to persuade some of his House colleagues to withhold their endorsements.

Yet the moratorium organizers' rejection of Lowenstein's advice had more to do with their generation's do-your-own-thing spirit than with any sympathy for communism. They thought that excluding people would undermine the relaxed, decentralized quality of the demonstration, and that besides, the Communists weren't numerous or powerful enough to be worth the fuss it would cause to ban them. Lowenstein thought the pro-Viet Cong activists should be excluded both as a matter of principle, because they were not so much against the war as wanting the other side to win, and as a matter of tactics, because their presence would alienate vast numbers of patriotic, potentially antiwar citizens.

In the end, Lowenstein endorsed the moratorium and spoke on eight campuses under its sponsorship. However legitimate his disagreement with the organizers was, the venom it provoked was unnecessary. Lowenstein was better at handling differences with people whose views were to the right of his own. He lavished his charm on conservatives (and on the politically unawakened); he saw them as potential converts, to be persuaded or beguiled into enlightenment. But with those to his left he could be abrupt and self-righteous. It was as if he thought they were willfully turning away from truth and reason, as if he suspected them of rejecting *his* moral bona fides.

Lowenstein, however, was far from being an incipient neoconservative. He saw anticommunism as a requirement of democratic ideology, but at the same time he rejected the cold war obsession with communism as a unique evil that justifies any means—even liberalism!—to oppose it. For Lowenstein, liberalism, understood as a belief in a liberal society, was not a means or a strategy, or a way to make anticommunism palatable, or a watered-down substitute for a more "authentic" radicalism. It was the central value. Anticommunism, antiracism, and antifacism were logical, emotionally inescapable corollaries; but in isolation none of them could be relied upon to lead to a humane politics.

Cummings is puzzled by what he sees as the contradictions between Lowenstein's passionate—radical, one might say—commitment and his "moderate" politics; between his straightforward patriotism and his opposition to the Vietnam War; between his anticommunism and his support for civil rights. The CIA accusation resolves the puzzle for him, but there is no puzzle, because there were no contradictions. And if there had never been any such thing as communism, Lowenstein's lifelong political engagement would have been just as intense.

That engagement had its disappointments and defeats for him, which went well beyond the loss of elections. The civil rights movement enfranchised southern blacks but then collapsed in acrimony, leaving the hope of integration unfulfilled. Johnson was "dumped," but Nixon came to power. Democracy returned in Spain, but in southern Africa there seemed less and less chance for justice to be achieved peacefully, if at all. The large American student movement Lowenstein did so much to create produced a few Leninist sects and then crumbled. The liberal coalitions he helped build lost their verve and self-confidence.

Lowenstein, who felt these disappointments, blamed them mostly on the assassinations. The violent deaths of John Kennedy, Martin Luther King, Jr., and Robert Kennedy had changed everything—they

[4] David Harris, *Dreams Die Hard: Three Men's Journey Through the Sixties* (St. Martin's/Marek, 1982). Harris, now a journalist, was a protégé of Lowenstein's in 1965. He eventually went to jail for draft resistance, and for a time was married to Joan Baez. The three men of the title are Harris himself, Lowenstein, and Lowenstein's assassin, Dennis Sweeney, who had been a friend of Harris's at Stanford and in the civil rights and antiwar movements.

[5] The House Un-American Activities Committee.

"left us haunted," he wrote in a 1978 newspaper article,[6] "by great absence through years made difficult in part by those absences." He dwelt especially on the death of Robert Kennedy. During the middle 1970s, to the dismay of many of his friends and rather to the annoyance of the Kennedy family, he spent a great deal of time upon an inconclusive effort to point out what he regarded as discrepancies in the claim that Sirhan Sirhan alone was responsible. Lowenstein had intense feeling for Robert Kennedy, and Kennedy's murder seemed to summarize for him all the forces of unreason and malevolence that had robbed the movements he served of their fruits. In that same 1978 article he wrote:

"I was never close to Robert Kennedy. Our relationship was political, and started out in rather adversary circumstances at that. Of the only year I knew him at all well, it would be accurate to say that I spent one half arguing that he should run for president when he wouldn't, and the other half supporting an opponent when he did. Yet he meant more to me, as to so many others, than any other public figure of the time, and the awful fact of his unnatural death will shadow events as long as we are a part of them.

"And in that shadow we still struggle with the problem connected to so many others—the problem of how to revive enthusiasm and excite energies, of how a spirit once aborted can be born again. . . . America is neither as innocent nor as easily changed as we once thought."

Two years later, Lowenstein was assassinated himself. His death was another blow to the politics he shared with the Kennedys and King—an inspirational, democratic politics whose weakness is precisely that it requires such heavy and risky investments in the fortunes of particular leaders. Lowenstein would be fifty-six now. I don't know what he would be doing but it is hard to imagine him sharing the present liberal mood of lassitude and self-pity. Things were palpably different in 1964 and 1968 because of him, and it's possible things would be different in 1985 if he were still alive.

The man who murdered Allard Lowenstein, Dennis Sweeny, had broken with him over the question of whether or not the "system" was redeemable, Sweeney had been a civil rights worker, by all accounts a heroic one; he became a revolutionary, then a dropout, and then he went mad. In Mississippi, Sweeney had had his teeth capped by a volunteer "movement" dentist. He apparently came to believe that an electronic device had been planted in his teeth, that the CIA had done it, and that somehow the CIA and Lowenstein were using it to control his mind. Sweeney's delusions obviously tell us nothing about Lowenstein's relationship with the CIA—only about the pervasiveness of the fantasy of the CIA as mysterious and all-powerful.

Richard Cummings has clung to his beliefs about Lowenstein and the CIA as tenaciously as Dennis Sweeney did to his. The affidavits in *Documents Concerning* are full of descriptions of meetings with Cummings in which he tries to press his Beukes theory or his-informer theory or his "Dear Family" theory on people he interviews, and then, having been shown wrong, leaves in disappointment or * * * but undissuaded. His fantasy of Lowenstein's CIA connection has far more in common with Sweeney's than either has with what is commonly understood as reality. Such people may be convinced their delusions are true, but what is Grove Press's excuse?

Fortunately, Lowenstein's reputation survives, thanks partly to the diligence of his friends. But a scar will remain as long as *The Pied Piper* is the only biography available. It would be a shame if a bad book about Lowenstein were to discourage the writing of a good one. Lowenstein was a man whose large flaws and immense strengths went together. He was a kind of hero, and his picaresque life has much to reveal about the mysteries of politics and about the susceptibility of events to one man's will. The next biographer of Allard Lowenstein need not agree with his political views, but he or she must be able to understand them. Only then can the story of Lowenstein's life be taken beyond polemic to explore his complex character and its impact on his times.

[6] "Anniversary of an Assassination," *The Washington Star* (June 5, 1978). Reprinted in *Lowenstein: Acts of Courage and Belief*, pp. 275-277.

THE 60TH ANNIVERSARY OF ST. NICHOLAS RUSSIAN ORTHODOX CHURCH

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. KANJORSKI. Mr. Speaker, it is my pleasure to draw your attention to the 60th anniversary of the St. Nicholas Russian Orthodox Church in Wilkes-Barre, PA. I am happy to extend my personal congratulations and share with my colleagues in the House of Representatives the history of this fine church. The United States was founded on the principles of religious freedom for all, and this church in particular exemplifies this great American tradition.

The St. Nicholas Russian Orthodox Church was organized in 1932 by 19 dedicated men and their families, most of whom were immigrants from various parts of Russia. The first Hierarchal was Bishop Platon, and the first parish priest was Reverend Nicholian, who held services in nearby St. Mary's Syrian Orthodox Church. In the fall of 1925 Reverend Nicholian held Liturgy in the newly constructed church, a basement type building.

A number of priests were assigned to the church, and in the early 1950's the energetic Rev. Timothy Korblinoff began a new building fund. Before he was able to witness the completion of his dream for a newly constructed church, Reverend Korblinoff unfortunately suffered a fatal heart attack. His successor Rev. Gregory Szeyko was able to continue his plans, and the new church was dedicated in 1954. After only 5 years, the mortgage was completely paid off.

With the help of many dedicated individuals who donated a tremendous amount of their time and money, the interior church painting was completed and dedicated by a Pontifical Blessing on May 20, 1962. The golden anniversary of the church was celebrated on Sunday, October 26, 1985. Currently under the guidance of Rev. Stephen Janos, St. Nicholas Russian Orthodox Church has grown from an original congregation of 30 families to more than 100 families.

Mr. Speaker, it is indeed a privilege to commemorate the founders and the current members of the Russian Orthodox Greek Catholic Church as they celebrate the 60 years of history, and I would like to take this opportunity to wish them all the best for their future.

TISH SOMMERS, A SPECIAL PERSON REMEMBERED

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Ms. SNOWE. Mr. Speaker, almost everyone who knew her has a special story to tell about this remarkable woman who touched the lives of so many. Thus, when she died on Friday, October 18, those who mourned for Tish Sommers spanned the continent. Not only was she the founder of the Older Women's League, she was the founder of something much more fundamental—she "discovered" older women. Until Tish, older women were invisible. Tish helped to elevate older women from a position of obsolescence to a place of honor where they could again develop the network, the confidence, and the personal vision to think, speak, and advocate for their rights.

For all of us, Tish Sommers was a model—of aging, of womanhood, of the very best that each of us can be.

Mr. Speaker, I would like to include in the RECORD the following tribute to Tish Sommers that appeared in the Washington Post.

TISH SOMMERS, A SPECIAL PERSON REMEMBERED

(By Cynthia Gorney)

OAKLAND.—I am gazing at a pile of typewritten speeches and snapshots and political notes and trying to think how to explain the life and death of Tish Sommers, who died of cancer here yesterday and left women across the country working to believe they would finally have to let her go.

She was 71, as graceful a woman as I have ever known, tall and slender and given to the controlled movements of a dancer. She had danced in her youth, as part of modern troupes that performed internationally, but that was not how Tish emerged in the lives of all these women, women who were old enough and young enough to be one another's grandchildren and great-aunts. She was an organizer, an agitator, a woman of such passionate purpose and drive that in her last two weeks, as she lay in her upstairs bedroom and felt her systems failing one by one, she talked seriously about the need for improved national organization within the hospice movement.

The term "displaced homemakers," an initially unsettling concept that swiftly became popular currency among politicians discovering new constituencies, was invented by Tish Sommers; it was her imagination, her political instincts and her precisely channeled outrage that gave national voice to a vast assortment of American women

who found themselves aging in a society that appeared to have almost wholly lost interest in them.

When corps of older women besieged Capitol Hill last Mother's Day, bearing cards invoking the congressmen's own mothers along with reminders about legislative matters like Social Security cost-of-living adjustments and low-cost senior housing, that was Tish. When Displaced Homemaker bills were approved in 23 states, each vote following an onslaught of publicity about the emotional and financial distress of the homemaker set aflounder by widowhood or divorce, that was Tish.

It was Tish who would appear on television programs, smiling pleasantly at the host and holding always to her thoughtful low voice, and lay out the kind of plain information that made women sit down at their kitchen tables and write long angry letters about what had happened to them. She would talk about pensions, and job discrimination, and the statistics she had culled that week. Four million women between age 45 and 65 have no insurance at all. Tish would say. White women are twice as likely as white men to be living in old-age poverty, she would say; the figure doubles for black women. Less than 20 percent of women are eligible for non-Social Security pensions, and there is no Social Security for a homemaker's work, making most mid-life widowhood or divorce a sudden thrust into a job market that will not be bothered with 52-year-old women who lack "experience."

A Displaced Homemaker Network grew from the groundwork Tish laid, so that 500 programs around the country now offer counseling and job training to the women she wanted to reach. She had founded a group called OWL, Older Women's League—Tish always liked the venerable image of owls—and by the time she died, OWL had grown in five years to a 13,000-member organization with 90 chapters across the country. There are OWL chapters in places like Jeffersonville, Ind., and Eatontown, N.J., and there is a national headquarters in Washington, and there are senators and congressmen and Social Security critics who keep hearing from OWL members, and there are women who write still to Oakland or to Washington to lay out afresh the stories Tish had heard so many times before.

Economy, Ind.: "I need to get out in the world again. After 33 years we're getting a divorce. I need to know how to get a job and meet people." Saratoga, Calif.: "I found myself, at age 53, working for an employment agency. At the end of three months, I left feeling old, inadequate and worthless."

Those letters were sustenance for Tish; she worked them into speeches, invoked them in public hearings, sat friends down at her kitchen table to argue out the next plans for setting those women into motion. Helplessness drove her wild. There is a transcription here of a conversation at Tish's bedside a month before she died; she is explaining, probably by way of slightly sheepish apology to the friends asking her to please slow down and pay attention to herself for a minute, why even her own cancer was driving her to organize among the dying and those who cared for them.

I can't help it," Tish is saying. "It's part of my nature, that since I'm going through this experience to turn it into energy for positive change. Of course that energizes me. I have the feeling in terms of pain control. I go on daytime on adrenalin and at night on sleeping pills. Now I find it's hard to meditate—when I relax and go blank, I'm so aware of physical discomfort. It doesn't work for me. Action does."

I met Tish 12 years ago, when I was a Berkeley undergraduate and she was stirring up trouble in a local advocacy group she had named Jobs for Older Women. I was dazzled from the beginning; she was so lovely, so driven, so removed from the sickly passiveness I had once thought America forces on its elderly, that she gave me a new vision of what it might be like to celebrate my 70th birthday. We flew to Washington together before I graduated, each of us at work on questions of Social Security for homemakers.

Tish told me a little about her early days: the years in Germany as a visiting American dancer, the gathering rage about what Hitler was doing to the Jewish family that had taken her in, the middle years as a professor's wife and civil righs organizer in Alabama, the early feminist work. When she divorced, she was a 57-year-old woman with no pension and no Social Security entitlement of her own. She was denied credit, turned down as a PhD candidate, rejected for health insurance because of her earlier cancer.

"I wrote a book," Tish said last spring, when some oral historians asked her to talk about her life, "called 'The Not So Helpless Female.'" (I can see her smiling as she says this; she was usually charmed by her own pithy titles, and particularly liked the business cards she designed, in which a jovial witch rides across the logo. "Free-lance agitator," the cards read.)

"Kind of how to make things happen," Tish said, remembering her book. "To shake things up. Sort of a wave-making manual. After all, I had quite a bit of experience at making waves."

She had cancer for six years. It was massive, pervasive cancer, spread through her bones, and she carried it the way she had carried her divorce and her earlier mastectomy and everything else that another kind of person might have imagined the most private of personal hurdles. She wrote position papers on health care, flew East for hearings and board meetings, made outlines for a book about women as caregivers. Once a year, with friends from around the country in tow, she and her organizing partner Laurie Shields arranged rafting trips, and then Tish would lie back in places like Idaho or Jackson Hole, Wyo., and dangle her ankles in the water, and talk about how the cancer was changing her tactics. When she got back, she worked white-water rafting images into her speeches.

It was almost as though Tish had no private self, as though introspection and fear seemed to her the most self-indulgent of luxuries. You never talked to Tish about restaurants or couch upholstery or whatever it is friends talk about when they're feeling evasive and silly. She wanted the central questions raised immediately, and then she wanted to figure out how to make things better.

We were all afraid of her cancer, especially the younger women around her. It was awful to imagine illness destroying Tish, and she would look us in the eye and talk about that, just as she had grinned at us 10 years ago and said that when America began thinking right, the cosmetics industry would begin marketing pour-on wrinkles and age spots for women eager to display their own maturity.

And she never did let the cancer destroy her, at least not so we could see it. She slowed for it, and eased her traveling and spent more time in the upstairs room with the sun pouring in, gritting her way through the worst parts and refusing until the last week the painkillers that kept her from thinking clearly and making plans.

When she knew she would die before the year ended, she told us, one by one.

She was lying in bed when I saw her two weeks ago, her thin arms folded up behind her head, and she let me know almost immediately that she was saying goodbye. I asked her if she was frightened, and she said she was not, that an awful lot of people had begun trying to convert her to their particular God, but that she didn't feel the need. Her work was going to survive her, and that would do.

Then Tish smiled at me, and God bless her, she gave me my assignment for her memorial. She had typed it out. The OWL convention was being planned; she thought a memorial might help fire people up. There would be some singing, and some reminiscences, and a brief summary of her life, with slides. I was to write the narration. Maybe Ronnie Gilbert, the big-voiced folk singer from the Weavers, could read it, "Not Maudlin," the paper said, right near the top.

UNFAIR TAX REFORM PLAN INHIBITS CAPITAL INVESTMENT

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. HUBBARD. Mr. Speaker, I received an excellent letter from one of my constituents, Lowell P. Haywood, wood procurement manager of Westvaco Corp. at Wickliffe, KY, which I believe will be of interest to my colleagues.

Mr. Haywood has contacted me because of the potential impact of changing tax policy upon Westvaco's current capital investment program. Although the President's tax reform proposal has many desirable features, he believes that it is important to alert Members of Congress to the provisions that will adversely affect Westvaco Corp. and other businesses across the Nation.

I urge my colleagues to carefully consider his comments. The letter from Mr. Haywood follows:

AUGUST 26, 1985.

Hon. CARROLL HUBBARD, Jr.,
Rayburn House Office Building,
Washington, DC.

DEAR MR. HUBBARD: Sound economic growth is important to the future of our nation as well as to the future of the paper industry and the company I work for, Westvaco. Because of the potential impact of changing tax policy on our current capital investment program, we are monitoring with great interest the tax reform proposals now being considered by Congress.

The President's tax reform proposal has many desirable features which are beneficial to individuals as well as business and industry. The fundamental concept of fairness and simplicity as well as the stated objective of creating a future of greater growth and opportunity for all is sound. We realize that the proposals now being considered by the Congressional tax writing com-

mittees may undergo considerable change. However, we feel that it is very important to alert our representatives in Congress, as well as the citizens of the communities where we have been investing our capital, regarding the possible impact that several of the tax proposals presently being considered, may have on Westvaco and the paper industry.

The major concerns we have are the following:

(1) Recapture of the tax benefits obtained from the use of accelerated recovery systems from 1980 through June 1986.

(2) Replacement of the current investment tax credit and accelerated cost recovery system with a less favorable capital cost recovery system.

(3) Removal of the investment tax credit on January 1, 1986.

(4) Changes in foreign tax credits.

(5) Timber related provisions—capital gains treatment and capitalization of management expenses.

The enactment of these provisions will take $90 million right off the bottom line of our cash flow. This shortfall may cause Westvaco to defer some of the things we need to do to enhance further our competitive strength and affect our ability to maintain the same level of employment stability in the future that we have been able to provide in the past. It is estimated that the implementation of these proposals will result in a loss of 180,000 jobs in the paper industry over a five year period, (36,000 jobs lost each year).

Since I live and work in Western Kentucky, I am deeply concerned about future industrial development in our area. Westvaco contributes considerably to the local economy and we all hope that in the future Westvaco will expand their operations. Slowing any expansion plans will not only affect the people who work at the present mill but reach into the surrounding counties where we purchase our wood fiber. The many landowners who we purchase timber from and the logging crews who make their living by selling their wood production to us would be adversely affected by any negative moves forced on Westvaco.

In recent years, the climate for capital investment has been relatively good and has allowed our industry to remain healthy and highly competitive. In 1984, Westvaco embarked on its latest growth program. The new $1.6 billion capital improvement program was made on the basis that the tax credits would be available. The removal of the ITC at this point would be unfair because in prior periods of tax changes, transition rules were always available for committed projects.

The recapture concept is unprecedented, retroactive and discriminatory. The recapture proposal will have more than a $1.2 billion negative impact on the paper industry, money that will not be available for capital expenditure. Additionally, our international competitors have accelerated recovery and without it the U.S. paper industry will fall far behind our major competitors, Canada and Sweden.

Our industry is a major contributor to the nation's tax base, and Westvaco has paid its fair share of taxes. Over the past four years we have paid over $197 million in Federal taxes.

What is needed? We urge you to consider the following:

(1) Elimination of recapture.

(2) Provide for a capital recovery system that approximates the current combination of ACRS/ITC or expensing—if a new capital recovery system is adopted, provisions for transition should be made for those who have made investments under ITC.

(3) Preserve the current method of computing the foreign tax credit.

(4) Retain the current deductibility of timber management, maintenance, and carrying costs as under the present law.

(5) Retention of capital gains for timber.

Your attention to everything I have mentioned in this letter will be greatly appreciated. Understanding our concerns and conveying this information to your colleagues on the Ways and Means Committee will be appreciated. Your help is needed by all of us in Kentucky. I look forward to hearing your views on these issues.

Sincerely,

LOWELL P. HAYWOOD,
Wood Procurement Manager.

AN OUTSTANDING CHOICE, RUSSELL A. ROURKE, AIR FORCE SECRETARY-DESIGNATE

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. VANDER JAGT. Mr. Speaker, it is with a great deal of personal pride and pleasure to bring to the attention of my colleagues an outstanding feature story on a man that we all know, Russell A. Rourke, who has been selected by President Reagan to be our Nation's new Secretary of the Air Force within the next few weeks. We know Russ in his present role as Assistant Secretary of Defense for Legislative Affairs. But many of us recall with great pleasure his earlier service on the Hill dating back to 1961 when he served with great distinction as administrative assistant for our former colleagues John Pillion, Henry Smith, and Harold Sawyer. I am certain that we would all agree that the President has made an exceptional, excellent choice in Russ Rourke.

One of the most respected and popular Washington writers, Jeremiah O'Leary, recently wrote an excellent feature story on Russ which appeared in the October 14 edition of the Washington Times. I am delighted to include it at the conclusion of my remarks.

I know that Russ views this appointment as Secretary of the Air Force as one of tremendous challenge in what we know as an already illustrious career. But, there's no question he'll meet this challenge as well. Congratulations Russ.

The news article follow:

[From the Washington Times, Oct. 14, 1985]

YOUTH WHO LIED TO JOIN UP AT 15 IS AF SECRETARY-DESIGNATE AT 53

(By Jeremiah O'Leary)

Thirty-two years ago, a kid named "Rusty" Rourke was a Marine private first class who cleared latrines at the Henderson Hall Barracks in Arlington when he was not pulling sentry duty. Next month he will be confirmed as secretary of the Air Force in charge of 600,000 uniformed personnel, 266,000 civilian employees, 7,299 operational aircraft and 136 air bases.

Russell A. Rourke, 53, a red-haired half-Irish, half-Swedish New Yorker from the Bronx, has come a long way from the day in 1947 when he lied about his age (he was 15) to join the Navy as a seaman recruit. Today he is assistant secretary of defense for legislative affairs at the Pentagon, awaiting only the standard FBI background check and Senate confirmation before becoming one of the three service secretaries.

A lifelong conservative and Republican, Mr. Rourke has had a roller-coaster career since he got his true age straightened out with Uncle Sam; he switched to the Marine Corps in November 1953 and became an officer candidate after graduating from the University of Maryland. The war in Korea was over by the time he got there as a lieutenant and radar air controller stationed at Pohang for a year.

He left active duty in 1956 to attend Georgetown University Law School, and joined a reserve unit, Marine Air Control Squadron 24, which had the interesting distinction of training on the grounds of St. Elizabeths Hospital.

"It was never dull up there on the hill," said Mr. Rourke. "We used to drill on a parking lot next to one of the locked wards to the vast enjoyment of the inmates. There must have been some ex-Marines in there as patients because they were always yelling at us to get in step."

On one occasion in the early '60s, he recalled, the "St. Elizabeth Marines" had to deploy guards and call in the police when their radar dome was subjected to a bow-and-arrow attack by unseen neighborhood youths who may have thought the radar was playing hob with their television sets.

As a young Washington lawyer in a large firm, Mr. Rourke found himself mired in routine paperwork and rarely in a courtroom and in 1961 began a new career that lasted for 20 years as an administrative assistant to several Republican members of Congress from the Buffalo, N.Y., area. The first of these was the late Rep. John R. Pillion, an old-school politico who ran his office like a first sergeant and took a dim view of anyone who thought Sunday was a day of rest.

"That wasn't the best move I ever made," said Mr. Rourke. "Mr. Pillion was the floor manager for Congressman William Miller on the 1964 Republican presidential ticket of Goldwater-Miller when they were swamped by Lyndon Johnson and Hubert Humphrey. Mr. Pillion was defeated in the Democratic landslide."

Bill Miller, the vice presidential candidate hardly anybody can name, helped Mr. Rourke switch over to a new post as administrative assistant to moderately conservative Rep. Henry P. Smith III of North Tonawanda, N.Y. When Mr. Smith retired in 1974, Mr. Rourke ran for his seat, endorsed by both the Republican and Conservative parties. He lost the election in the solidly Republican 36th district in the backlash of President Nixon's resignation and the Watergate scandal.

But Mr. Rourke rose Phoenix-like from the ashes and became deputy to President Gerald R. Ford's counselor John O. Marsh Jr., now secretary of the Army. When Mr. Ford lost the presidential election to Jimmy Carter in 1976, Mr. Rourke returned to Capitol Hill as administrative assistant to Rep. Harold Sawyer, a Republican from Dearborn, Mich. After President Ronald Reagan's victory in 1980, Mr. Rourke was

chosen by Secretary of Defense Caspar W. Weinberger as assistant secretary of defense for legislative affairs.

Mr. Rourke said he sees nothing remarkable about the meteoric series of ups and downs in his life. Having been a Marine Corps private, he was not surprised to reach the reserve rank of colonel from which he has now retired. He said his long service at the House of Representatives, with its ever-changing membership, taught him about the impermanence of power in a political democracy.

He also learned, in the process of being made an honorary citizen of Texas, that life is not dull at the Capitol. This was arranged by former Sen. John H. Tower after Mr. Rourke overpowered a man who tried to assault a Defense Department nominee during a confirmation hearing in 1982.

At the end of the first Reagan term, Mr. Rourke was ready to leave the Defense Department to enter private enterprise but Mr. Weinberger asked him to stay on for possible promotion. It came when Air Force Secretary Verne Orr notified Mr. Weinberger that he intended to retire for personal reasons. Mr. Rourke got the nomination next month.

Because he knows by name and face every member of the Senate and House from his legislative liaison duties, Mr. Rourke anticipates no problem in being confirmed. He has no known enemies or opposition in either House of Congress and has an easy relationship with nearly everyone at the Capitol based on his knowledge of how Congress works and his own reputation for candor and wit.

He could probably make a lot more money on the outside. Mr. Rourke says the new job amounts to a $2,000 raise to $75,000 a year, but an invitingly new set of challenges.

"Verne Orr knows every square foot of the 104 American air bases in the U.S., the 32 foreign air bases and the more than 2,000 minor installations," he said. "I have a lot of ground to cover to catch up."

CENTENNIAL OF THE NEWPORT UNITED METHODIST CHURCH

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. KANJORSKI. Mr. Speaker, it is my pleasure to draw your attention to the centennial of the Newport United Methodist Church. It is an honor to share with my colleagues the history of this fine church.

The origins of the Newport United Methodist Church date back to a Sunday in October 1885, when a group of worshippers met in a school in Alden as Methodists. It was not until the following year that the congregation had the services of a pastor, Rev. George Greenfield. The original charter lists William Reese, Thomas Turner, William Netherton, M.H. Fine, and Thomas Byran as the first trustees.

The First Methodist Episcopal Church of Alden was incorporated on September 26, 1889, and in 1890 three members of the congregation were able to obtain a land grant on which to erect a church. The church was dedicated on June 29, 1890, and contributions from the 1 day of dedication services paid for more than half of the cost of the church.

With the national merger of the Methodist Episcopal Church and the Evangelical United Brethren Church in 1970, Rev. LeRoy Flohr was appointed pastor of the Calvary Charge which included the Alden congregation. The Alden and Wanamie congregations merged in 1978 to form the present Newport United Methodist Church, which is currently served by Rev. Roger C. Yoder.

Mr. Speaker, religious faith has played an important role in the development of our Nation, and the 100-year history of the Newport United Methodist Church is testament to the continuing importance religion has in the lives of Americans.

NATURAL GAS DECONTROL

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. MARKEY. Mr. Speaker, the issue of natural gas decontrol has been debated regularly by this body and its committees. One feature of that debate has been a regular discussion about the Powerplant and Industrial Fuel Use Act of 1978 which puts limits on the use of natural gas.

Now that significant portions of new gas is decontrolled, we are seeing how the marketplace responds. However, it is important to note that controls on old gas remain, and I strongly believe that these controls should not be lifted or else the consumer will pay dearly. But another portion of the controls which have not been lifted yet are the restrictions put in place by the Fuel Use Act.

There should be some discussion on this proposal. My mind is not made up on how the consumer would benefit if these restrictions are lifted. But, in order to advance the discussion on this subject, I offer to my colleagues a summary of a recent study, "Regulatory Restraints on Natural Gas Use: The Logic is Lacking" by Ted R. Miller and Charles F. Stone. This research paper, published by the Urban Institute, reviews the effect of this act on consumers, international trade and the environment. I invite my colleagues to make use of its analysis in our continuing discussions on this subject.

EXECUTIVE SUMMARY

The Powerplant and Industrial Fuel Use Act (FUA) of 1978 prohibits electric powerplants and major industrial fuel-burning installations from using natural gas and oil as fuels in newly-built facilities. This paper provides an assessment of the logical foundation of FUA in a number of areas and finds it lacking in every respect. Thus, FUA appears to be an unnecessary and burdensome regulation. Its repeal would further the regulatory relief objectives of the Reagan economic recovery program.

FUA was passed to deal with an energy "crisis" and fears that the U.S. was rapidly exhausting domestic supplies of natural gas. However, events since 1978 have shown that decontrol of wellhead natural gas prices alone would have been sufficient to provide an adequate supply of natural gas for the next several decades. FUA prohibitions, together with "incremental pricing" provisions of the Natural Gas Policy Act that impose higher natural gas prices on certain industrial users, have impacts in several areas.

IMPACT ON ECONOMIC EFFICIENCY

Natural gas appears to be competitive with coal in many situations where its use is prohibited by FUA. Besides electric powerplants, the main industries affected are food processing, paper, chemicals, and primary metals. Although firms may be able to get an exemption from FUA prohibitions, the process is costly and time-consuming, the outcome is uncertain, and many may be unaware of the exemption process. Thus, FUA prohibitions discourage the use of gas-fired facilities even when they are economically justified.

Where firms install coal-fired capacity as a second-best choice, production costs and prices faced by consumers are higher than they would be if FUA and incremental pricing were repealed. The very long lead times required to bring coal-fired capacity on line compared to gas expose firms to uncertainty about future demand that raises costs and risks. Also, coal-fired capacity requires a larger capital investment in an economy where large federal budget deficits drain a large supply of available savings. While firms forego investment in new capacity that they would otherwise make, consumers must either forego consumption or the country must increase its imports of electricity and energy-intensive industrial goods. This is hardly a desirable outcome in an economy already facing severe balance of payments problems.

Estimates of the costs of FUA prohibitions developed by The Urban Institute using the American Gas Association's Total Energy Resource Analysis (TERA) system of computer simulation models show that repealing FUA would increase annual natural gas consumption by 2.6 quadrillion BTUs by the year 2000 and reduce the annual cost of producing electricity and energy-intensive industrial goods by $1.65 billion (measured in constant 1985 dollars). The present value of the savings between 1986 and 2000 would be about $5 billion. The exact magnitudes of these estimates are less important than the fact that FUA is now adding to economic inefficiency rather than reducing it as was originally intended.

IMPACT ON CONSUMERS

Repeal of FUA almost certainly will increase the demand for natural gas and put upward pressure on wellhead gas prices, but it may not result in higher prices at the burner tip. This is because greater industrial demand would allow pipelines to make greater use of their existing capacity and lower average transmission and distribution costs. Estimates based on the TERA simulations suggest that these savings will be large enough to offset any increase in pipeline acquisition costs. Repeal of incremental pricing would further encourage industrial demand and lower average pipeline costs.

Even if delivered gas prices rise as the result of repealing FUA and incremental pricing, the overall impact on consumers need not be adverse. Higher prices to residential customers will be offset by lower prices for electricity and industrial products where lower production costs and reduced investment risks are achieved by substituting gas for coal. In the aggregate, consum-

ers will gain from repeal since the whole market basket of goods they consume will be produced more efficiently. Furthermore, since households that heat with natural gas also generally have substantial electric bills, they will share in the gains.

IMPACT ON URBAN AREAS

Coal-fired facilities require about three times as much land as equivalent gas-fired facilities and urban land is scarce and expensive; natural gas prices are lower in urban areas served by well-developed pipeline facilities than in rural areas; and it is much easier to meet strict environmental standards in urban areas with gas rather than coal. Thus, FUA prohibitions on using gas encourage firms to locate in rural rather than urban areas.

REGIONAL IMPACTS

The relative costs of gas and coal differ considerably between regions of the United States. Consequently, FUA and incremental pricing create artificial economic advantages that cause the Mountain and West South Central regions, which already are the nation's fastest-growing regions, to grow at the expense of other regions.

ENVIRONMENTAL IMPACTS

Natural gas burns much more cleanly than coal, even when the coal is burned using sophisticated emission controls. The TERA simulations, when combined with emissions data, indicate that by the year 2000, FUA annually will result in a 5-percent increase in sulphur dioxide emissions, or over 2 billion pounds; add 600 million pounds of nitrogen oxides (NOX) emissions, a 1.5-percent increase; and generate over 100 billion pounds of extra sludge and ash that require disposal. Based on the best available estimates of the economic costs of air pollution, FUA is likely to result in over $7 billion dollars in environmental damages between 1986 and 2000. Additional TERA runs show that a stricter interpretation of FUA would roughly double these impacts. By discouraging natural gas use, incremental pricing would have a similar effect of unknown size.

Technological breakthroughs may well permit the construction of clean coal-burning capacity within 30 or 40 years. From an environmental viewpoint, the most sensible approach would be to build gas-burning capacity almost exclusively until affordable technology becomes available for burning coal cleanly. The great irony of FUA is that it imposes exactly the opposite restriction.

THE LOGIC OF FUA AND INCREMENTAL PRICING

The logic of FUA and incremental pricing have been assessed from any directions and found wanting. These legislatively-mandated restrictions on natural gas demand and pricing create economic inefficiency and harm international competitiveness. They offer negligible price savings for consumers. They create incentives against urban industrial location at a time when public policy supports fighting urban decline. They artificially subsidize the nation's fastest growing regions at the expense of its declining regions. Finally, they create unnecessary and costly environmental pollution.

ALIEN FARM WORKERS FEAR IMMIGRATION LAW CHANGE

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. BERMAN. Mr. Speaker, time and again during our consideration of immigration reform, we have heard one constant refrain from the lobbyists representing agricultural employers. They insist that immigration reform legislation must include special provisions designed to give growers access to over one-quarter of a million foreign guestworkers. These claims persist in the face of compelling evidence of rampant unemployment among American farmworkers, and leave me convinced that it is a particularly vulnerable worker that growers seek, one that does not enjoy the rights of American workers.

I urge my colleagues to read the following article which appeared on page 1 of the Los Angeles Times on October 22. In no uncertain terms, prominent growers in California take issue with the position asserted by the grower lobbyists we hear from here in Washington. The California growers told these Los Angeles Times reporters that there is an adequate labor supply in California—more than an adequate supply. For those of us who hate to see immigration reform stymied by the grower lobbyists' special pleading, the evidence of a plentiful agricultural labor supply is of great interest.

I would also point out the poignant statement from the undocumented farmworker whom the legalization component of immigration reform is designed to help. He would be eligible for legalization under H.R. 3080, and yet he says, "There isn't enough work now. And there would be much less work for us * * * with the coming of the bracero, I cannot see much future for my children." What are we doing in the name of immigration reform?

The article follows:

ALIEN FARM WORKERS FEAR IMMIGRATION LAW CHANGE

(By Bob Secter and Ronald B. Taylor)

GILROY, CA.—Salvador, Maria and their children have picked chilies, tomatoes and other vegetables here and in the Salinas Valley for 10 years, stooping in the fertile fields and keeping a nervous lookout for immigration agents who could swoop down at any time and ship them back to Mexico.

On a typical day recently, Salvador and Maria brought home $40—barely more than $2 an hour and far below the $3.35 minimum wage—for eight hours of harvesting chilies. When not in school, their children—including an 8-year-old son who is four years from the legal working age—work beside them in the fields despite laws against child labor.

But Salvador and Maria, both in the country illegally, are in no position to invoke the niceties of American labor laws.

Under a set of sweeping changes in immigration laws that passed the Senate last month and are under consideration in the House, people like Salvador and Maria might gain a chance to emerge from the underworld of the undocumented and demand better working conditions.

Instead of applauding, however, they fear the changes could usher in a new wave of cheap and legal foreign labor to snatch jobs from farm workers already here—both lawfully and otherwise.

"There is hardly enough work for us in the fields now because there are too many workers," said Salvador, who did not want to give his last name because of his illegal status. Maria agreed: "If the braceros come, there will be even less work for us."

Agricultural interests are pressing Congress to vastly expand their power to legally import "guest workers," primarily from Mexico, for temporary periods to harvest perishable fruits and vegetables. That demand has elevated the guest-worker issue to a pivotal role this year in Congress' long-running effort to overhaul the nation's immigration laws.

So heated has the battle over the guest-worker provision become that it threatens to affect the outcome on the entire bill.

The Senate-passed legislation, while granting amnesty to many illegal aliens like Salvador and Maria who have been in the country for several years, would also make it illegal for the first time for employers to hire undocumented workers.

FEAR LABOR SHORTAGE

Growers and their congressional allies, chief among them Republican Sen. Pete Wilson of California, contend that such sanctions would quickly dry up today's labor glut and create a shortage that—in the absence of guest workers—would leave weather-sensitive crops rotting on the ground and cripple the $23-billion perishable produce industry.

Critics of the guest-worker program, on the other hand, contend that the clamor for it is rooted more in greed than need. Latino groups and labor unions say unemployment in most of the nation's produce-growing regions is double the national average and that the jobless rate in California's agricultural heartland is even worse. Importing new workers, they argue, would merely keep those already here from demanding better wages and working conditions.

Dolores Huerta, a top official of the United Farm Workers' Union, envisions a "slave system for labor," supported by a "giant police system to enforce it that will affect only one group (Latinos)."

"Nonsense," counters Rep. Dan Lungren (R-Long Beach), a leading House advocate of a guestworker program. "They talk as if we don't already have a large-scale presence of foreign farm labor."

FOUR IN FIVE COULD STAY

Neither side has conclusive facts at its disposal, but the only study available, done in 1983 by the State Employment Development Department and the University of California at Davis, indicates that four seasonal farm workers in five could prove legal immigration status and remain in the work force.

And in a further blow to the growers' argument that immigration reform could dry up their supply of labor, the study added: "Seasonality and oversupply of workers . . . leaves most farm worker families below the poverty level." Both sides' bleak visions of the future grow largely from the bitter experience of Western agriculture's traditional reliance on foreign workers to do the back-breaking work of harvesting produce.

California farmers have employed foreign workers ever since the golden spike was

driven in 1869, inaugurating transcontinental rail traffic and opening Eastern markets to fruits and vegetables grown in the San Joaquin Valley. The first wave of foreign hands was mostly Chinese, but when they struck for higher wages, growers brought in Japanese, Filipinos and even Arabs. And always, there were the Mexicans.

"OKIES" JOIN MILITARY

During the Depression years of the 1930s, Western growers turned to impoverished domestic workers driven off their lands in Oklahoma, Arkansas and other Southern states. But when the "Okies" left the fields to join the military in World War II, Washington arranged with the Mexican government to send replacements.

It was the start of the controversial program nicknamed bracero, which grew from a few thousand participants in the early years to about 400,000 annually by the time it was terminated by the United States in 1964 amid widespread complaints that employers were exploiting their foreign farmhands and forcing them to live in squalor.

The bracero experience casts a long shadow over today's guest worker debate. Labor Department studies showed that even though program rules set the prevailing wage for braceros, their large-scale presence depressed wages for all seasonal farm workers, both domestic and foreign. And many of those brought in legally on a temporary basis stayed on illegally when the work was done, or slipped back across the border after they were sent home. Fewer than 5 million braceros entered the United States during the life of the program, but 5.6 million illegal aliens were detained by immigration agents over the same time span.

SHORTAGE PREDICTED

When the bracero program ended, Western farmers predicted a shortage of domestic farm labor and said their efforts to lure local residents into the fields at harvest time had fallen flat. Merced County tomato growers claimed they would be forced to halve the acreage they planted. A spokesman for fruit growers said the industry would move to Mexico because of lower labor costs there.

Despite the ominous predictions, the industry thrived, though it never kicked its dependence on foreign labor. Large numbers of undocumented workers continued to supplement the migrant work force.

Today, as in the 1960s, many growers insist that anything that would disrupt their access to foreign workers—such as sanctions imposing hefty fines on the growers for hiring them—would have serious repercussions for agriculture in the West, where perishable crops ripen with the whims of the weather and spoil if not picked quickly.

"There is a functioning network in place that provides employees where and when they are needed—which is the bottom line in perishable agriculture," Michael V. Durando, president of the California Grape & Tree Fruit League, recently told a House Judiciary subcommittee. ". . . Our members' worst fear is that, with an inflexible system, we could end up with an emergency and no way to respond. In that case, a farmer would have one of two choices: break the law (and hire illegal aliens) or lose his crop."

Growers are not unanimous in that view. Milas Russell, president of the Imperial Valley Vegetable Growers Assn., said that there is "an abundance of labor" in the valley, whose proximity to Mexico enables growers to reach across the border for thousands of aliens who hold "green cards" entitling them to work in the United States. Similarly, Richard Thornton, former executive director of the Growers & Shippers Assn. in the Salinas Valley, said high wages paid in California guarantee an adequate labor supply.

But this view is a minority. The dominant growers succeeded in attaching to the Senate-passed immigration reform bill an amendment sponsored by Sen. Wilson to let them import up to 350,000 guest workers nationally at a time for at least the next three years if Atty. Gen. Edwin Meese III certifies that domestic labor supplies were inadequate to harvest perishable crops.

The Reagan Administration for the first time has endorsed the guest-worker concept, sketching out a program that would open the borders to foreign workers for years or even decades. A key figure in reaching that decision was John R. Norton, a former president of the Western Growers Assn. who became deputy secretary of agriculture earlier this year.

CITES UNCERTAINTIES

Norton, whose firm, J.R. Norton Co., has been charged by the California Agricultural Labor Relations Board with more than 100 farm labor law violations since 1975, insists that farmers need a standby guest-worker program because of the uncertainties raised by immigration reform.

"It is an insurance policy," he said in an interview. "We can't say to what extent the (program) would have to be used because . . . you don't know exactly the consequences of the law. We're not asking for labor it it's not needed."

Farm labor advocates think that farmers would make plenty of use of the program, especially with a sympathetic attorney general likely to let the program go ahead.

"One of the goals of immigration reform is to stop displacement of American workers from their jobs, and here in the immigration bill we're totally undercutting the intent of that reform with proposals to bring in more foreigners," argued Rep. Howard L. Berman (D-Panorama City), a one-time farm union lawyer.

"Guest workers are less contentious and more malleable because they know they want to come back next year," Berman said. "Foreign workers are less likely to unionize and less likely to file grievances or lawsuits."

The prospect of competition from guest workers for scarce jobs has raised alarms throughout the migrant community in California. Interviews with two dozen workers in five key agricultural counties found that virtually all of them, those in the country both legally and illegally, complained that wages were already depressed, labor contractors were exploiting them and laws governing housing, sanitation and other working conditions were rarely enforced.

"For the first time in 20 years, lettuce cutters are begging for work," said Mario Bustamente, 37, a green-card holder and former United Farm Workers official.

'WHAT WOULD WE DO?'

An illegal alien who declined to give his name acknowledged that a new guest-worker program "may be of help to those people from Mexico. But what would we do?"

The man, a father of five who looks like a short, stout version of Anthony Quinn, settled in the Salinas Valley in 1981 after shuttling back and forth to Tijuana for a dozen years. That means he has lived in the United States continuously long enough to qualify for legal status under the immigration reform bill before the House Judiciary Committee—although not long enough under the Senate-passed bill.

The family is living in a ramshackle house without water or toilet in a labor camp provided by the grower. On one recent day, the man and his wife earned $30 for eight hours of chili picking—less than $2 an hour.

"There isn't enough work now," he complained. "And there would be much less work for us. . . . With the coming of the bracero, I cannot see much future for my children."

MEDICARE AND THE PATIENTS' RIGHT TO KNOW

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Ms. SNOWE. Mr. Speaker, today I am introducing a bill which will express the sense of Congress that Medicare patients are entitled to accurate and timely information about their Medicare hospital benefits. House Concurrent Resolution 221 assures that all hospitals participating in the Medicare Program will voluntarily reproduce and distribute a statement of Medicare patients' benefits and rights to all Medicare beneficiaries upon admission and to their families or guardians, upon request. This statement, to be written by senior citizen groups, the hospital industry, physicians, and nurses, within a 90-day period, would be a concise, understandable statement of Medicare patients' rights, including the names and numbers of local agencies that aid senior citizens.

In an effort to contain spending, Medicare has changed its method of paying for medical care. Instead of paying for each test, each day in the hospital, and each drug, Medicare pays a preset price based on the patient's diagnosis. Ailments are classified into 468 diagnosis-related groups, or DRG's. The system, called prospective payment, is a revolution in the Medicare payment system.

We are all aware of the rising cost of health care in this country. In 1982, the Federal Government spent $41.8 billion on the Medicare Program. With the introduction of DRG's, the number of days of hospitalization has decreased from 9.5 to 7.3 days and the increase in the cost of Medicare has slowed. This has been achieved, however, without adequate safeguards for the care that patients may be receiving.

Under the prospective payment system [PPS], hospitals that spend less than the fixed fee can keep the profits, and those that spend more must absorb the losses. The result has been that under PPS, hospitals are discharging patients earlier, performing fewer inpatient tests, and shifting some surgery to outpatient centers. More patients are using home health care and home-delivered meals.

While these changes are not intrinsically risky for the patient, there is a critical issue of concern. The risk is that Medicare patients who are not familiar with DRG's may face premature release from hospitals and encounter problems in securing community based care. The president of the American Association of Retired Persons [AARP] Vita Ostrander testified recently that, "The DRG system creates the economic incentive to skimp on quality care. The result is that patients are being released 'quicker and sicker' and often without proper followup care."

This concern has been echoed in my own State of Maine. There, Legal Services for the Elderly handles numerous appeals for Medicare patients. One striking example is that of a man in his eighties who fell and fractured his hip. His admission diagnosis included respiratory infection, dehydration, incontinence, and history of stroke. He was admitted to the hospital on April 24 and given notice that his Medicare coverage would end May 10. Feeling quite ill, however, this patient stayed on in the hospital, at his own expense, until he died on May 27. His daughter received notification, from the PRO, of the date on which her father's coverage would end, and of the right to appeal. However, this confirmation letter arrived July 19, over 7 weeks after the death of her father.

This is only one of many cases demonstrating that with the DRG's, which limit the length of hospital stay and the cost of treatment on the basis of a particular illness, the Medicare patient is faced with a system of health care which is new and entirely alien. Moreover, Medicare beneficiaries have not always had their questions regarding their rights and responsibilities clearly and accurately answered during their period of hospitalization.

In recognition of those who have been denied adequate Medicare coverage, Maine's Committee on Aging and the Maine Hospital Association have formed a task force called LAMP, Legal Assistance for Medicare Patients. This task force includes representatives from the Professional Review Organization [PRO], hospitals, area agencies on aging, legal services, and other interested groups. Initially LAMP was formed in order to develop an improved communication of rights under the new system for Medicare beneficiaries. They have now written a brochure which outlines in clear language the Medicare Prospective Payment System, the appeal system and where local assistance can be sought.

I am proud of such efforts in Maine; however, this is a national problem. All Medicare patients are entitled to accurate information about the DRG system and their rights as patients. For example, each patient admitted to a hospital or similar facility has several rights, as assured by Social Security, including: First, the right to be fully informed prior to or at the time of admission and during the hospital stay, of the rights and responsibilities of patients; two, the right to be fully informed, by a physician, of one's medical condition, and afforded the opportunity to participate in planning for medical treatment and to refuse to participate in experimental research; third, the right to be transferred or discharged only for medical reasons, or for the individual's welfare or that of other patients; and fourth, the right to be encouraged and assisted, throughout the period of stay, to exercise the rights of a patient and citizen, and to this end to voice grievances.

Such education is essential if older persons are to be spared the shock of unanticipated early discharges. Information is also critical to the patients' ability to assert the right to a longer hospital stay or to an appeal when it is felt that a poor judgment has been made.

House Concurrent Resolution 221 addresses these needs. My colleague Senator PROXMIRE, introduced a similar bill, Senate Concurrent Resolution 58, on July 31, 1985. I am introducing this legislation today in recognition of the fact that we can no longer deny the right of the Medicare patient to be an active participant in his or her health care.

Following is the complete text of House Concurrent Resolution 221:

H. CON. RES. 221

Concurrent resolution to express the sense of the Congress that Medicare patients are entitled to accurate and timely information regarding their Medicare benefits

Whereas thirty million elderly and disabled Americans rely upon the Medicare Program for essential health care;

Whereas the new prospective payment system for hospitals has resulted in unintended confusion among Medicare beneficiaries regarding their entitlement to hospitalization;

Whereas Medicare beneficiaries have not always had their questions regarding their rights and responsibilities clearly and accurately answered during their period of hospitalization;

Whereas the Congress believes that the Medicare Program, senior citizen groups, the hospital industry, physicians, and nurses should work together to resolve this problem cooperatively: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) on this, the twentieth anniversary of the Medicare Program, the Congress reaffirms its strong support for that program and for the right of all Medicare beneficiaries to receive accurate and timely information regarding their Medicare benefits during a period of hospitalization;

(2) the Secretary of Health and Human Services should immediately endeavor to convene a working group of representatives from senior citizen groups, the hospital industry, physicians, and nurses to draft, within 90 days of the date of enactment of this concurrent resolution, a simple statement of the rights and responsibilities of Medicare patients;

(3) the Secretary of Health and Human Services should transmit copies of such statement to all Members of Congress and all hospitals and physicians participating in the Medicare Program and shall provide additional copies upon request; and

(4) all hospitals participating in the Medicare Program should voluntarily reproduce and distribute such statement to all Medicare beneficiaries upon their admission to such hospitals and to their families upon request.

SEC. 2. The Clerk of the House shall transmit a copy of this concurrent resolution to the Secretary of Health and Human Services.

ST. MARY'S OF CZESTOCHOWA

HON. PAUL E. KANJORKSI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. KANJORSKI. Mr. Speaker, it is my pleasure to bring to the attention of my colleagues in the House of Representatives the 75th anniversary of Saint Mary's of Czestochowa Parish in Swoyersville, PA. I am honored to share with you today the history of this fine church.

Father B. Baranowski organized the first meeting for the establishment of St. Mary's of Czestochowa Parish in 1909. The first church was completed in July 1910, and Rev. Alexander Kowalczyk served as the first pastor.

Several parishioners and organizations contributed funds to purchase the church hall in 1916, and the present church was completed in 1925 under the guidance of Rev. Clement Drapiewski. Reverend Drapiewski was succeeded by Rev. Joseph Buda, and Rev. Anthony G. Levankowski. The current pastor, Rev. Edward V. Sokolowski, has served the parish since 1967.

St. Mary's has undergone many improvements over the years, including the installation of an elevator to provide access to the elderly and handicapped, a new nursing room, a new rectory, and a new kitchen. The congregation has grown to approximately 600 families.

Religious faith has played an important role in the development of our Nation, and the 75-year history of St. Mary's of Czestochowa is testament to the continuing importance religion has in the lives of Americans. Mr. Speaker, I am honored to commend this fine church on the floor of the House of Representatives.

TRASH IN SPACE AND THE ARMS RACE

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. KASTENMEIER. Mr. Speaker, I urge my colleagues to take the time to read an interesting article by Eliot Marshall in the October 25, 1985, issue of Science.

Mr. Marshall discusses the problem of trash in space and the danger it presents, particularly as the efforts to move the arms race into space intensify.

[From Science magazine, Oct. 25, 1985]

SPACE JUNK GROWS WITH WEAPONS TESTS

(By Eliot Marshall)

By destroying a live satellite in a weapons test this September, the U.S. Air Force

became a willful polluter of space, adding 100 bits of debris to the junk in orbit above Earth (Science, 4 October, p. 44). It also added slightly to the chances of a collision between orbiting trash and a working satellite, a growing hazard for all users of space, including the military.

America has often dumped trash in space by accident and indifference, but until recently it did not compound this record with intention. Unlike Russia, it did not smash its own spacecraft in anti-satellite (ASAT) tests. Now that has changed. The growing burden of trash will accelerate a phenomenon that may begin forming a man-made meteoroid belt in 10 years, according to researchers at the National Aeronautics and Space Administration (NASA).

At present, more than 5600 man-made objects are tracked in orbit around Earth. Of these, about 72 percent are classed as debris (a category that does not include dead satellites), and of this debris, about 57 percent belongs to the United States. It includes spent rocket stages, ejected satellite shrouds, clamps, exploded fuel tanks, insulation, and odds and ends left by astronauts. The Soviets' share of the debris is about 40 percent. It includes the same kind of junk, but also the finely shattered (and less visible) remains of nine antisatellite explosions from a series of ASAT tests begun in 1968. The last 3 percent of debris was contributed by Britain, the European Space Agency, France, West Germany, India, Japan, and the People's Republic of China.

In addition to these relatively large objects, there are reckoned to be tens of thousands of pieces of untracked debris the size of marbles, and literally billions of paint flakes orbiting Earth. There are also transient bits of frozen sewage from the shuttle.

The ill effects of this junkpile will take time to be noticed. The people who will be affected directly are those who travel in or send equipment to outer space. For them, the debris will add to a growing possibility of a high-speed collision. Even a tiny 0.5-mm metal chip, ecountered at the average collision speed in space of 10 kilometers a second, can puncture a space suit, if it hits at the right point, and kill an astronaut. Objects 1 to 10 millimeters across can damage a spacecraft.

This presents obvious risks for the shuttle, especially for the crew members when they are on extra-vehicular tasks. It poses greater risks for the space station and its planned industrial lab to be built in the 1990's. They will be larger than anything launched before, making them more likely to be hit. Trash also creates some unusual hazards for the President's Strategic Defense Initiative, which aims to fill near-Earth space with weapons in the 1990's. Some of the weapons will be "salvage-fused," meaning they will be set to explode if tampered with. The Defense Initiative will add to the problem most significantly just by increasing the number of machines in low orbit.

Any increase in the number of large space objects will raise the risk of collison, NASA astrophysicist Donald Kessler has written. There is already a great deal of trash in space; putting up large targets for it to collide with will produce more. Trash will engender trash. Once a critical density is reached, the pollution will grow at an exponential rate. Natural asteriod belts may have been formed by the same kind of grinding in space, Kessler says. By his calculation, exponential growth of debris could begin dramatically within a century. Some satellites may have been hit by trash already. In 10 years, an artificial asteroid belt may begin to encircle Earth.

Space trash has been growing in the last two decades at varying rates, influenced by the level of solar activity. (During the cyclical period of storms and sunspots from 1979 to 1981, solar pressure drove many objects down to destruction in the atmosphere, including Skylab.) The best way to describe the situation, according to Kessler, is to say the net balance of junk in space is growing by 300 to 500 objects per year, at a time when new launches are running at 100 per year.

Most users of space see this as a minor problem because "there's a lot of room out there," as one insurance broker put it. Furthermore, junk is concentrated at low altitudes (600 to 1100 km high), not out in the precious geosynchronous orbit (35,800 km) were communications satellites operate. The closer the trash is to Earth, the sooner it will fall back and burn in the atmosphere. So the hazard seems "negligible," in term used by Geral Frick of Marsh and McLennan, a satellite insurance broker. It appears to be a mess that will clean itself up.

The notion of space as self-cleaning is misleading, according to Kessler. It understates the time it takes gravity to pull debris out of orbit. A small, marble-like object released in a circular orbit at 500 kilometers would stay aloft for about a year. But if it were released at 800 kilometers, it would stay up for 30 years. And at 1200 kilometers it would remain in space 300 years. Man-made junk has been dumped in this densely polluted area in such quantities, Kessler says, that it is becoming more abundant than natural meteoroids.

No wilderness tract on Earth is as wild as the void where satellites travel, and none shows human intrusions so readily. Space is not protected by environmental laws. Thus, a single event such as the U.S. ASAT test on 13 September can have a great impact. At 4:42 p.m. EDT, a U.S. missile hit an old Air Force satellite called P78-1, on a low polar orbit about 530 kilometers high.

The large pieces are tracked by the radars and cameras of the North American Aerospace Defense Command (NORAD), which can see objects the size of a baseball (10 centimeters across) at distances beyond 500 kilometers. Shattering a satellite generates many more unseen than visible pieces. Those from P78-1 have now joined the estimated 40,000 bits of untracked, marble-size debris already aloft.

What are the chances that some of this litter could damage a live satellite? Kessler, who directs a 10-year study of debris for NASA in preparation for the space station, says the risk is small but real. His summary of a 1982 workshop at NASA states: "All modelers concluded that the probability that a large structure (approximately 100 meters in diameter) would collide with a currently tracked object in low-Earth orbit is already significant—approximately 0.1 in a 10-year period." If small, untracked objects are considered, the risk grows three to five times larger. The shuttle faces only one chance in a million, per mission, of being hit by a major object because it has smaller dimensions, stays aloft for short periods, and hugs low altitudes where debris quickly falls to Earth.

Many experts, including Kessler, think there is evidence of damage being done right now. They cite examples such as the following:

In April 1984, the shuttle crew brought back to Earth some malfunctioning electronics boxes on the Solar Max satellite. NASA found the outer surfaces peppered with around 160 small holes created by flying paint chips.

On its seventh mission in July 1983, the shuttle orbiter Challenger was hit by something that chipped a window. NASA concluded that the damage was done by a tiny (0.2 mm) flake of white paint, possibly the kind used on U.S. Delta rockets. (It was not clearly of Russian origin, as NASA administrator James Beggs once suggested.)

In July 1981, the Soviet navigation satellite Kosmos 1275 broke up over Alaska in a pattern suggesting it had been hit by debris.

The Soviet surveillance satellite Kosmos 954, with a nuclear reactor aboard, suddenly depressurized and fell to Earth over northern Canada in January 1978, also in a way that suggested a collision had occurred.

The European Earth observation satellite, GEOS-2, suffered injury to its solar panels in 1978, apparently when hit by debris.

PAGEOS, a U.S. balloon satellite, probably was struck by untracked debris and damaged in high orbit in July 1975.

The visible bits of debris are few enough at present that they can be tracked and avoided. Some communications satellites have to make dodging maneuvers on occasion, coming within kilometers of other satellites. And when the shuttle in traveling in space, NORAD uses much of its computer power to scan the shuttle's route for hours in advance, preparing for evasive action if necessary. Kessler says that, according to statistical probabilities, the shuttle should pass within 25 kilometers of a visible object at least once a day.

While big and dangerous objects can be dodged, there is no way to avoid the less-threatening small forms of trash such as paint. Kessler estimates that there are now 10 to 100 billion paint flakes in orbit. It's not clear how they came to be there, but NASA scientists think they may have broken loose from orbiting rocket hulls when the bonding agent in the paint was corroded by atomic oxygen or ultraviolet light.

In addition, NASA has found that second-stage rockets, when fired in deep space to put satellites in exact orbit, emit a particulate exhaust of aluminum oxide (Al_2O_3). When the windows of the Skylab command module were examined, half the pit marks were found to contain this compound. Kessler reports that firing one solid rocket motor in high orbit produces for 2 weeks afterward a cloud of tiny particles that outnumber natural objects of the same size. In fact, this pollution has frustrated several studies of tiny meteoroids, for the data were drowned out by the artificial "noise." This form of debris, although it may be short-lived, can damage optical instruments.

Some remedial suggestions, such as sending up a flying garbage truck, seem impractical. Others make sense intuitively, but may be more risky than doing nothing. For example, at the recent meeting in Geneva of the World Administrative Radio Conference for geostationary orbit matters, Britain urged members to create a standard method for disposal of used satellites. The plan was to have everyone boost old units out of geosynchronous orbit into a higher "junkpile orbit." But the U.S. delgate, Dean Olmstead, insisted that it was too early to adopt such a position, for the risk associated with restarting old spacecraft motors may be greater than leaving the satellites where they are. He persuaded the group to study

the issue rather than make recommendations.

The cheapest and simpliest way to deal with trash is to take some preventive steps. One successful example of this is the U.S. program of burning to depletion all the fuel that remains in Delta second-stage rockets. A study made by John Gabbard, a former NORAD employee, showed that 15 percent of all the debris in space had been caused by the breakup of these used and abandoned Delta second stages. Fuel tanks appeared to be corroding, leading to the mixing of fuel and spontaneous explosion. At Kessler's urging, NASA investigated and confirmed the problem, and then asked the controlling company to bleed the fuel out of Deltas still in orbit. Since that program began in 1981, there have been no more explosions.

Scientists at various institutions have tried to interest the space-using nations in adopting a formal policy on debris. The American Institute of Aeronautics and Astronautics issued a position paper in July 1981 calling for international action to curb space trashing. In discussing ASAT tests, it said, "Even if such actions are essential to national security, they should be carried out with a clear understanding of the consequences." The AIAA recommended that ASAT test fallout be studied intensively. "In the long term," the paper noted. "the issue must be faced cooperatively by all space users, and international agreements should be drawn up to ban or restrict to low orbit the explosion of satellites."

In the past, NASA officials have tried to interest Soviet space authorities in ideas such as this, with absolutely no success. Now that U.S. ASAT tests have begun, it will be more difficult. And while American military authorities may be sympathetic to NASA's case, they have other, higher priorities at the moment. Responding to questions about the Strategic Defense Initiative, Col. George Hess made only one comment: "The problem created by natural and man made debris. . . is not trivial." He added that it would be dealt with by contractors who are designing military spacecraft.

Thus it seems possible that the space pollution will grow steadily. It may even accelerate in the 1990's, if the plans for arming outer space are carried to fruition. And the predicated man-made asteroid belt may start to appear within a generation.

GRAYCE BATEMAN COMPLETES 40 YEARS OF SERVICE

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. BENNETT. Mr. Speaker, Grayce Bateman, director of the Clara White Mission in Jacksonville, FL, is retiring after 40 years of service with that mission. It is a well-deserved retirement because all her years have been ones of tremendous assistance to people of all ages, with a multitude of needs. And she has always done this with joy, enthusiasm and effectiveness.

She was a trusted employee and associate of the late Eartha M.M. White. Miss White was once chosen as the outstanding volunteer in America because of her mission and numerous other philanthropies. Mrs. Bateman played a large part in the achievement of these good works and deserves tremendous praise in her own right.

Mr. Speaker, I include at this point an article from the Jacksonville Journal concerning the retirement of Mrs. Bateman:

[From the Jacksonville (FL) Journal, Oct. 3, 1985]

GRAYCE BATEMAN WILL RETIRE AFTER A LIFE OF SERVICE

Grayce Bateman, director of the Clara White Mission since 1974, will retire this month after 40 years of service with three Jacksonville institutions founded by the late Eartha M.M. White.

"I have always liked working with people and helping people, especially the unfortunate, and so it seemed a natural thing for me to work with Miss White in her activities and projects," Mrs. Bateman said.

"I like what I have done here at the missions better than anything else I have done; so many thousands of people have been served," she said. "We have helped so many. I could not have planned a better career for myself."

Mrs. Bateman began working for Miss White and the mission, 613 W. Ashley St., in May 1945, as a secretary. Later she was named office manager, but it was only a part of her work. She was also Miss White's personal secretary and companion until she died in January 1974.

"The work was challenging from the first day of employment because of the many activities of Miss White, and while she lived, I never had regular working hours. With Miss White you just worked until the job was completed," she said.

"I always worked on Christmas Day when she was living because she had a party at 10 a.m. for the adults and one at 2 p.m. for the children. On Christmas Eve, we visited all the nursing homes and the jails, singing Christmas carols," she said.

Mrs. Bateman said she sometimes worked from 8 a.m. to 11 p.m.

In addition to her work at the mission, Mrs. Bateman assisted Miss White with two other projects, the establishment of the Eartha M.M. White Museum and the building of the Eartha M.M. White Nursing Home on Moncrief Road.

She said it was Miss White's dream to rebuild the Old Folks Home, which she operated on Jacksonville's Eastside, into a modern well-equipped nursing home. That dream materialized in 1967 after Miss White donated land she owned for the new structure. The nursing home currently is planning a new addition to the building.

"My job was to take care of all the paperwork and recordkeeping required by the Hill-Burton state grant that Miss White got to build the nursing home, while I continued to serve as office manager for the mission and her personal secretary and companion," Mrs. Bateman said.

The Eartha M.M. White Museum was established across the street from the nursing home. It contained a collection of Miss White's papers, personal belongings and other artifacts and memorabilia she had acquired.

Mrs. Bateman assisted in setting up the museum and later moved its contents to the second floor of the mission. It has been renamed the Eartha M.M. White Art and Historical Resource Center. The former site on Moncrief Road has been converted into the Eartha M.M. White Memorial Boys Club by the Boys Club of Greater Jacksonville Inc.

The nursing home and the mission are now two separately incorporated institutions, Mrs. Bateman said.

Renovation of the three-story mission building began in 1979, under the supervision of the mission's 25-member volunteer board. She said all that remains to be done is carpeting the third floor, which will house a clothing distribution center and an addition to the art center.

She said the area that most needed remodeling was the first floor, which now has a new kitchen and better equipped dining room, dedicated last year.

"These new areas have made it possible to faster serve the thousands of clients who enter the doors of the mission," she said. "We can now provide the care and share the atmosphere that encourages positive thinking and a new lease on life to many of those who have lost hope," she said.

She said the approximate $100,000 cost of the renovation was funded through a $20,000 grant from City Housing and Urban Development Block Grant funds matched by donations to the mission from individuals, organizations and companies in the city. Construction classes at Florida Junior College's Downtown Campus provided free labor.

The operation of the mission is financed by the United Way, the city of Jacksonville and private and public donations.

"I am truly grateful to all of those individuals, churches, businesses, social groups and volunteers who have assisted me in my work here at the mission through their contributions," Mrs. Bateman said.

Mrs. Bateman said through Miss White and her work with the three institutions she has met many influential people.

"I met President and Mrs. Nixon, and I was most impressed by the Lane Bryant Co. officials who one year presented Miss White a $5,000 cash award," she said.

Mrs. Bateman is a Jacksonville native and attended the local public schools until her high school years. She said because of the illness of her father and mother she completed high school by correspondence. She later completed a three-year course in business management from LaSalle University in Chicago, also by correspondence.

Before going to the mission she had worked as an agent for the Afro-American Life Insurance Co. and as a secretary for the American Red Cross and the United Negro College Fund.

A widow since 1947 and member of Ephesus Seventh-day Adventist Church on Edgewood Avenue, Mrs. Bateman said she is retiring to take better care of her invalid sister who is 89.

"I think 40 years is long enough," she said.

Mrs. Bateman has received awards for her humanitarianism and community service from the Jacksonville Opportunities Industrial Center Inc., Ladies Auxiliary of Florida Morticians, Volunteer Jacksonville Inc., United Way of Jacksonville, Jacksonville Links Inc., Operation Respect and her church.

VIOLENCE IN OUR PRISONS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. CONYERS. Mr. Speaker, the level of violence in our prisons is an issue of concern to all of us involved with the criminal justice system. The adjustment of prison inmates to the outside world when they are released is, undoubtedly, heavily influenced by what occurs during their incarceration. For many prisoners, extreme violence is, unfortunately, a large part of their prison experience.

The level of violence experienced by prisoners can only serve to further dehumanize them and complicate efforts at rehabilitation. Research has indicated that prison violence escalates as prison overpopulation increases. Overpopulation is a fact of life in our prisons. Justice Department statistics on the Federal prison system, for example, indicate that as of October 21, 1985, the Federal prison population is 41 percent overrated prison capacity and 12 percent over operational capacity.

Overpopulation affects another problem—the paucity of meaningful work or activities available to prisoners. Although it has long been accepted that prison jobs are necessary to retrain those with low skill levels, it is now being argued that this inactivity also breeds the frustration, anomie, and apathy that can lead to violence.

Charles Colson, special counsel to former President Richard M. Nixon, knows what prisons are like, not only from first hand, having served time but also from his work as head of the Prison Fellowship Ministry. He is actively involved with prisoners and prison matters and recently wrote an article in the New York Times on the present state of prisons in the United States.

I commend his article to my colleagues and ask that it be inserted at this point in the RECORD.

The article follows:

[From the New York Times, Oct. 13, 1985]

DESPAIR: A TRIGGER OF JAIL RIOTING

(By Charles W. Colson)

WASHINGTON.—This has been a bad year for prison disturbances. Every month headlines report violence in yet another state. And each time a governor appoints an investigative panel, which blames everything on overcrowding, poor facilities or mismanagment. The corrections commissioner is then fired and the cycle begins again. But during a visit to a Western penitentiary, site of two recent riots, I discovered what I think could be a root cause.

The prison is a cluster of handsome brick buildings surrounded by gentle hills. But for the fences it might be mistaken for a college campus. Inside the steel gates, however, things were tense. The corrections comissioner and the warden both looked harried, even as they assured me everything was under control.

Most prisoners wouldn't talk much, but they spoke volumes with their darting glances. Where the riots had broken out, a thick cement wall was but a pile of rubble—frenzied inmates had punched it out with their bare fists! One wing was charred ruins, with toilets ripped out of the walls and debris everywhere.

There were no obvious reasons. Atypically, the prison was not overcrowed; the facilities were excellent, the staff well-trained. Yet inmates had beaten out a cement wall with their bare fists. Why? The warden had no explanation.

"But," he said, "of course we have no work here—only 100 jobs for 800 men. We make work."

"Make work." In his offhand remark, the warden may very well have provided the key to the unrest.

The nation is indebted to Chief Justice Warren E. Burger, who has crusaded for more inmate jobs. But those who argue for prison jobs usually do so on the grounds that they are important for rehabilitation: Offenders need vocational skills when they get out.

That's true enough. But I think there's a more crucial theological reason as well, one that explains why our prisons drive men to despair. Like the universe, man is created by God—in His very image. Thus man is imbued with the same sense of purpose evident in his Creator. This affects not only our overall perception of life, but practical, everyday relationships. That man cannot live without purpose was captured by Dostoevsky, imprisoned during Czarist repression. He wrote: "If one wanted to crush, to annihilate a man utterly, to inflict on him the most terrible punishments, one need only give him work of an absolutely, completely useless and irrational character."

Some of Hitler's henchmen must have read Dostoevsky. Eugene Heimler, a Holocaust survivor, wrote of an experiment in which Jews who had been working in a prison factory were suddenly ordered to move sand from one end of their camp to another—back and forth, over a period of weeks. Many prisoners, who have been able to cling to life even while working for their captors, went berserk and were shot by guards. Others threw themselves into the electrified wire fence.

This is why it is so crucial to expose the widespread illusion about punishment and prisons. Some on the liberal side believe we can create humane facilities that will "cure" criminals of their errant behavior; many on the conservative side confuse prison and punishment by arguing that we should simply lock everyone up and "teach them a lesson."

The result is a national policy that stuffs our facilities with humans, half of them nonviolent, gives them nothing meaningful to do, then stands back in amazement when prisoners riot.

Punishment? Yes. Biblical justice demands it. And prisons are necessary to separate dangerous offenders from society. But confining nondangerous men and women with nothing to do, driving them to the brink of their sanity? No. In doing so, we can only expect more violence.

TRIBUTE TO J. WENDELL RAMEY

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. MURPHY. Mr. Speaker, one of my constituents, a good friend and a community leader in the Monongahela Valley, recently announced his retirement, and I wanted to take this opportunity to pay tribute for his many outstanding accomplishments.

As founder of the Mon Valley Community Health Center, J. Wendell Ramey created a comprehensive health and human service system that has helped tens of thousands of persons as well as served as a model for other areas in the United States. Upon his retirement, Wendell was chief executive officer of Southwestern Pennsylvania Human Services, Inc. During his professional career, he has also served as the chief executive of the Mon Valley United Health Services, the Mon Valley United Fund, and the Mon Valley Health and Welfare Authority. But his résumé cannot begin to recount the tangible results of his many efforts.

In the early 1960's, using a small grant from the local United Fund, Wendell developed the first comprehensive human services plan for the Mon Valley. Then, over the next two decades, he successfully sought out the available local, State, and Federal dollars needed to bring his ideas into reality.

Because of his work, the first visiting nurse service in the Mon Valley was created almost 20 years ago; virtually every community in the area has a senior citizen center; and unemployed persons can obtain affordable health care. In addition, every person in the Mon Valley has access to a whole array of services and programs made available through the Mon Valley Community Health Center.

What started out as one man with a concept and vision, grew and evolved into a health care system employing over 400 persons and serving over 2,100 persons each day. Over the years, literally millions of dollars were brought in the area's economy.

Countless lives have been touched through Wendell Ramey's efforts. When unemployment hit Mon Valley's steel workers and coal miners, the system Wendell created was there and no one was denied any service because of an inability to pay.

Wendell never sought the limelight of any personal honor or recognition. He preferred to work his "magic" behind the scenes while giving the credit to others. His ultimate goal was always the health and well-being of the residents of his Mon Valley, especially those who needed services the most.

For all those who have walked through the doors of the Mon Valley Community Health Center, for every handicapped person, for the children on their way to day care, for every senior citizen, for every unemployed person seeking a doctor, we thank you Wendell.

CLARA WILLIAMS—A MODEL FOR ALL

HON. GUS SAVAGE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. SAVAGE. Mr. Speaker, I am proud to take this occasion to pay tribute to an outstanding black woman—a mother, grandmother, and great grandmother, a teacher, a builder, and an honorary doctor and lawyer—Clara Williams.

Clara Williams is 100 years old today. In the past 100 years she has made her mark on her family, her community, and her people.

Born to sharecropper parents in 1885, Clara was taught the value of education and excellence at an early age. At 15 years of age, she won a 4-year scholarship to Prairie View State Normal and Industrial College where she did laundry to contribute to her board. She graduated with a teaching certificate, valedictorian of her class, and began teaching for $30 per month. In 1930, Clara Williams became the first black graduate of New Mexico State University where the entire class boycotted graduation services because of her presence.

Clara married Jaspar Williams in 1917, bore three sons, and instilled in all the commitment to family, community, and educational excellence. All three sons, Jaspar, James, and Charles, became physicians.

In 1946, Clara lost her husband, mother, and father. She joined her sons in Chicago upon her retirement in 1951 where they had interned at Providence Hospital, one of the few hospitals in the country to then accept blacks. In 1961, characteristically determined, Clara invested her entire life savings in a new medical center, the Jaspar Williams Clinic, now one of the busiest in Chicago's black community, serving over 100,000 patients a year with care and counseling. Not only do Clara's three sons serve the community at the clinic, but several of their sons, as well, have come aboard as physicians, and Clara worked in the clinic for 18 years, helping it to achieve its notable success.

Clara raised her sons "to never doubt that they could forge a better world." Her message has been instilled in her children, her grandchildren and the many others she has taught and touched, It is a message she has made a reality.

Clara Williams is a model for all to emulate—a brilliant, effective black woman. I proudly pay tribute and wish her an enormously happy and healthy 100th birthday.

A LIFE ALTRUISM

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. KANJORSKI. Mr. Speaker, it is my great pleasure to inform you and my fellow Members of the House of Representatives of the altruistic deeds of Mr. Jack S. Goodsir, of Wilkes-Barre, PA.

Mr. Goodsir is an extraordinary individual. He has time and again jeopardized his own safety in efforts to help others. On no less than eight occasions, Mr. Goodsir has felt compelled to risk his life for others.

Mr. Goodsir's rescue has occured in a variety of places. He rescued swimmers and a wind surfer at Myrtle Beach, SC, as well as two men from the cab of a Salvation Army truck that had crashed into a pole outside of his home. At home or a vacation, Mr. Goodsir's unselfish spirit shines through.

Mr. Goodsir is a man to be admired for his wholehearted concern for life. In the summer of 1965, he rescued two black children caught in a strong undertow at Alantic City. This rescue occurred at a time when a firm line still existed between black and white. However, Mr. Goodsir's concern forcused on the children and not their race. It is this type of caring for which Mr. Goodsir is to be commended.

Recognized as a local legend in the Wilkes-Bare area, Mr. Goodsir continues to exhibit concern for those who need his help. In times when it is often difficult to discern who genuinely cares for others, one can be assured that Mr. Goodsir cares. We have all benefited from the actions of men and women like Mr. Goodsir. It is reassuring to know that men like Mr. Goodsir continue to positively influence our lives.

Mr. Speaker, it is a pleasure and a privilege to be able to honor Mr. Goodsir's extraordinarily unselfish accomplishments.

RUNNING TO CALL ATTENTION TO ANIMAL ABUSE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. LANTOS. Mr. Speaker, in the aftermath of the much-heralded New York Marathon last weekend, it is obvious that people run for many reasons—for their health, a desire to compete, to associate with other runners. One young man, however, is running for a very different, and a very worthy reason—to draw attention to the inhumane treatment of animals through live experimentation, through animal shows, through hunting and trapping.

In July, Ron Sadowsky, a 38-year-old animal rights activist from Minnesota, left Boston to run 5,000 miles across the United States. Earlier this fall, he was here in Washington, DC, where he participated in a rally on the steps of the U.S. Capitol Building. Many national humane groups participated in that event.

In January, Mr. Sadowsky will arrive in Los Angeles. He has been running an average of 20 miles a day, 6 days a week. But he is also participating in a number of events and projects along his route to raise the public awareness of cruelty done to laboratory animals, of mistreatment of animals in shows and performances, of unnecessary pain inflicted through cruel trapping and hunting practices.

Mr. Speaker, Mr. Sadowsky's devotion is being expressed through positive action. His conviction is leading to greater awareness of animal abuse, and ultimately to greater protection of all creatures from pain and suffering. I commend him for this most praiseworthy effort.

RAINBOW NAVIGATION

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. HOWARD. Mr. Speaker, I rise to call to the attention of the House a situation wherein a small shipping company headquartered in a town in my district, Red Bank, NJ, has been the victim of unfair and perhaps illegal action on the part of three Government agencies. The facts will show that the Department of State, the Department of Defense, and the Maritime Administration have ignored provisions of the Cargo Preference Act of 1904 with respect to shipping military cargo to and from Iceland.

Rainbow Navigation is an American-flag shipping company which operates one general cargo vessel between Norfolk, VA and Keflavik, Iceland. Rainbow is the only American-flag carrier transporting military cargo between the United States and Iceland.

The Cargo Preference Act of 1904 directs the U.S. Government to use U.S.-flag carriers, if available, to transport Department of Defense cargo. Thus, in May 1984, Rainbow Navigation began operations. Subsequently, the Icelandic Government suggested that the United State military base at Keflavik, Iceland, might be closed if Icelandic carriers were not given some of the cargo carry business.

As previously noted in a letter that 18 of my colleagues and I signed and sent to the Secretary of State, the Secretary of Defense, and the Administrator of the Maritime Administration, I appreciate the security importance of cordial relations with the Government of Iceland. However, I want to be assured that the cargo preference laws enacted by Congress are enforced.

Rainbow, though eligible for 100 percent of the shipping trade, complied with a Department of Defense request that it accept only 60 percent of the cargo business, thereby leaving Icelandic carriers 40 percent of the trade; accordingly, Rainbow declined to exercise its option to charter a second ship from the Maritime Administration for the Icelandic trade. The U.S. Government offered to pay the Icelandic carriers the money which they would have received given 100 percent of the trade.

In spite of the good faith shown by Rainbow, the U.S. military—while Congress was in recess—began to divert westbound military cargo to military aircraft, thus squeez-

ing Rainbow Navigation out of business. Rainbow's first voyage carried 1,749 tons of military cargo and earned $237,452 in revenue. Twenty-one months later, on October 11, 1985, Rainbow carried only 24 tons of military cargo and received a mere $5,000 in revenue. Obviously, Government interference is successfully destroying an American business that has every right to engage in trade.

On August 8, Secretary of the Navy John Lehman determined that the freight charged by Rainbow Navigation is excessive and unreasonable. On that same afternoon, Rainbow received an unsigned and undated request for proposals from the Military Sealift Command for the carriage of military cargo to and from Iceland for a 6-month period beginning October 1. This RFP specifically states it will be open to foreign-flag vessels. The Cargo Preference Act, it should be noted, gives only the President the power to make such a determination. Rainbow charges the same rates as the Icelandic carriers. Also, the Rainbow carrier provides better service at an overall lower cost to the United States Government by shipping to a port closer to the military base than the Icelandic carriers.

Subsequently, Rainbow filed suit in the U.S. District Court for the District of Columbia for declaratory and injunctive relief, alleging that the actions of Secretary Lehman, the Military Sealift Command, and others were contrary to the 1904 act and the procurement statute and regulations, and to the Constitution and Civil Rights Act.

On October 15, the district court ordered the defendants to withdraw the requests for proposals on or after September 6, I am pleased that Rainbow's rights have been upheld by the court. But it is my hope that the U.S. Government will allow Rainbow to continue business as permitted under existing law. Our Government has no place in directing private business to foreign vendors for any reason, and certainly not at the expense of an American firm ready, able, and willing to continue serving American shipping.

ROD CHANDLER'S PHOTOGRAPHIC DISPLAY

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. MILLER of Washington. Mr. Speaker, opportunities to catch a glimpse of the nonpolitical talents of our colleagues are all too rare. So chances are, you didn't know that one of our colleagues, ROD CHANDLER, is an accomplished photographer.

I was delighted to kick off the opening in the Cannon rotunda of Mr. CHANDLER's beautiful photographic exhibit.

We all know what hectic and frequently chaotic lives Congressmen lead. We are spread between floor activities, committee meetings, and trips to our home States.

In spite of his schedule, Representative CHANDLER still takes time to appreciate nature—the mountains, streams, trees, and creatures God has created are captured so well in his photographs.

Most of the pictures were taken in Washington State, but there is also a collection from Oregon and from faraway places like Thailand and Sweden.

Mr. CHANDLER became an avid shutterbug in his early career as a Seattle television reporter. He took a few classes in photography, but really developed his skill by practicing. He also received lots of advice from his coworkers at the television station who lugged around heavy 16-mm cameras to cover stories.

His tools are a single-lens, reflex 35-mm camera and an eye for the world's peaceful and harmonious offerings.

We enjoyed this rare glimpse of our colleague and his world.

RETURN TRUST FUND MONEYS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Ms. OAKAR. Mr. Speaker, today I am introducing legislation that is of timely importance. My bill would require the U.S. Department of the Treasury to immediately begin paying interest on all amounts borrowed from the civil service retirement fund, the military retirement fund, the Federal supplemental insurance fund, and the Social Security trust fund.

Since October 1 of this year, Mr. Speaker, the Treasury Department has been borrowing from these trust funds to keep the Government running. Because the Treasury Department has not been investing in the trust funds, $8 million per day in interest has been lost. This disinvestment of the trust funds has consequently affected Federal and military retirees who will not receive benefit of the interest were it being paid.

Mr. Speaker, the Treasury Department is blaming their disinvestment action on the Congress for not acquiescing to their wish to raise the debt ceiling. Such an accusation is unconscionable and hides the real fact that the Treasury Department is holding the American people hostage to pay the national debt. This situation exists solely because the administration has run up a $212 billion deficit.

If the Federal Government is permitted to borrow money from the trust funds, Mr. Speaker, it should be required to pay interest to those funds. Federal military retirees and Social Security recipients are entitled to interest on the trust funds on which they rely for their retirement.

Mr. Speaker, my bill would correct this unfair practice by requiring the Treasury Department to pay interest on all amounts borrowed from the civil service retirement fund, the military retirement fund, the Federal supplemental insurance fund, or Social Security trust funds.

I look forward to its swift consideration and passage.

THE 20TH ANNIVERSARY OF FRESNO COUNTY'S ECONOMIC OPPORTUNITES COMMISSION

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. LEHMAN of California. Mr. Speaker, it is with great pleasure that I share with this House the recognition of a community action program in my district that has been providing the residents of Fresno County with invaluable community, economic, and development services for the past 20 years. The Fresno County Economic Opportunities Commission [FCEOC] is celebrating its 20th anniversary and I am honored to present this proclamation in recognition of its efforts. I hope to see the FCEOC continue its work long into the future.

The FCEOC is credited with providing invaluable community service in the areas of job training for low-income and rural residents, health and family planning services for those who cannot afford private health care, and many recreational and advisory activities for senior citizens in Fresno County. In this time of fiscal constraints, the efforts of the FCEOC become even more valuable and the people at the FCEOC respond by giving their constant attention to the needs of the community.

In 1973, the FCEOC initiated the development of Orange Cove Community Center which has served for the past 12 years as a facility where community groups can meet and discuss community development plans, where senior citizens can learn how to conserve energy, and where young people can go to learn how they can be trained for productive jobs. Without the energy and motivation of the staff at FCEOC, a facility like Orange Cove would not exist to provide the valuable social services for all residents. Projects like Orange Cove also offer residents the chance to lend a hand to those who need it.

I wish the Fresno County Economic Opportunities Commission the best of luck and I commend Joe Williams, executive director, and Luisa Medina, board chairperson, for their excellent work and contribution to the community of Fresno County. I applaud their 20 years of service and look forward to many more.

EULOGY TO KEITH M. GAFFANEY

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. MOORHEAD. Mr. Speaker, I have the sad task of notifying my colleagues in the U.S. House of Representatives of the death of a dear friend, a fine citizen, and a

beloved father and grandfather, Mr. Keith M. Gaffaney.

Keith Gaffaney died suddenly on October 19 in Sacramento, CA, doing those things he spent a lifetime doing so well. In the end, he was representing those causes which formed the core of his public life.

Last April, Mr. Gaffaney was unanimously elected as an honorary life member of the National Rifle Association, thus becoming only the 15th individual to be accorded the association's highest honor. This special tribute was in recognition of 35 years of dedicated service to the NRA. First elected to the NRA board in 1960, Keith Gaffaney served as vice president from 1979 to 1981 and as president from 1981 to 1983. He had been an executive councilman since 1983 and was serving on the legislative policy, membership and women's policies committees at the time of his death.

Mr. Gaffaney was active in many youth service organizations, sportsmen's groups, and State and local politics. He was a leader in the California Rifle & Pistol Association, serving as CRPA president and executive council member. He was a member of the California Wildlife Federation Board of Directors; he was president and founder of the United Sportsmen of California, and permanent chairman of the California Sportsmen's Round Table.

Before becoming a full-time representative for the NRA, Keith Gaffaney spent 30 years as a member of the Los Angeles Police Department. He retired from the LAPD in 1966 as assistant operations officer for the police academy. Since his departure from the police force, he has been a respected and effective lobbyist representing sportsmen and gun owners.

Mr. Speaker, I had known Keith Gaffaney for many years. He was a fine and treasured friend. I respected him as a fair and honest advocate for a cause not always void of polemics. I will miss his friendship, his humor, his sense of political balance, and his fundamental decency. Mr. Gaffaney is survived by his wife, Ruth, his son, Dennis, and two grandchildren.

IN MEMORY OF ALEX ODEH

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. CONYERS. Mr. Speaker, last week a memorial service was held in Washington, DC, for Alexander M. Odeh, the west coast regional director for the American-Arab Anti Discrimination Committee [ADC]. He was killed by a terrorist's bomb rigged to explode when he opened the door of his Santa Ana, CA, office the morning of October 11. Mr. Odeh, a man of peace, still largely unknown to many Americans, was the second tragic victim of the *Achille Lauro* hijacking.

Alex Odeh, who had been associated with ADC since it was founded in 1980, was a tireless organizer within the Arab-American community and a promoter, as well as a source of Arab-American pride. He strongly believed that a nonviolent solution could be found to the Israeli/Palestinian conflict in the Middle East through negotiation. He spent his last night speaking out on the hijacking, pointing out that violence only breeds violence. While he has been the target of many threats in the past. Alex Odeh's death still comes as a shock to those of us familiar with his efforts to combat terror and racism.

The hatred which caused the deaths of both Alex Odeh and Leon Klinghoffer has its roots in the unresolved problem of Palestinian homelessness. The failure of the United States and Israel to recognize the national rights of the Palestinian people remains an obstacle to peace in the Holy Land. The result has been years of bloodshed which has touched all of the countries in the region. Now, America finds itself a battleground.

Arab-Americans are the targets of increasing violence and public hostility. To some extent, the media is responsible for creating the misperception that all Arabs are the enemy of Israel, something which marks them as fair game for abuse. Alex Odeh was, in life, an example of how incorrect that perception can be. In death, he is another example of how innocent people in both communities fall prey to those who falsely believe that their actions will produce peace.

There is no reason to doubt that Leon Klinghoffer was murdered because he was Jewish, just as there is no doubt that Alex Odeh was murdered because he was an Arab. What is most important, however, is both men were noncombatants and both were Americans. Alex Odeh was killed for exercising his constitutional right of free speech in a country that values free political expression above all else. I, therefore, find his loss particularly disturbing because if we cannot openly discuss the Middle East problem here, there will remain little chance that Americans can help the Israelis and Palestinians make peace.

TRIBUTE TO EDNA SHERMER GROSSMAN, R.N.: VA NURSE

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. MRAZEK. Mr. Speaker, I ask my colleagues to join me in paying tribute to Edna Shermer Grossman, of Northport, NY, who was born on this day in 1905. At a time when there are deep concerns about the military medical system, it is especially fitting to recognize Edna's three decades of service as a registered nurse in the U.S. Navy and the Northport Veterans' Administration Hospital. Her professionalism and tender loving care demonstrate the very best that can be expected from the Nation's 63,000 VA nurses.

The 10.2 million active and retired soldiers and their dependents who rely by necessity on the military health-care system deserve high-quality medical services. During the past year, unprecedented reports of tragic cases of malpractice have prompted committees in both the U.S. House of Representatives and the Senate to examine whether armed services personnel are receiving substandard health care. A recent Department of Defense survey of 20,000 military households documented the widespread belief that civilians receive substantially better health care than the men and women who serve this country in the military. Apparently, inefficiency and lack of staff continuity contribute largely to this perception.

Recently, the Veterans' Administration itself recognized the urgent need to improve the Nation's largest health-care system in which more than 25 percent of the physicians in this country work full or part time. In 1984 alone, the Federal agency recorded over 20 million patient visits in 500 hospitals, outpatient clinics, and nursing homes. Over the same period, veterans hospitals reported almost 81,000 complaints from patients and other sources about quality of care and related issues. Clearly, we are facing a problem of national scope that demands immediate attention.

The point that I want to make today is that along with the problems there are many dedicated individuals in the military medical corps whose skill and compassion deserve recognition. And the quality of care not only hinges on the ability of the 46,000 VA doctors but also on the efforts of registered nurses, licensed practical nurses, nursing assistants, aides, and clerical staff.

This I know first hand from my experience in the Navy as a patient in the veterans' Administration Hospital in Norfolk, VA. And this I know from the humanity and special qualities of one of my constitutents, Edna Shermer Grossman, whose career as a registered nurse proves that one person, even in the midst of an enormous bureaucracy, can make a difference.

To mark this special day for Edna, and to encourage others to follow her example, it is appropriate that we recall a few of the highlights of a rich and varied life that her family and friends in Northport have shared with me.

In honor of the milestone that Edna passes today, I will ignore the evidence that she is the daughter of the first registered Republican in Davie County, NC—Tandy Meroney Shermer. Perhaps Tandy Shermer was forgiven for suffering that once rare affliction, having been incurably bitten by the bug in Cuba while fighting alongside Lt. Col. Theodore Roosevelt, the most famous Republican of the day. As a member of the volunteer cavalry known as the "Rough Riders" he served with distinction at the engagement of Las Gausimas and the battle of San Juan Hill. And it is still said—at least in the hollows of Davie County—that during the successful 1904 campaign to become 25th President of the United States, Teddy Roosevelt declared that he could have put a few more men like

Trooper Shermer to good use and ended the Spanish-American War even sooner.

Edna's mother, Minnie Lee Caton Shermer, must have been a Democrat at heart, at least judging from the names she chose for her nine sons and daughters: Willie Jo—the oldest daughter, "X"—that's right, just the letter X, Edna Viola "Tippy", Alpha "Alfy', Eulius "Sherm", Atlee "Sis", Lucy, Jerome "Buck", and Julia "Julie."

Forty-six years living in the North Shore, Long Island community of Northport have done little to erase either Edna's soft accent or mischievious sense of fun, which both trace to her childhood home in the small rural town of Advance, NC. Her arm still bears the scar from playing too near the big saw in the mill. And at times she will now admit that it was she who got the rest of the Shermer brood to sample rabbit tobacco.

Following her older sister into nursing was immediately appealing to Edna. She always had respect for Willie Jo, who has never seen either 5 feet in height or 100 pounds in weight, but would tell anyone who made fun of her boyish name "to go to hell." So Edna worked hard and became the youngest nurse in the State. In fact, a waiver of the state license requirement was needed to allow the new teen nurse to practice.

But there must have been times when Willie Jo—who became Edna's first nursing supervisor at City Memorial Hospital in Winston-Salem—wished Edna had instead chosen a career in farming, or even helping out at the local still, known formally as "Bailey's Liquor Manufacturer." One of these times most certainly was when the hospital administrator Dr. Whittington looked out his office window to see Tippy showing the other student nurses how to ride a horse around the hospital grounds. By the time she completed her training in 1925 and arrived in Greensboro to work at the Clinic Hospital as an RN, Tippy was sporting the first "Boots Bob" haircut in town and tearing up the countryside in a Ford roadster with a rumble seat.

In 1929, Edna left North Carolina to join the Navy and see the world. Instead, she spent the depression seeing whistle-stop tours of duty in hospitals up and down the eastern seaboard: Brooklyn, Miller's Falls, Waterbury, Manhatten, Lincolnton, Salisburg, and back to New York.

Finally in 1939 Edna was able to settle down, moving to Northport where she has lived ever since. There she began the challenging work of attending psychiatric patients in the VA hospital. In those days tranquilizers and restraints were rarely, if ever, used. Edna's children, Lillian Lee and Bill, remember times when Edna would return from work not only exhausted, but bruised. But they also remember the respect and dignity she always accorded all of her charges, including those patients with grounds privileges who she would introduce to the children with full name and rank each day when they met her after work at the hospital.

Over the years Edna cared for thousands of patients, including men from Admiral Byrd's polar exploration, the gangster "Baby Face" Nelson, Gene Tunney, and other well known people who for a variety of different reasons passed through her ward. The stories she tells about these experiences convey the secret of her success as a nurse: she enjoyed her work and tried to treat every patient as an individual human being.

There are many examples of Edna's basic kindness and how creative she could be within a bureaucracy to satisfy a patient's needs. During the time she was put in charge of a "colored ward" in a Southern hospital, she built an incubator and saved a premature baby's life when the necessary equipment was removed from her ward to treat a white child. And once during the Second World War, a French deserter being treated in Northport had to be moved to another more secure facility. For some unfathomable reason, the Frenchman steadfastly refused to leave the psychiatric ward until he had a new "chappeau." It was obvious that the usual channels for Government procurement did not offer a fast solution, but Edna was unwilling to simply ignore the seriously disturbed man's request. We will never know if he appreciated the collection Edna took up among the staff to buy a beret, or whether the gesture had any therapeutic benefit, but once he had his hat the Frenchman did leave the ward voluntarily, without the assistance of the burly orderly waiting in the wings.

After Edna retired in 1966 it took a long time for her seven grandchildren to get accustomed to her out of her white nurse's uniform. Until then she would go off duty at the same time they returned home from school and wouldn't bother to change before joining them in a game of baseball. Once she had to sheepishly admit to her own doctor that she had broken her hand bare-handing a line drive. "I should have gloved the damn thing," she disgustedly explained.

The tykes, as she called the grandchildren, were never quite sure what all the fuss was about Gram's nursing ability. At night when you were ill, didn't she always switch on the light, wake you up and ask if you were OK? And didn't she catch and recycle every drop of the medicine you tried to squirt out of the corner of your mouth? As far as they could see the only benefits of her nursing were the stray alley cats she brought home from the hospital grounds, and the annual VA Christmas party where they got to see grown ups in pajamas during the middle of the day.

Well, maybe some day they will remember more than the trips to New York City, swimming lessons at Crabmeadow Beach, on the Cow Harbor dock, painting landscapes at the Old Northport Golf Course, and the wild rides in her Carmen Ghia along Fort Salonga Road. some day they will understand, and her four great-grandchildren will learn, what an outstanding contribution she made in her profession and what an inspiration she is to us all.

After hearing from so many of Edna's friends and neighbors in the Third Congressional District, it is reassuring for me to know that she does not have aspirations to represent the district in Congress. So on behalf of all who wish Edna and her husband Alexander well, I thank my colleagues for joining me in a tribute richly deserved.

MIAMI HERALD COLUMN ON SDI RAISES VALID ARMS CONTROL CONCERNS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. FASCELL. Mr. Speaker, as the debate over the President's strategic defense initiative [SDI] rages on, proponents and opponents continue to refine the debate over its desirability and practicality. However, the basic arguments remain the same.

In the House Foreign Affairs Committee's May 1984 Interim Report on U.S. Policy concerning the SDI and antisatellite weapons, many of the concerns raised by these programs were outlined. Namely, these included the SDI's adverse impact on arms control, its potential for undermining the ABM Treaty, and the potential alienation of our allies.

An important column on this subject appeared in the Miami Herald of October 13. In that column, Associate Editor Joanna Wragg, raises several points that Congress should consider in its deliberations on the SDI:

First, if the SDI is pursued as a development program "it can only ignite another round of inflationary arms spending by both nations."

Second, an imperfect shield defense "would require years to develop [and] provides an incentive for the Soviets simply to build more weapons to compensate" for our improved defenses.

Third, "No rational government would stand by while the retaliatory impact on which it depends is effectively cut by half or more. Rather, it will compensate probably in cruise and submarine-launched missiles; because of their low trajectories, the SDI could not stop them."

Fourth, "A truly missile-proof net would be wonderful—assuming that the Soviets would stand peaceably by while it was assembled. But to believe in a foolproof defense is to be a fool, as the French discovered when Minister of War Andre Maginot's defense line crumbled in World War II."

Fifth, our European allies are very wary of the SDI. The SDI "is a plan for an umbrella that they can't squeeze under. They would be left vulnerable to Soviet aggression as never before. To them, Star Wars represents a multibillion-dollar proof of U.S. isolationism."

These and other valid points raised in Ms. Wragg's column will be the subject of ongoing hearings conducted by the Foreign Affairs Subcommittee on Arms Control, International Security and Science, which I

chair. We will continue to monitor and evaluate the SDI Program emphasizing the need for SDI-related research as allowed under the ABM Treaty as a way to keep apprised of technological developments in the area and as a hedge against possible Soviet breakout from the ABM Treaty.

The Miami Herald column by Joanna Wragg follows:

[From the Miami Herald, Oct. 13, 1985]

'STAR WARS' IS PIE IN THE SKY

(By Joanne Wragg)

Ideas, are dangerous and unreliable allies, as any revolutionary or would-be censor can attest. They can fall into the "wrong" hands and be twisted to serve ends that embarrass their early proponents. That is precisely how the quasi-pacifist nuclear-freeze movement came to produce the idea on which the Reagan Administration's "Star Wars" initiative rests.

That freeze movement promoted the notion that the two superpowers' nuclear-arms buildup is "immoral." The President snatched that idea and bent it to serve a very different strategy. He justified "Star Wars" as a way to "end nuclear weapons," a goal that the peace movement popularized.

"Star Wars"—the strategic defense initiative (SDI)—is the President's proposal for a defensive system that could destroy incoming Soviet intercontinental ballistic missiles (ICBMs) well before they reached the United States. No such system now exists. The NORAD complex headquartered in Cheyenne Mountain, Colo., is designed merely to *warn* the U.S. and Canadian governments when they are under Soviet nuclear attack, so that a decision on retaliation can be made. The system can't stop that attack. Neither can the Soviets stop U.S. missiles.

Each superpower now possesses enough nuclear warheads, along with the missiles, airplanes, and submarines to deliver them, to obliterate the other several times over. The theory is that a rational enemy will not launch a "first strike" if he believes that the retaliatory "second strike" will destroy his nation. Strategists on both sides thought the world safer with each thus armed with an awesome second-strike capacity. In the two generations of the nuclear age, the northern hemisphere has enjoyed a remarkable absence of war under the superpowers' nuclear umbrella.

This theory of mutual assured destruction bears the unsettling acronym of MAD. It hinges on the enemy's good sense. It leaves the American people's safety uncomfortably dependent upon the Kremlin's sanity. So when the peace movement persuaded the public that the threat implict in the deterrence strategy was "immoral," the stage was set for the Administration to seek to reduce that threat.

The result is the SDI. If used as a bargaining chip, it might yet serve the interests of peace. If pursued as a development program, however, it can only ignite another round of inflationary arms spending by both nations.

At a recent editors' seminar at the Air Force Academy in Colorado Springs, home of NORAD and the Unified Space Command, I heard expositions and debates that included representatives of every military, civilian, and scientific point of view on the subject. Speakers ranged from Reagan Administration arms-agency chief Kenneth Adelman to arch-critic and astronomer Carl Sagan. Their conflicting arguments made the issue unexpectedly clear.

First, it's evident that basic strategic-defense research should continue. Research on related computers and sensors already was funded at about $900 million per year before the President announced his megabucks initiative. That research eventually might make possible a targeted defense program that could guard against a single ICBM shot by a Khadafy-type renegade. That would be worth having even if the Soviets suddenly converted to our side.

The multibillion-dollar SDI, however, would move quickly toward development and testing of space-based weapons that would shoot down incoming missiles—some day. For now, it is not possible to produce an SDI network that is 100 percent, or even 50 percent, effective. Not even Mr. Adelman contends that it is. A 90-percent screen still would allow about 1,000 Soviet nuclear missiles to hit the United States.

Such a permeable line, which would require years to develop, provides an incentive for the Soviets simply to build more weapons to compensate for the net. Thus Stars Wars can only accelerate the arms race and render an arms-reduction treaty impossible. No rational government would stand by while the retaliatory impact on which it depends is effectively cut by half or more. Rather, it will compensate, probably in cruise and submarine-launched missiles; because of their low trajectories, the SDI couldn't stop them.

A truly missile-proof net would be wonderful—assuming that the Soviets would stand peaceably by while it was assembled. But to believe in a foolproof defense is to be a fool, as the French discovered when Minister of War Andre Maginot's defense line crumbled in World War II. Star Wars advocates like to invoke the successful campaign to go to the moon as an example of America's can-do technology. They neglect to point out, as Dr. Sagan gleefully does, that the moon was not shooting back. A contest between clever, highly motivated adversaries never ends.

Moreover, it is unreasonable to expect an adversary to trust us. Most Americans suspect that the Soviets would bury the United States if they thought they could get away with it. That prudent assumption should continue to guide U.S. policy. But Americans cannot afford the naivete of believing that the Soviets share our view that we are the good guys. They don't. They know that, no matter what our President says, a defensive shield that takes the "M" out of MAD would set us up for a first strike against them.

The nations of Western Europe don't like Star Wars either, and with good reason. It is a plan for an umbrella that they can't squeeze under. They would be left vulnerable to Soviet aggression as never before. To them, Star Wars represents a multibillion-dollar proof of U.S. isolationism. No wonder Soviet Premier Mikhail Gorbachev is seizing this opportunity to play peace maker in Western Europe.

For all these reasons, and because the program would soak up engineers, metallurgists, and mathematicians who are desperately needed in private industry, the President ought to reconsider. He has said that the SDI was not conceived as a bargaining chip for Geneva. He probably meant it at the time, but he can afford to change his mind. The nation and the world, however, cannot afford for him not to.

NO PRODUCTION FUNDS FOR THE BIGEYE BOMB

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. MAVROULES. Mr. Speaker, I want to join my colleague, DANTE B. FASCELL, chairman of the Foreign Affairs Committee, in praising the action taken by the Appropriations Committee on October 24 striking out funds for new nerve gas weapons. I am including here Chairman FASCELL's statement. He points out how this new chemical weapons program is proclaimed to be a modern and safe replacement for our current stockpile of chemical weapons when, in fact, it is a request to fund weapons which are judged not ready for production by our own GAO and which may prove to be unsafe. His conclusion clearly summarizes the persuasive foreign policy, defense, arms control, and budgetary reasons why Congress should not fund this program.

Our colleagues, Chairman FASCELL and Representative JOHN PORTER, have provided excellent leadership on the chemical weapons issue in the House of Representatives. They have tried to present to all their colleagues the facts on the binary nerve gas weapons program. When they have sensed problems in the program they have investigated themselves and they have asked the GAO to investigate. As Chairman FASCELL so aptly puts it in his statement, "Every time I've asked GAO to take another look at the Bigeye they turn up new technical problems and persistent test failures." It is their judgment and the recommendation to Congress by the GAO that Congress should not appropriate funds for this binary nerve gas weapons production.

I am also including here an editorial which appeared on October 23 in the Boston Globe. That editorial entitled, "Another Flawed-Weapon Plan That Needs Scrapping", also underscores the severe and persistent testing problems of the Bigeye bomb. The editorial has an important instructional message for Congress, Congress should not make decisions to fund production of weapons systems until those weapons have successfully completed their testing programs.

Chairman FASCELL's statement and the editorial follow:

STATEMENT BY HON. DANTE B. FASCELL

FASCELL LAUDS APPROPRIATIONS COMMITTEE ACTION STRIKING OUT FUNDS FOR NERVE GAS WEAPONS

Commenting on the Appropriations Committee decision to delete funds for binary production, Rep. Dante B. Fascell (D-FL), Chairman of the House Foreign Affairs Committee said: "Today's vote by the Appropriations Committee to delete funding for new binary nerve gas weapons is the right vote at the right time. Thanks to the leadership of Rep. John Porter (R-IL), the Appropriations Committee decided the issue of new nerve gas weapons on its merits and

voted not to appropriate funds for their production."

The Chairman said he sent a letter to Members of the Appropriations Committee detailing new information about the Bigeye bomb and its testing failures. In that letter Fascell pointed out: "The GAO has recommended for three consecutive years that the Congress should not appropriate the $163 million requested for the binary production program." Fascell added: "Every time I've asked GAO to take another look at the Bigeye they turn up new technical problems and persistent test failures. The news on the Bigeye bomb and on the 155-mm artillery projectile is bad and may get worse if we begin production. Leaks, nitrogen bulges, and hot spots burning holes in artillery cannisters and bombs which can still explode from pressure buildup on runways or before hitting their targets don't reassure me that we will be providing our troops the safe, reliable weaponry that they deserve."

Chairman Fascell concluded: "This vote by the Appropriations Committee states clearly that we do not need a weapons system which is not needed, does not work, has not been proven safe for our troops, will cost the U.S. taxpayer billions of dollars, will harm the NATO alliance, will risk proliferation, and will jeopardize chances for a negotiated solution with the Soviet Union."

[From the Boston Globe, Oct. 23, 1985]

ANOTHER FLAWED-WEAPON PLAN THAT NEEDS SCRAPPING

(By Elisa D. Harris and Jeanne Guillemin)

Defense Secretary Caspar Weinberger's recent decision to cancel the fatally flawed Sgt. York Division Air Defense gun (DIVAD) should serve as a lesson for government officials in charge of weapons programs. The $1.8 billion mistake was the result of a 1977 Pentagon decision to start production of the gun before the system had successfully completed its tests.

Now Congress is once again considering funding the production of a costly weapon still in the testing stage. This time it is "Bigeye," an aircraft-delivered nerve gas bomb with a price tag of more than two billion dollars.

Since 1982 the Pentagon has sought congressional approval for Bigeye bomb production before confirming the reliability of the system by adequate tests. In reports issued in April 1983 and October 1984, the General Accounting Office identified a range of serious, unresolved problems: physical damage to the bomb casing due to high temperature and increased pressure during delivery, questions about the purity and toxicity of the enclosed chemical agent, and the vulnerability of Bigeye delivery aircraft to enemy air defenses.

These findings, together with reluctance to break a long-standing moratorium on nerve gas production, led Congress in 1982, 1983, and again in 1984 to reject the Pentagon's request.

This year Congress appears on the verge of approving chemical weapons production for the first time in 16 years. Its members thus risk supporting production of a system that looks good on the Pentagon drawing board but which later turns out to have major defects.

The Bigeye bomb's test history is filled with instances of crucial test data being withheld from the Pentagon and congressional committees, as well as questionable interpretations of test results. In October 1982 a chemical-mixing test resulted in a surprise explosion of the bomb. This setback was not reported to the Office of the Secretary of Defense until December 1982, and not to Congress until January 1983.

In an August 1985 letter report to House Foreign Affairs Committee Chairman Dante Fascell, the GAO suggested that, using the Pentagon's own test criteria, the number of successful Bigeye tests claimed by the Department of Defense could not possibly be correct.

The same report took issue with the Pentagon's assertion that tests had confirmed the solution of Bigeye's pressure problem. The GAO wrote, "[T]he pressure buildup problem has been sidestepped by DoD and has not been resolved—the bomb could still blow up."

In the case of Sgt. York—and now with Bigeye—the Army has repeatedly maintained that performance specifications were being met and that the system was fit for production. Until the end, the Army insisted that Sgt. York was essential to the defense of Europe and that its various technical and operational problems could be resolved. Likewise, in Senate testimony on Feb. 28, 1985, Thomas Welch, deputy assistant secretary of defense for chemical matters, claimed, "All the problems have been fixed. The Bigeye today is a success story."

Yet only last month, in still another report to Congress, the GAO concluded that Bigeye bomb production is premature because "numerous, critical technical issues" remain unresolved.

The GAO is right about the Bigeye bomb. Both Congress and the Pentagon should have learned from their multibillion dollar mistake that weapons systems should not be produced until successfully tested and that such tests must be conducted openly and honestly.

Congress will soon have another opportunity to reject Bigeye bomb production when it considers the 1986 defense appropriations bill. The lesson from the Sgt. York is: weapons systems that don't work should not be funded.

GRAMM/RUDMAN

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. MORRISON of Connecticut. Mr. Speaker, I would like to bring to the attention of my colleagues letters from three low-income advocacy groups which raise serious questions about the Gramm-Rudman proposal and its likely effect on low-income people.

COALITION ON BLOCK GRANTS AND HUMAN NEEDS,
Washington, DC, October 11, 1985.

DEAR REPRESENTATIVE: The Coalition of Block Grants and Human Needs believes that the Gramm-Rudman approach to deficit reduction will be greatly detrimental to those with the greatest need in our society, those who suffered the brunt of past budget cuts.

If any such legislation is to be adopted, we believe it must exempt means tested entitlements and low income discretionary programs.

The Gramm-Rudman amendment, H.J. Res. 372, exempts Social Security and as much as 40 percent of the defense budget, then automatically allocates, by formula, the reductions necessary to meet specified deficit targets. This procedure unavoidably focuses deficit reduction on vital means tested entitlements and programs for health, education and other supports on which the poor depend. Since 1981, $56 billion has been cut from human resource programs, including $34 billion from those targeted specifically to poor people. It would be grossly unjust to protect defense contractors and middle and upper income Social Security recipients from cuts while letting them fall on the poor and others with special needs.

During this year's budget debate, bipartisan majorities in both houses accepted the principle that low income programs should bear no further reductions. We believe the same commitment should extend to consideration of any deficit reduction measure.

The Coalition on Block Grants and Human Needs consists of over 100 religious, civil rights and labor organizations and others concerned about the needs of the poor, minorities, women, children, the disabled and elderly.

While we share your concern about the seemingly uncontrollable deficit, we believe that a measure which automatically puts the burden on low income programs is both unwise and unfair.

Sincerely,

SUSAN REES,
Executive Director.

NATIONAL LOW INCOME HOUSING COALITION,
Washington, DC, October 15, 1985.

DEAR REPRESENTATIVE: On behalf of the members of the National Low Income Housing Coalition, I urge you to reject the Gramm-Rudman budget proposal as an unbalanced, unfair and desperate attempt to reduce the national deficit through draconian cuts in discretionary domestic spending programs which benefit low income people. While the Gramm-Rudman proposal purports to mandate "across the board" reductions in the federal budget deficit through automatic cuts, major program areas—including Social Security, large portions of defense, and all tax expenditures—are off limits. The result is that programs which serve the poor must bear a share of automatic spending reductions equal to as much as twice their share of the federal budget.

We are particularly concerned about the impact of Gramm-Rudman on low income housing programs. Because the proposal requires reductions in budget authority to be matched by outlay reductions, housing appropriations would have to be eliminated entirely to meet the targets. This is due to housing's unique use of long-term budget authority.

Since 1981, budget authority for low income housing subsidies has been slashed by over 60 percent. The Section 8 new construction and substantial rehabilitation programs have been repealed. The bulk of the inadequate subsidies in today's HUD budget is in existing housing subsidies.

I ask that you vote to maintain the authority of Congress to set budget and spending priorities and not to rely on automatic spending reductions or Presidential discretion. Reject the Gramm-Rudman proposal. At the very least, any eventual proposal should exclude all means-tested low income programs such as low income housing.

Sincerely,

BARRY ZIGAS,
President.

CENTER FOR LAW
AND SOCIAL POLICY,
Washington, DC, October 18, 1985.

DEAR REPRESENTATIVE: The Center for Law and Social Policy urges you to fully and carefully consider the effect of the Gramm-Rudman approach to deficit reduction on the poor and vulnerable before voting upon it. If Gramm-Rudman or similar legislation is to be adopted, we believe means-tested entitlements as well as discretionary programs serving primarily low-income populations and people with disabilities must be exempted from its provisions.

As you know, programs for the poor have been subject to enormous budget cuts since 1981. More than thirty-four (34) billion dollars has been eliminated from programs serving poor families and children, including decreases in AFDC, food stamps, child nutrition, health, housing, legal services and job training. As a result poverty among single-parent families with children has increased dramatically. In consideration of this, during this year's budget debate, bipartisan majorities of both House of Congress accepted the principle that low-income programs should bear no further reductions. We believe the same commitment should extend to consideration of any deficit reduction measure.

Yet, under Gramm-Rudman, programs assisting the poor will bear a share of automatic spending reductions equal to as much as twice their share of the federal budget. This is morally unjustifiable.

Moreover, because of the ambiguous language of the bill, it is possible that both entitlement and non-means tested programs, such as education of children with disabilities, immunizaiton, foster care, and adoption assistance programs will lose so much funding as to be incapable of delivering the services that Congress intended them to deliver when they were enacted and reauthorized. At the very least, the kinds of funding reductions encompassed within Gramm-Rudman will result in cuts in personnel that will cause disruptions in such other essential functions as law enforcement, the courts, air traffic control, management of public lands, tax collection, processing of Social Security and other benefit checks, and operation of VA and other publicly-funded health facilities.

Clearly something must be done to control the deficit. To do so fairly and equitably, all defense spending and Social Security should be included in the base amount available for reduction. In addition, tax reform which contains a minimum corporate tax and closes loopholes available to upper-income taxpayers must be a priority.

We appreciate your attention to altering the Gramm-Rudman bill, and would be happy to assist you in your work on achieving deficit reductions that are both effective and fair.

Sincerely,

ALAN W. HOUSEMAN,
Director.

THE MEDICARE FAIR HOSPITAL DEDUCTIBLE ACT OF 1985

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 28, 1985

Mr. ROYBAL. Mr. Speaker, today I rise to introduce the Medicare Fair Hospital Deductible Act. This bill will limit increases in the hospital deductible and nursing home coinsurance to no more than the lesser of increases in Medicare's DRG payments or Social Security's COLA—an indicator of the elderly's ability to pay for health care. Nursing home coinsurance will be reduced from one-eighth of the hospital deductible to one-twelfth. Finally, full nursing home coverage will be extended by 5 days to give seniors some relief from the "sicker and sooner" problem of early hospital discharges.

Why is this legislation so critical? Just a few weeks ago, we were all shocked by the upcoming increase in Medicare's hospital deductible and nursing home coinsurance for 1986. While the increase for 1985 was already an unacceptable 12 percent, no one was prepared for the unreasonable increase of 23 percent which the elderly face for 1986. This 23-percent increase is even more excessive when you consider that the Social Security COLA for 1986 is only 3.1 percent. This situation is intolerable and requires some remedy.

While most of my colleagues probably agree with the need to hold down the hospital deductible and nursing home coinsurance, they are also concerned about the fiscal impact. For this reason, we have attached a revenue enhancing provision whereby the cigarette excise tax will be increased by 8 cents, indexed to the Consumer Price Index, and earmarked for the Medicare hospital trust fund. The estimated $4.8 billion in added revenues over the next 3 years will not only cover the cost of the above hospital deductible and nursing home coinsurance provisions—about $3.7 billion—but will give the trust fund and the Federal budget a much needed "revenue tranfusion" of over $1 billion.

Already many congressional offices are receiving mail from senior citizens who are angry about the massive increase. This is only the beginning. Soon, the elderly will receive insurance company notifications of what impact this increase will have on Medigap policies. If this Congress does not act soon, senior citizens entering the hospitals after January 1 will face the $492 deductible—$92 higher than last year. As we all know, the mail will begin to flow and with good reason.

In a July study conducted by the Committee on Aging, we documented that the elderly are already spending more of their income today for health care than when Medicare and Medicaid began nearly 20 years ago. Even without this massive increase in the hospital deductible, the situation was going to get much worse. Even with a hospital deductible less than the $492, the elderly are projected to spend $2,583 for health care in 1990—nearly 19 percent of their income. This is substantially higher than the already excessive 15 percent they are paying today.

I believe that the vast majority of my colleagues agree that the elderly are already paying too much out of pocket for health care and that these increases in the hospital deductible and nursing home coinsurance are too much for the elderly to absorb. For this reason, I urge my colleagues to throw their support behind the Medicare Fair Hospital Deductible Act. Only if this legislation is passed quickly can the Congress protect America's elderly and disabled from being hit with the $92 increase starting in January.

I ask that the Medicare Fair Hospital Deductible Act text be printed in the RECORD.

H.R.3630

A bill to amend part A of title XVIII of the Social Security Act to limit the rate of increase in the inpatient hospital deductible and to change the extended care coinsurance amount and to amend the Internal Revenue Code of 1954 to increase by 8 cents per pack the excise taxes on cigarettes and to earmark revenues from the tax increase to the Federal Hospital Insurance Trust Fund

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

SECTION 1. SHORT TITLE.

This act may be cited as the "Medicare Fair Hospital Deductible Act".

SEC. 2. LIMITING RATE OF INCREASE OF PART A INPATIENT HOSPITAL DEDUCTIBLE AND NURSING HOME COINSURANCE.

(a) INPATIENT HOSPITAL DEDUCTIBLE.—Section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)) is amended—

(1) in the first sentence, by strking out "between July 1 and October 1 of 1968, and of each year thereafter" and inserting in lieu thereof "not later than November 15 of each year", and

(2) by amending the second sentence to read as follows: "Such inpatient hospital deductible shall be equal to the lesser of the following:

"(A) $45 multiplied by the ratio of (i) the current average per diem rate for inpatient hospital services for the calendar year preceding the promulgation, to (ii) the current average per diem rate for such services for 1966.

"(B) The inpatient hospital deductible for services furnished in the preceding year increased by the lesser of the following percentages:

"(i) The percentage increase (if any) as applies for purposes of DRG prospective payment rates under section 1886(b)(3) or 1886(e)(4) (whichever is applicable) to discharges in the fiscal year which begins on October 1 in the year of promulgation.

"(ii) The applicable increase percentage (relating to the annual cost-of-living increase in OASDI benefit payments) determined under section 215(i) in the year of promulgation.".

(b) EXTENDED CARE COINSURANCE AMOUNT.—

(1) APPLICATION BEGINNING ON 25TH DAY OF EXTENDED CARE SERVICES.—Section 1813(a)(3) of the Social Security Act (42 U.S.C. 1395e(a)(3)) is amended by striking out "20" and inserting in lieu thereof "25".

(2) REDUCTION TO ONE-TWELFTH OF HOSPITAL INSURANCE DEDUCTIBLE.—Such section is further amended—

(A) by striking out "one-eighth" and inserting in lieu thereof "one-twelfth", and

(B) by adding at the end the following new sentence: "Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1 (or, if it is midway between two multiples of $1, to the next higher multiple of $1).".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to—

(A) inpatient hospital services furnished during a spell of illness beginning on or after January 1, 1986,

(B) extended care services furnished on or after January 1, 1986, and

(C) monthly premiums under section 1818 of the Social Security Act for months beginning with January 1986.

(2) New determination of inpatient hospital deductible and extended care coinsurance amounts.—Within 15 days after the date of the enactment of this Act and taking into account the amendments made by this section, the Secretary of Health and Human Services shall redetermine and repromulgate the inpatient hospital deductible, and the extended care coinsurance amount, which will apply for purposes of section 1813(a) of the Social Security Act for inpatient hospital services and extended care services furnished during 1986 and the monthly premium that will apply for purposes of section 1818 of the Social Security Act for months in 1986.

SEC. 3. INCREASE IN FEDERAL EXCISE TAX ON CIGARETTES AND APPLICATION OF INCREASE TO FEDERAL HOSPITAL INSURANCE TRUST FUND.

(a) INCREASE IN CIGARETTE TAXES.—Section 5701 of the Internal Revenue Code of 1954 (relating to the imposition of tax on cigarettes) is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

"(3) ADDITIONAL TAXES.—In addition to the rates under paragraphs (1) and (2) and subject to subsection (f)—

"(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $4 per thousand.

"(B) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, $8.40; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette."; and

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

"(f) COST-OF-LIVING ADJUSTMENTS IN RATE OF ADDITIONAL TAX ON CIGARETTES.—

"(1) IN GENERAL.—In the case of cigarettes removed during a fiscal year after fiscal year 1986, subsection (b)(3) shall be applied by increasing each dollar amount contained therein by the cost-of-living adjustment for such fiscal year.

"(2) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (1), the cost-of-living adjustment for any fiscal year is the percentage (if any) by which—

"(A) the CPI for the preceding fiscal year, exceeds

"(B) the CPI for fiscal year 1985.

"(3) CPI FOR FISCAL YEAR.—For purposes of paragraph (2), the CPI for any fiscal year is the average of the Consumer Price Index as of the close of the 12-month period ending on July 31 of such fiscal year.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) CONSUMER PRICE INDEX.—The term 'Consumer Price Index' means the last Consumer Price Index for all urban consumers published by the Department of Labor.

"(B) FISCAL YEAR.—The term 'fiscal year' means the 1-year period ending on September 30 of the calendar year to which such term relates.

"(5) ROUNDING.—Any increase under paragraph (1) shall be rounded to the nearest cent (or if such increase is a multiple of ½ cent, such increase shall be increased to the next highest multiple of 1 cent)."

(b) FLOOR STOCKS.—

(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before November 15, 1985, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $4 per thousand; and

(B) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, $8.40 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on Novermber 15, 1985, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1954 and shall be due and payable on January 1, 1986, in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on November 15, 1985.

(3) CIGARETTE.—For purposes of this subsection, the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1954.

(4) EXCEPTION FOR RETAILERS.—The taxes imposed by paragraph (1) shall not apply to the cigarettes in retail stocks held on November 15, 1985, at the place where intended to be sold at retail.

(c) APPLICATION OF ADDITIONAL TAXES TO FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817(a) of the Social Security Act (42 U.S.C. 1395i(a)) is amended—

(1) by striking out "and" at the end of paragraph (1),

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

(3) by inserting after paragraph (2) the following new paragraph:

"(3) the taxes imposed by section 5701(b)(3) of the Internal Revenue Code of 1954.".

(d) EFFECTIVE DATES.—

(1) TAX INCREASE.—The amendments made by subsection (a) shall apply to cigarettes removed after November 14, 1985.

(2) DEPOSIT OF INCREASE INTO TRUST FUND.—The amendments made by subsection (c) shall apply to taxes imposed on cigarettes removed after December 31, 1985.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 29, 1985, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 30

9:00 a.m.

Armed Services

Strategic and Theater Nuclear Forces Subcommittee

To hold hearings on policy and technology objectives of the Strategic Defense Initiative (SDI) program.

SR-232A

9:30 a.m.

Banking, Housing, and Urban Affairs

International Finance and Monetary Policy Subcommittee

To hold hearings on S. 1763, to clarify U.S. negotiating goals in seeking to eliminate predatory concessional financing in the form of tied aid and partially untied aid credits.

SD-538

Environment and Public Works

To hold oversight hearings on the Department of Energy's high-level radioactive waste disposal program.

SD-406

Foreign Relations

To hold hearings to review United States policy toward the Philippines.

SD-419

Judiciary

Patents, Copyrights and Trademarks Subcommittee

To hold hearings on S. 1739, Home Audio Recording Act.

SD-562

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD-430

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

10:00 a.m.

Appropriations

Defense Subcommittee

Business meeting, to mark up proposed legislation appropriating funds for fiscal year 1986 for the Department of Defense.

SD-192

Judiciary

Criminal Law Subcommittee

To hold hearings on S. 440, Computer Systems Protection Act of 1985, and other computer fraud related measures.

SD-226

Select on Indian Affairs

Business meeting, to mark up S. 1684, to declare that the U.S. holds certain Chilocco Indian School lands in trust

for the Kaw, Otoe-Missouri, Ponca, and Tonkawa Indian Tribes of Oklahoma, S. 1728, to authorize the Cherokee Nation of Oklahoma to lease certain lands held in trust for up to ninety-nine years, S. 1298, to coordinate and expand services for the prevention, identification, and treatment of alcohol and drug abuse among Indian youth, S. 1621, to revise the Indian Education Act Amendments of 1978, by defining the eligibility of children who attend the Bureau of Indian Affairs funded schools, and S. 1396, to settle unresolved claims relating to certain a lotted Indian lands on the White Earth Indian Reservation in Minnesota.

SD-138

Conferees
On H.R. 3036, appropriating funds for fiscal year 1986 for the Department of the Treasury, U.S. Postal Service, Executive Office of the President, and certain independent agencies.

H-164, Capitol

11:00 a.m.
Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on the effects of domestic violence.

SD-628

1:00 p.m.
Judiciary
Courts Subcommittee
Business meeting, to mark up S. 704, to establish an Intercircuit Panel of the United States Courts of Appeals to decide cases referred by the U.S. Supreme Court.

SD-226

2:00 p.m.
Judiciary
To hold hearings on pending nominations.

SD-226

3:30 p.m.
Select on Ethics
To meet in closed session to consider pending business.

SH-220

OCTOBER 31

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the financial condition of the farm credit system, and to discuss possible legislative remedies.

SR-328A

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S. 240, to start daylight savings time on the first Sunday of March, and S. 1433, to start daylight savings time on the first Sunday of April and to end it on the first Sunday of November.

SR-253

*Energy and Natural Resources
Business meeting, to consider pending calendar business.

SD-366

Foreign Relations
To hold hearings to review certain defense issues, focusing on nuclear strategy, ballistic missile defense, and arms control.

SD-419

Veterans' Affairs
Business meeting, to mark up S. 1788, to increase the rates of disability compensation for disabled veterans and the rates of dependency and indemnity compensation for surviving spouses and children of veterans.

SR-418

10:00 a.m.
Judiciary
Business meeting, on pending calendar business.

SD-226

Labor and Human Resources
Employment and Productivity Subcommittee
To resume hearings on the impact of trade on employment and productivity.

SD-430

2:00 p.m.
Appropriations
Business meeting, to mark up H.R. 3327, appropriating funds for fiscal year 1986 for military construction programs of the Department of Defense, and provisions of H.R. 3228, appropriating funds for fiscal year 1986 for foreign assistance and related programs.

SD-192

Joint Library
To hold a general business meeting.

H-328, Capitol

3:00 p.m.
Armed Services
Preparedness Subcommittee
To hold open and closed hearings on Department of Defense ammunition requirements, production base, and future directions.

SR-232A

4:00 p.m.
Select on Intelligence
Closed briefing on U.S. intelligence monitoring capabilities.

SH-219

NOVEMBER 1

9:15 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on the implementation of the Staggers Rail Act (P.L. 96-448).

SR-253

9:30 a.m.
Agriculture, Nutrition, and Forestry
To continue hearings on the financial condition of the farm credit system, and to discuss possible legislative remedies.

SR-328A

Finance
Health Subcommittee
To hold hearings on S. 1551, to provide for administrative appeals and judicial review under Part B of Medicare, and to review the beneficiary and provider appeals provisions under Part A and B of the Medicare program.

SD-342

Joint Economic
To hold hearings on the employment/unemployment situation for October.

SD-342

NOVEMBER 4

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To resume oversight hearings on the implementation of the Staggers Rail Act (P.L. 96-448).

SR-253

Labor and Human Resources
To hold hearings on the impact of space technology on human resources.

SD-430

NOVEMBER 5

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on regional airlines.

SR-253

Rules and Administration
To hold hearings on proposed legislation to provide for public financing of Senate general election campaigns.

SR-301

10:00 a.m.
Appropriations
Business meeting, to mark up proposed legislation appropriating funds for fiscal year 1986 for the Department of Defense.

SD-192

NOVEMBER 6

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.

SD-366

Environment and Public Works
Transportation Subcommittee
To hold hearings to examine problems associated with construction of Hawaii Interstate H-3, including parkland protection issues.

SD-406

Judiciary
Administrative Practice and Procedure Subcommittee
Courts Subcommittee
To hold joint hearings on farm bankruptcy.

SD-628

2:00 p.m.
Commerce, Science, and Transportation
Communications Subcommittee
Science, Technology, and Space Subcommittee
To hold joint hearings on the space world administrative radio (WARC).

SR-253

NOVEMBER 7

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on insurance and space commercialization.

SR-253

NOVEMBER 8

9:15 a.m.
Finance
Health Subcommittee
To hold hearings on a Department of Health and Human Services report on proposed reform of the Federal hospital insurance program (Medicare Part A) method of paying for capital costs.

SD-215

9:30 a.m.
Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on S. 570, S. 372, S. 946, and S. 913, bills to improve the administration of the Federal coal leasing program, and other coal related issues.

SD-366

NOVEMBER 12

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings on espionage activities in the United States.
SD-342

10:00 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To resume hearings on the impact of trade on employment and productivity.
SD-562

NOVEMBER 13

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on LANDSAT commercialization.
SR-253

Labor and Human Resources
To hold hearings on nutrition and fitness in public health.
SD-430

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

NOVEMBER 14

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings on espionage activities in the United States.
SD-342

*Governmental Affairs
Intergovernmental Relations Subcommittee
To hold oversight hearings on regulatory activities of the Office of Management and Budget.
SD-562

10:00 a.m.
Energy and Natural Resources
To hold oversight hearings on the President's July 8, 1985 National Defense Stockpile "modernization" proposal and its potential impact on the domestic mining industry.
SD-366

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
Business meeting, to mark up proposed legislation authorizing funds for programs of the Higher Education Act.
SD-430

NOVEMBER 15

10:00 a.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To resume oversight hearings on ground-water level and use and on ground-water quality and flow in the United States.
SD-406

NOVEMBER 18

9:15 a.m.
Finance
Health Subcommittee
To hold hearings on the Federal supplementary medical insurance program (Medicare Part B) payments for physician services, focusing on efforts by the Department of Health and Human Services and others to assess the current payment mechanism and develop reform options.
SD-215

NOVEMBER 19

9:30 a.m.
Energy and Natural Resources
To hold hearings on S.J. Res. 192, to authorize financial assistance for the Northern Mariana Islands.
SD-366

10:00 a.m.
Commerce, Science, and Transportation
Business, Trade, and Tourism Subcommittee
To hold hearings on the promotion of domestic tourism.
SD-253

Office of Technology Assessment
The Board, to meet to discuss pending business.
EF-100, Capitol

NOVEMBER 20

9:30 a.m.
Labor and Human Resources
To resume hearings to examine certain barriers to health care.
SD-430

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business
SD-366

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings on the 1985 Conferences on the Treaty on the Non-Proliferation of Nuclear Weapons and on the International Atomic Energy Agency.
SD-342

NOVEMBER 21

9:30 a.m.
Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold oversight hearings to review Federal Energy Regulatory Commission's Order 436, final rule and notice requesting supplemental comments on regulation of natural gas pipelines after partial wellhead decontrol (Docket No. RM 85-1-000).
SD-366

DECEMBER 3

10:00 a.m.
Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on the issues of childcare, focusing on education, job training and the labor market.
SD-430

DECEMBER 10

10:00 a.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To hold oversight hearings on environmental effects of global atmospheric warmings.
SD-406

CANCELLATIONS

OCTOBER 31

10:00 a.m.
Small Business
To hold oversight hearings on activities of the Small Business Administration's Office of Veterans Affairs.
SR-428A