SENATE—*Thursday, January 23, 1986*

(Legislative day of Tuesday, January 21, 1986)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Let us pray.

Our Father in Heaven, this morning we express our profound appreciation for the officers of the Senate, for Secretary Coe, Sergeant at Arms Garcia, their assistants and staffs, who render indispensable service to the Senate. We thank You for their dedication to the task, their sensitivity to Senate needs and their ready response to those needs. We thank You for the Secretary for the Majority Greene and the Secretary for the Minority Pratt, their assistants and staffs. Like a nerve center in the body, all of the impulses, schedules, aggravations, frustrations, pains, converge on the cloakrooms and we thank You, Lord, for the remarkable way they receive and respond to this multitude of signals. Thank You for their loving interest in and care for the pages. Grant to all of these officers, assistants, staffs, and their families the richest of Your blessings throughout this year and may 1986 be the finest, most satisfying year of their lives and service. Thank You, Father in Heaven, for these splendid servants and friends. In the name of Him Who is the Friend of friends. 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; then we have special orders for Senators PROXMIRE and HART not to exceed 15 minutes; routine morning business not to extend beyond the hour of 1 p.m., with statements limited therein to 5 minutes each; and, under rule XXII of the Standing Rules of the Senate, at 1 p.m. a live quorum will begin.

Immediately following the establishment of a quorum, a cloture vote will occur on the motion to proceed to S. 638, the Conrail bill. I hope to indicate sometime shortly after that vote what the schedule will be for the remainder of today and tomorrow, but I am not able to do that at this time. It would seem to me, if there is cloture and if we can then vote on the motion to proceed and get on the bill itself, I would be prepared not to be in session tomorrow. But if those who want to delay consideration of the bill want to delay it, then they ought to be here to delay it on Friday and Monday. But, in any event, that judgment will be made after the cloture vote.

I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

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

TELEVISION IN THE SENATE

Mr. BYRD. Mr. President, at the close of yesterday's session, I had inquired of the distinguished majority leader as to whether or not he would be willing to call up on tomorrow, legislation to provide for Senate TV coverage. I have since spoken with the distinguished majority leader to say that, on second thought, I do not think that is a very good idea; the reason being I do not want TV in the Senate to be just filler material. I want TV in the Senate to be center stage when it is brought up. I hope the distinguished majority leader is amenable to this suggestion.

I do not want S. 28 brought up tomorrow, because I do not want that proposed legislation to be used as filler material.

I thank the majority leader for indicating yesterday afternoon that he would give some thought to having this matter brought up tomorrow. So I want the record to show that, in the event the distinguished majority leader does not heed my yesterday's request, in my judgment he is doing the better thing and certainly has my full support in not attempting to bring it up on tomorrow.

(Mr. HUMPHREY assumed the chair.)

THE AMERICAN-SOVIET DIALOG

Mr. BYRD. Mr. President, our relations with the Soviet Union will be at the top of the Nation's agenda again this year. No one can reasonably doubt the Soviets will remain anything other than our principal adversary at the beginning of 1987, just as they are today, at the beginning of 1986. Nevertheless, the possibilities of developing and deepening the constructive aspects of our relationship should be fully exploited. We should make every effort to preserve and take advantage of the improved international atmosphere created by the summit meeting held in Geneva last November. We should try in various ways to continue and expand the dialog on the major issues which continue to be in contention between our two nations—particularly in the fields of arms control and our conflicting interests in various regions of the Third World.

Democrats in the Senate, and I am sure in the other body as well, will do their part to further these goals, so that peace will be preserved, international stability will be enhanced, and advancements can be made across broad fronts of problems facing our world—in education, basic living conditions for all peoples, and in human rights. These are goals and issues that go beyond party politics. We all desire the President to succeed in establishing sound agreements—sound agreements—with the Soviets in arms control. We do not ask for an agreement just for the sake of having an agreement. We want such arms control agreements to be sound and in the very best security interests of our own country as well as in the best interests of peace. The President has our full and active support in this very important enterprise.

Senator DOLE and I have encouraged the Arms Control Observer Group to continue its monitoring and advising efforts in regard to the Geneva talks again this year. We have encouraged the distinguished administrative chairman of the Arms Control Observer Group, Mr. Stevens, to make the necessary arrangements for a group visit to the negotiations early in the fourth round of the talks, preferably during the recess period early next month. I, personally, plan to accompany the group to one of the negotiation rounds later this year. I note that the current round of talks began on January 16 and that the Soviets chose to offer another comprehensive proposal at the outset of this current round.

I am not now attempting to pass judgment on the proposal one way or another, but I think it was at least an encouraging sign, and the initiative was welcomed by the President. A continued and vigorous give and take on the whole complex of issues—Euromis-

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

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siles, strategic and space weaponry—if proposed in a good faith effort to reach a fair meeting of the minds will hopefully lead us to a mutually acceptable treaty capable and worthy of Senate approval as to its ratification.

In addition, Mr. President, I understand that the second Reagan-Gorbachev summit meeting will take place in the United States sometime this year—although the exact dates have not been nailed down as yet. I would hope that tangible progress on arms control matters can be validated at that time—and, of course, that further exchanges of views and, hopefully agreements on a variety of bilaterial and regional questions will occur as well.

In this regard, it seems to be useful to bring the unedited, straight, full American view of our relations with the Soviet Union directly to the Soviet people. President Reagan has great strengths as a public communicator and is highly effective in expressing his views on television. I was pleased to see the mutual exchange of views, by both President Reagan and General Secretary Gorbachev, beamed directly to both populations on New Year's Day this year. I understand President Reagan's brief address was broadcast in its entirety to a vast segment of the Soviet population. This is a welcome event, unprecedented in our relationship. As well, we certainly welcome Mr. Gorbachev's interest in expressing his views to the American people—he is articulate and forceful.

The American people are an informed people capable of seeing through propaganda. I am not concerned about the decision of the American people in any matter. If they are fully informed, they will make the right decision. Talleyrand stated that public opinion was wiser than Voltaire, Napoleon, or all the ministers of state, present and to come. I think Talleyrand was right. That is the point that we gain. If we could have assurance on the part of the Soviet Government that President Reagan's speech at that time would be beamed to the television audience of the peoples throughout the Soviet Union unedited and with our own interpreter doing the interpreting, it would be a tremendous step forward in my view.

I have no doubt that Mr. Reagan would come through on Soviet television as he comes through on our own—as a person who is warm, congenial, amiable, and reasonable. And while I do not agree with him on all of his policies, I think that such an appearance would be a positive one in the peace process if our President could be shown in the Soviet Union, and the Soviet people would be able to see our President and hear his remarks unfiltered and unedited.

All of this, I think, would be useful and beneficial in furthering what might be called the General American-Soviet Dialog.

With these considerations in mind, I have today suggested to the President and to the Speaker of the House, Mr. O'NEILL, that Mr. Gorbachev's upcoming visit constitutes an appropriate opportunity to extend an invitation to him to address a joint meeting of the Congress.

I should not attempt to speak for the Speaker, but I can speak for myself. I am tired of joint meetings of Congress. I think they pose serious problems in many ways. I think they are degraded by having every Tom, Dick, and Harry who comes to the United States address a joint meeting of the two Houses. But not in this case.

As I have indicated before, no Soviet leader has ever been invited to address a joint meeting, and I think Gorbachev should be invited to address a joint session with quid pro quo that the American President would be allowed to have his own appearance and statement presented during prime viewing time on Soviet television without any editing on the part of the Soviets.

It has been a longstanding practice to recognize foreign leaders in this respect, and I feel it would enhance the development of meaningful communication between the United States and the Soviet Union after years of sterile rhetoric. The recent Geneva summit meeting provided a positive beginning for a more productive relationship with the Soviet Union, and I believe every opportunity should be taken to follow up on that beginning.

I suggested that two conditions be included as part of the invitation: First, that President Reagan also be invited to address a joint meeting of the Congress after Mr. Gorbachev—whatever the President would desire in that regard; and second, that Mr. Gorbachev provide his assurance that President Reagan's address be transmitted in its entirety, live, on Soviet television in prime time. Since Mr. Gorbachev's address would be televised to the American people, it seems only fair that a reciprocal arrangement be made with the Soviets. In this way, both leaders would address both national audiences from the same podium. I believe this idea, if accepted by the President as well as Mr. Gorbachev, would help to enhance the positive development of the Soviet-American relationship.

The more the Soviet people are given the opportunity to hear our President's views, in an unfiltered way, on the vital issues between our two nations, the better the prospects for genuine understanding between our two peoples. Such an event would, I hope, help draw back the heavy curtain which has snuffed out real communications for so many years.

I ask unanimous consent that my letters, to the Speaker and the President appear in the RECORD.

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

U.S. SENATE,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, January 23, 1986.

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

DEAR TIP: The President, as you know, has invited the Soviet General Secretary, Mr. Mikhail Gorbachev, to make an official visit to the United States this year, and Mr. Gorbachev has accepted. I believe that this is a welcome event which will extend the vital process of a continuing dialogue between the two leaders. It is a tribute to you that you seized the opportunity to begin this process last April, when you led the first Congressional delegation to meet with Mr. Gorbachev. In an effort to keep that momentum alive, I led a bipartisan group of Senators in a similar effort this past September.

It occurs to me, Tip, that no Soviet leader has ever been invited to address a joint meeting of the Congress. I believe Mr. Gorbachev's upcoming visit constitutes an appropriate opportunity to extend such an invitation, and I would strongly recommend that you consider doing so. It has been a long-standing practice to recognize foreign leaders in this respect, and I feel it would enhance the development of meaningful communication between the United States and the Soviet Union after years of sterile rhetoric. The recent Geneva summit meeting provided a positive beginning for a more productive relationship with the Soviet Union, and I believe every opportunity should be taken to follow-up on that beginning.

I would suggest that two considerations be included in the invitation: First, that President Reagan also be invited to address the same joint meeting of the Congress; and second, that Mr. Gorbachev assure that President Reagan's address be transmitted *in its entirety, live,* on Soviet television. Since Mr. Gorbachev's address would be televised to the American people, it seems only fair that a reciprocal arrangement be made with the Soviets. In this way, both leaders would address both national audiences from the same podium.

The more the Soviet people are given the opportunity to hear our President's views, in an unfiltered way, on the vital issues between our two nations, the better the prospects for genuine understanding between our two peoples. Such an event would, I hope, help draw back the heavy curtain which has snuffed out real communication for so many years.

I would suggest that such a joint meeting be scheduled so that it may be broadcast during prime viewing time in Moscow.

I hope that you will agree that this idea, if accepted by the President as well as Mr. Gorbachev, would help to enhance the positive development of the Soviet-American relationship. I am prepared to provide any assistance that you may desire in making the appropriate arrangements for this event.

With high personal regards,

Sincerely,

ROBERT C. BYRD.

U.S. SENATE,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, January 23, 1986.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I was very pleased to learn that during your meetings last November with Mr. Gorbachev in Geneva, Mr. Gorbachev accepted your invitation to visit the United States this year. The development of a more positive relationship with the Soviet Union will, of course, take time, but it is clear that the dialogue which you began with Mr. Gorbachev in Geneva has led to a better overall atmosphere in which to try to resolve our outstanding differences with the Soviet Union. In addition, the schedule for future meetings which was established at the Summit will permit the U.S. and the Soviet Union to explore their relationship regularly.

I have written to Speaker O'Neill to outline the suggestion I spoke with you about this morning, that is, that he consider inviting Mr. Gorbachev to address a joint meeting of the Congress during his upcoming visit to the United States. It is my hope that this would help to enhance the positive atmosphere within which progress is possible with the new Soviet leadership.

As I discussed with you, I also indicated to the Speaker that if he decided to extend such an invitation to Mr. Gorbachev, you should have the opportunity to address the same joint meeting. In addition, it is my feeling that the Soviets should agree to televise your address, *live and in its entirety*, to the Soviet people. Since any address Mr. Gorbachev made would be televised to the American people, I believe reciprocity would be in order.

I appreciated very much your expression of support for this proposal in our conversation this morning.

With highest personal regards,
Sincerely,

ROBERT C. BYRD.

Mr. BYRD. I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

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

NEW YORK TIMES SCHIZOPHRENIA ON THE TEST BAN TREATY

Mr. PROXMIRE. Mr. President, on December 30 last year, the New York Times lead editorial showed that even that great institution has moments of stumblebum error. Year in and year out, the New York Times editorials may be the best in the country. They also seem to be getting better with each passing year. But on last December 30 the Times tripped and fell. It picked far and away the biggest issue of our time to fall over: the issue of whether or not the United States should negotiate a nuclear test ban treaty with the Soviet Union. Here is an issue that goes to the very heart of the nuclear arms race. Stop nuclear testing, and we make the quintessential beginning at ending the arms race. If nuclear testing continues, the arms race continues no matter what other steps we take. If nuclear testing ends, we can begin the long process of reducing nuclear arsenals without the fear that a new nuclear weapon that can be delivered with greater accuracy, surer penetration and more devastating power will emerge from the testing laboratory. Without testing, the terrible specter of a perfected antimatter bomb disappears. Such a bomb could be cheap, light, portable, made to order for a terrorist intent on blowing up American cities.

What did the Times say about such a test ban treaty? It said the following:

I am going to give a series of quick quotations, and my remarks.

First, "A nuclear test ban is no substitute for an agreement to limit nuclear arsenals."

How about that? Consider: a nuclear test ban treaty is far more likely to prevent a nuclear war than an agreement to limit nuclear arsenals. Both have advantages. Both agreements would be desirable. Both would contribute to credible deterrence. Both would slow the feverish nuclear arms race. Both would save billions of dollars. But only the test ban would stop the evolution of nuclear weapons toward ever more destructive weapons.

Why are new weapons developed? Answer: Because both military forces constantly seek advantage. What kind of advantage? An advantage in lesser vulnerability and that is good. But both sides have enough invulnerablility now to deter an attack. The danger is that both sides will develop a less stable advantage. Such an ability would more surely and swiftly deliver nuclear power on the adversary.

What will be the consequence on the nuclear arsenals of the two superpowers from continued nuclear weapon testing? Nuclear arsenals may be able to advance their power while reducing the number and the megatonnage. In the last 20 years the U.S. nuclear arsenal has diminished its megatonnage. It has at the same time greatly increased the potency of that arsenal. How? By changing and "improving" their nuclear weapons. Testing was quintessential to this "improvement."

Second, the New York Times wrote: "The arms race is driven by enduring rivalry, not by changing technology."

Sure. Enduring rivalry drives the arms race. And how does it drive the arms race? Answer: By changing technology. Here is the heat of the arms race. Without changing technology, reduction of nuclear missiles, and warhead, and megatonnage and throw-weights on both sides would have meaning. Ah, but with changing technology, the race toward ever more devastating technologies speeds on. Negotiators cannot stop "enduring rivalry." They can put a leash on this rivalry. How? By stopping changing technology and then agreeing to reduce nuclear arsenals.

Third, the New York Times wrote: "A complete test ban in the past would have prevented desirable and undesirable weapons alike, both those that add to nuclear stability * * * and those that detract from it. On balance it would add to nuclear stability in the long term."

You betcha. This is precisely why the United States and the Soviet Union should negotiate a test ban. The question is, Do the superpowers have a stable relationship now? They do, indeed. Best evidence: For the 40 years of the nuclear age—since Nagasaki—we have had nuclear peace. At times, the superpowers have edged toward a threat of nuclear war, but not lately. For the past 20 years the United States and the Soviets have not come close to nuclear war. Now for the first time a President of the United States and a Secretary of the Russian Communist Party can both say: "A nuclear war can never be won, and must never be fought." And they can both mean it. Now is the time to stop "changing technology" by agreeing to end nuclear testing.

Fourth, the New York Times wrote, "The testing debate is still a sideshow. The central issue * * * (is) how to lessen the incentive for launching a surprise attack."

No, the testing debate is not a sideshow. Yes, the central issue is to lessen the incentive for launching a surprise attack. And how do you lessen that incentive? Easy. You stop testing. You stop changing technology at the point which happens to be the present point—where the deterrent is so conspicuous that the leaders of both superpowers agree that a nuclear war must never be fought and can never be won. That time is now.

Fifth, the New York Times wrote: "Can the Russians be induced to reduce their threatening force of land-based missiles? Can the Reagan administration be induced to trade in its threatening star wars defense system? Further restraints of weapons modernization may be easier to reach in the wake of such a deal."

But how do we make such a deal? Answer: Again it is easy. We agree to stop testing. Without testing, star wars stops. Without testing, both Russia and the United States can with confidence greatly reduce their nuclear arsenals in full confidence that their much smaller remaining force provides a deterrent that makes a preemptive attack an act of certain mutual suicide. In fact, the United States could enter into negotiations with the Soviet Union to stop nuclear weapons testing on the condition and only on the condition that the Soviets agree to a very sharp reduction in the

offensive nuclear arsenals of both superpowers.

Survival depends on stopping the nuclear arms race. It cannot stop if the technological race rushes on. This country has promised, solemnly and officially promised, twice in treaties signed by the President of the United States—I repeat, promised—to negotiate a comprehensive end to all nuclear weapons testing. One of those treaties was ratified by the Senate; one was not. We should keep our word.

Mr. President, I ask unanimous consent that the editorial to which I have referred from the December 30 New York Times headlined "The Test Ban Clock Nears Midnight," be printed in the RECORD.

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

THE TEST BAN CLOCK NEARS MIDNIGHT

Last August, Mikhail Gorbachev, the Soviet leader, announced that his country would unilaterally stop underground testing of nuclear weapons. The moratorium will expire Wednesday; the United States rejected the invitation to follow suit as soon as it was made. Is a critical chance to moderate the arms race being lost? Hardly. A nuclear test ban is no substitute for an agreement to limit nuclear arsenals.

Mr. Gorbachev's ban, lasting a mere five months, was proposed for the eve of the 40th anniversary of Hiroshima. He added a dab of substance with a letter this month offering to let Soviet test sites be inspected.

Even with that sweetener, there's no more reason to swallow the Soviet offers than to accept Reagan Administration arguments that Soviet compliance would be impossible to verify. Technical improvements in monitoring seismic waves allow detection of explosions too small for military significance.

Public sparring aside, the Administration opposes a comprehensive test ban for a simple reason—it wants to keep on testing. Is that bad? Its critics say a ban on testing new designs of warheads would halt the momentum of the arms race. But the arms race is driven by enduring rivalry, not by changing technology.

A complete test ban in the past would have prevented desirable and undesirable weapons alike, both those that add to nuclear stability, like the undetectable submarine-launched missiles, and those that detract from it, such as land-based missiles with multiple warheads like the MX. The modernization of strategic weapons, which has included a trend toward smaller, less destructive warheads, is not wholly bad.

The Administration's present plans include testing the nuclear-pumped X-ray laser, an exotic weapon of possible use in the "Star Wars" defense system. One such test was conducted last week. The X-ray laser is a good example of what a test ban could usefully close off. The stabilizing, single-headed Midgetman missile, proposed as an eventual substitute for MX-type missiles, would use the same warhead, already tested, as the MX. But a test ban might preclude other desirable weapons in the future for which no off-the-shelf warhead design were available.

A full test ban would make the nuclear powers, like reformed sinners, zealous in preventing other countries from testing nuclear weapons. On balance, it would add to strategic stability in the long term. For all that, the testing debate is still a side-show. The central issue is not how to ban nuclear tests but how to lessen the incentive for launching a surprise attack.

Can the Russians be induced to reduce their threatening force of land-based missiles? Can the Reagan Administration be induced to trade in its threatening "Star Wars" defense system? Further restraints on weapons modernization may be easier to reach in the wake of such a deal.

WHEN LIGHT PIERCED THE DARKNESS: THE RESCUE OF POLISH JEWS

Mr. PROXMIRE. Mr. President, much has been written about the Holocaust, but we are still a long way from understanding why people behaved as they did. Nechama Tec's recent book, "When Light Pierced the Darkness," probes the rescue of Jews in Nazi-occupied Poland and reveals some startling findings.

A New York Times review of the book points out that "many rescuers interviewed by Mrs. Tec shared a feeling of hostility or at least estrangement from the Jews." That some Poles felt hostility toward Jews and yet risked their lives to save them belies any simple explanations of human behavior. We have much to learn about why people acted as they did during the Holocaust and why the murder of 6 million Jews was allowed to occur. Genocide is a baffling, insidious and despicable underside to mankind's positive achievements.

The dimension of moral complexity that motivates action—the actions of those who participated in the Nazi death machine and those who valiantly defied it, often abandoning the safety of silence and apathy—deserve our careful consideration. In the long run, such an understanding of the criminal mind can only improve the effectiveness of our efforts to thwart such heinous actions.

But the continuing prospect of genocide does not permit us the leisure of waiting for the answers and insights which will come from further work in this area. We have a moral imperative to do what we can, everything we can, to prevent a recurrence of the Holocaust.

The Genocide Convention exists for that very purpose. It seeks to make genocide an international crime. It is a small step, but a very important one, in halting the destruction of national, ethnic, racial, and religious groups and deserves our wholehearted support. And it deserves our support this year. Mr. President, I urge my colleagues to join me in seeking prompt action early in this session. We have waited too long already. We cannot afford to let another opportunity slip away.

MYTH OF THE DAY: MEDICAID COVERAGE IS RATIONAL, EQUITABLE OR COMPREHENSIBLE

Mr. PROXMIRE. Mr. President, the myth of the day is that Medicaid coverage of the poor is rational, equitable, or even comprehensible to most policymakers, let alone the poor to whom the program is targeted.

As I have pointed out, the Medicaid Program has been riddled by myths. First, that all of the poor are eligible. In fact, 5 out of 10 poor Americans have no public or private health care coverage during the year. And, if you pick any given month in 1982, Medicaid covered only 4 of every 10 Americans below the Federal poverty standard.

Second is the myth that Medicaid's costs are driven by the acute care needs of the poor. In fact, it is the long-term nursing home needs of the aged and disabled which consume the lion's share; 7 percent of the beneficiaries consume 50 percent of the entire Medicaid budget. When the high costs of acute care for the disabled are included, we find that the aged, blind, and disabled account for 70 percent of the Medicaid dollar; the AFDC population account for 70 percent of those eligible for Medicaid coverage but only 26 percent of the program's costs. Thus, savings from increased competition in health care do not offer the potential for the magnitude of savings touted by the administration's competition advocates. At best, those savings can only be gotten from 50 percent of the Medicaid budget and, realistically, there will be little competition for treating the high-cost disabled for at least a few more years so those savings will come from only a fourth of the total budget.

And, it is against this background, that the administration promotes the most insidious myth of all, seldom stated, but always implied: that the Medicaid Program that remains rationally and equitably provides health care to the poorest of Americans. Even if it does not now, and will not in the near future, it at least covers those most in need and we can smugly feel secure by that knowledge.

Unfortunately, those assurances are nothing but a myth. It does not take away from the tremendous value that Medicaid has proven itself to be for those qualified for coverage to recognize its inadequacies. Medicaid coverage is inequitable. It is not rational. And it is certainly not comprehensible, even to most policymakers.

Let us look at just three case studies developed by the Center for Social Policy in a recent report on Medicaid. These cases underscore the unfairness with which Medicaid coverage is extended to the poor.

Case No. 1.—Tom and Frank work in the same store in Portland, ME, where both receive the minimum wage for 30 hours of work per week. Tom lives with his wife and children; Frank is divorced but has custody of his children. When business slows, both are laid off. Frank qualifies for Medicaid coverage as a single parent with children; Tom does not qualify since the State does not have an AFDC-U program covering intact low-income families.

Tom learned the hard way that Medicaid coverage is a game of geographical Russian roulette for low-income families. In 25 States, including Wisconsin, Tom would have been eligible for Medicaid coverage because the State had chosen to establish an AFDC-U program.

And the establishment of an AFDC-U program for intact families is just the first variation on a theme. The States have a myriad of options for AFDC coverage, resulting in a bewildering array of categorical criteria that must be met, in addition to being low-income, if a family is to qualify for Medicaid coverage.

Case No. 2.—Consider the case of Mrs. Ball. She works as a nurse's assistant for $4.50/hr for 30 hrs/week. Separated, she lives with her 3 children—two of which are in school, one she puts in a day care center. Unfortunately, she lives in one of 16 States setting very tough criteria for AFDC eligibility and, is not eligible; in the other 34 States, or in DC, she would be eligible for AFDC and, therefore, receive health care coverage for herself and her children.

Mrs. Ball is a victim of the fact that there is no minimum for coverage of the poorest of the poor; the States can set AFDC eligibility—the gateway for Medicaid coverage—as they see fit. In 1982, the cutoff point for coverage for a mother and her child ranged from $89 a month to $508 a month in Alaska. Which means that in 11 States in 1982 a mother and child with income of only $175 a month would be considered ineligible.

Case No. 3.—The final case looks at two families in Illinois. Mr. & Mrs. Banks, a retired couple, are solely dependent upon their social security check, which was $488/month in 1982. In the same neighborhood, Ms. Rogers and her daughter also lived. Ms. Rogers, a waitress, also earns $488/month that year. Are both households eligible for Medicaid? No. Mr. and Mrs. Banks qualify because their $488 check is just below the State's SSI threshold level for eligibility ($492). But Ms. Rogers and her daughter are ineligible; the AFDC criteria are lower. Therefore, despite the fact that Ms. Rogers income is lower (it's taxable), she and her daughter are left behind by Medicaid.

As these cases demonstrate, for many, it is the luck of geography whether you qualify for Medicaid. For others, it is the happenstance of age, the composition, or structure of their family. It is not surprising to find families with comparable income being treated differently. And for single individuals, unless they meet SSI's criteria, coverage is virtually nonexistent.

Is this fair? Is this rational? It is neither. And when you examine in detail the options States can exercise for SSI and AFDC coverage, it quickly becomes clear that it is not comprehensible either. As the Center for Social Policy's report noted:

Eligibility for Medicaid is now so complex that few people understand its effects and even those close to the program sometimes fail to comprehend its intricacies.

Medicaid is too important a component of the Nation's social safety net for these problems to remain unexamined. Particularly now as we will face continuous pressure for cuts in public spending to meet the deficit targets of Gramm-Rudman.

But as long as we permit all of these myths regarding the Medicaid program to remain unchallenged, we will be making uninformed and unfair public policy decisions. And, by default, the injustice will continue.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR HART

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado [Mr. HART] is recognized for not to exceed 15 minutes.

AFTER GRAMM-RUDMAN: A NEW CONTRACT OF COOPERATION

Mr. HART. Mr. President, there are moments in life when we are caught between clarity and helplessness. I do not know whether there is a word for this phenomenon. But it is something we have all experienced—when we slip on an icy patch of pavement, when we glance up in traffic and see we are about to collide with a car stopped ahead, or any of several experiences of that sort.

Time slows down. We see with great clarity the danger, the peril. We experience a feeling of regret, a desire to reverse the irreversible. And in the split second before the impact, we know with certainty there is not a thing we can do about it.

As a Congress, as a people, we are now caught in our own moment between clarity and helplessness. If there were no name for that sensation before, there is now: We can call it "Gramm-Rudman." That ill-conceived law is an accident in progress. We have braced for the impact. We foresee the collision. Yet we keep sliding forwa .

We have returned from recess facing a yawning deficit that has grown by $48 billion over estimates that are only 5 months old. That re-estimate means Gramm-Rudman now requires $600 to $700 billion in deficit reduction over 5 years. The President tells us this will be accomplished without raising a nickel in taxes, without cutting a dime of buildup from the Pentagon.

But he is already mistaken. The statute the President carelessly embraced has produced the first real dollar decline in defense spending in 15 years. Star wars and procurement contracts were spared. Cut instead were the working expenditures that spell the difference between paper defenses and an intelligent, durable, winning military—training flights, readiness, steaming time for ships, maintenance for tanks.

Mr. President, in 11 days, the administration will announce its budget for the coming fiscal year. In 12 days, that budget will be declared dead on arrival. Not by those of us in the opposition party, but by the leadership of the majority here in the Senate. The administration will propose over $50 billion in spending reductions. It will attempt to comply with Gramm-Rudman by terminating 30 to 50 domestic programs and by selling Federal assets as if it were conducting a fire sale.

As dependable as Halley's Comet—and faithful to the tradition they established 5 years ago—its budget will be founded on a series of economic projections which every thoughtful and honest person will know are deliberately inaccurate in terms of estimates of projected growth and data of that sort.

Most of us see what is bound to happen with perfect clarity. We are facing a classic clash of ideologies and egos. The President will circle his wagons around the Defense and Treasury Departments. Absent Presidntial leadership, Congress will divide into special interest caucuses preferring to protect their favorite programs by bleeding the rest. We will enter the summer in stalemate.

Then, in August, the Congressional Budget Office and the Office of Management and Budget will unveil new deficit estimates. Suddenly, 6 months of budget wrangling will be rendered irrelevant. Billions in budget reductions will not be enough. The economy will not have conformed to the fanciful 4-percent growth estimates the administration has produced. As a result, the computers will order reductions of 15 percent or 20 percent or more from that scanty portion of the budget Gramm-Rudman's authors left on the table.

This is the collision we are careening toward. But, unlike a car crash or a slip on the ice, we are not yet helpless. This is a collision we can prevent.

To do so, we must return to some fundamental truths which some thought Gramm-Rudman would help us forget.

The truth about the Federal budget is that it is and must be more than a simple equation of revenues and expenditures. Like any family's budget, the Federal budget is fundamentally a statement of our values and priorities.

It should be at best a blueprint of the future we want.

The future most Americans want includes a strong and just America driven by a growing economy. That is why the titanic Reagan deficits are so dangerous: They will suffocate our future. But if we balance the budget at the expense of basic prerequisites for economic and social growth, we defeat our purpose. We will cut off our nose to spite the deficit.

A bold, innovative, compassionate Government should be capable of achieving more than the accountant's dream of balanced books. It should be an active partner in the quest for a growing and just economy. It should open the gates of a university to a student from the inner city. It should give a shot in the arm to the young child who needs immunizations. It should feed the hungry and teach them how to feed themselves. It should build a ladder to new job skills for an unemployed steelworker. It should bring a first mortgage within the reach of a young couple. It should help spark the inventions and modernize the factories that put America first in the world in trade in years past and that have let it tragically fall behind.

If we are to reach those goals, the first priority as a nation and as a society, our Government, and our budget must be investment—in our children, our workers, our schools, our factories, and our national security. Deficit reduction is one investment we must make in our future, but it is only one, and it must not preclude or totally overshadow the others.

We are not now making the investments we need. Eight million Americans remain out of work. We have lost 2 million jobs to overseas. A quarter of our students drop out of school while the children of our economic competitors go on to become engineers and scientists and productive individuals. We have let our own roads, bridges, and ports decay while our foreign competitors build new economic circulatory systems of fiber optic cables and supercomputers. Who among us can say we are doing enough as American society?

It is time to clear the haze and speak honestly about the kind of budget we need to reach, the kind of future we want as a nation. It is time to set some markers.

First, despite the clear and present danger of deficits, we must increase our investments in America—not cut them across the board. We need new investments in child nutrition, education, training, innovation, and economic modernization and productivity. Any budget that does not allow for $10 billion each year in new investments is not an opportunity budget, it is not a knowledge budget, and it is not a compassionate budget.

Second, it is time to moderate the uncontrolled defense buildup—a buildup, after 5 years, still in search of a strategy. We are now spending 100 percent more for our defenses than in 1979. We needed some of that increase, but we do not need the continuing pattern of misallocation and waste. For now, we should concentrate on reforming our military forces so our limited funds can buy a credible conventional defense.

Mr. Reagan says the next Federal budget will increase defense spending 3 percent after inflation. I say Mr. Reagan is wrong. The next defense budget must keep pace with inflation—not a penny more or less. Anyone who argues otherwise is destroying our future. Pegging the defense budget to inflation will save $100 billion over the next 5 years.

Third, we must cut spending in other areas. A budget that reflects our priorities must admit that student loans are more important than Amtrak, that worker training is more important than subsidies to the nuclear power industry. For some programs, across-the-board cuts are not good enough; we must eliminate them. Other programs must be returned to State governments, which can operate them with great competence and lower cost. In all, we should cut Federal spending by at least $100 billion over the next 5 years. That includes the increases in investment I have already mentioned.

Finally, we must increase the Federal Government's revenues. Everyone knows it, and everyone but the President has admitted it. We simply cannot keep taking 100 percent of what government has to offer at 80 percent of the cost. That includes the military. Mr. Reagan says the next Federal budget will not include a penny in new revenues. I say it must contain at least $200 billion over the next 5 years.

A good starting place would be a $10-per-barrel oil freedom fee, complemented by a gradual increase in the gasoline tax as oil imports and revenues decline. These fees will promote conservation, revive our domestic petroleum industry, and strengthen our energy security. They can also raise close to $90 billion over the next 5 years.

We must also demand better tax enforcement, and require that those who benefited disproportionately from the Reagan tax cuts now pay their fair share. It is unconscionable that Gramm-Rudman cuts vital social and economic spending without cutting a penny of the billions in "tax spending" that powerful corporations and the wealthy enjoy each year. The collector who makes his $100,000 buying and selling antique cars should pay the same taxes as the office worker who makes his $20,000 working a word processor.

Mr. President, I fought Gramm-Rudman; I voted against it. It is folly and it should be repealed. We should replace it with an agreement between Congress and the President to achieve a "full employment balanced budget" in a way that will not ruin our country's economic future.

Whether or not we repeal Gramm-Rudman, we must write a new contract of cooperation between the Congress and the President. The basic articles of faith in this contract must be: New investment in America; leveling off the defense buildup, particularly in the nuclear area; new revenues; and spending cuts. Those new revenues should not come from an income tax on middle- and lower-income Americans.

For this contract to work, all parties must surrender their ideological totems. The President and his party must abandon their intransigence on revenues and on the defense buildup. Members of my own party must abandon their intransigence on certain entitlement programs—for there is no hope of cutting billions in spending without reforming Medicare, Federal pensions, and commodity support programs.

This meeting of the minds must happen soon. If it does not occur by the end of February, there can be little hope of escaping the bed of Procrustes now called sequestration. Only those who are indifferent to deficit reduction and invesment in our economy will be absent from the table by the first day of March.

Mr. President, the challenge for this Nation and this Congress is not a revisit the debate over Gramm-Rudman. We each have our own opinions, but history will ultimately decide that law's merits.

History will decide whether Gramm-Rudman in the 1980's will be a metaphor for the same kind of economic isolationism and disarray as the Smoot-Hawley tariff a half century earlier.

History will decide whether—like the 19th amendment to the Constitution—Gramm-Rudman will be repealed as foolish, unwise, and unworkable.

And history will decide whether the authors of Gramm-Rudman will finally echo the words of Pyrrhus, who said, after defeating the Romans at Asculum, "one more such victory and we are lost."

Time will determine Gramm-Rudman's place in history. But only we can decide whether America will settle for a balanced budget, or strive for a balanced economy and a balanced society.

At America's proudest moments, this Nation and Congress have shown courage and patriotism by rising above par-

tisanship, above politics, and above sacrifice to protect and defend the priorities and the values that have made us great. I am confident we can and will show the same courage and patriotism now. I am confident we will choose clarity over helplessness, and steer this Nation safely to a better future.

COMMENDING BISHOP DESMOND TUTU FOR HIS COURAGEOUS WORK FOR EQUALITY AND PEACE IN SOUTH AFRICA

Mr. HART. Mr. President, I am proud to join the distinguished Senator from Maryland [Mr. MATHIAS] in introducing a resolution to commend Bishop Desmond Tutu for his courageous leadership in the struggle for justice, equality, and peace in South Africa.

Bishop Tutu is well known not only in this country but indeed, throughout the world. He is a Nobel laureate, a leading theologian, a man of immense personal courage, a moral leader, and one of a dwindling number of voices preaching nonviolence in a land already racked by the pain and violence of apartheid.

Mr. President, I believe that it is significant that Bishop Tutu recently traveled to Atlanta, GA, to participate in the first national observance of the birth of Dr. Martin Luther King, Jr. While in Atlanta, Mr. President, Bishop Tutu was presented the Martin Luther King, Jr., Non-Violent Peace Prize by Dr. King's widow, Mrs. Coretta Scott King.

Like Dr. King, Bishop Tutu responds to the call of a higher authority in his quest for right. He leads through the power of love and moral suasion; powers as old as the Bible, as current as the day's headlines, and stronger than the greatest armies.

To hear Bishop Tutu speak, Mr. President, is to lose any doubt that this Nation must cast its lot with "the least of these" in South Africa. To hear him speak is to know that apartheid is "an evil and immoral system which cannot be reformed." To hear him speak is to know that apartheid must be destroyed. It is to know that South Africa will be free.

Moreover, Mr. President, Bishop Tutu readily admits that he has been thrust into a position of political leadership not by choice, but through default—for the original leaders of the South African majority have been jailed, like Nelson Mandela; murdered, like Steven Biko; banished, like Oliver Tambo; and silenced, like Donald Woods. We can only be thankful Mr. President, that after losses of this magnitude, there are still voices of reason like Bishop Tutu's to fill the void.

Thanks to the work of Bishop Tutu and thousands of other committed, yet unheralded activists, the seeds of victory in South Africa have been sown. In this Nation, they have been sown on college campuses and in our churches. We have even begun to sow them within the fortified walls of our corporations and pension funds.

Those are seeds which all people of conscience and good will must never, never cease to water, to nuture, and to tend, for we hear the voice of ageless prophecy assuring us that we shall indeed reap what we sow.

Mr. President, the suffering and struggle of Bishop Tutu proves once again that the trek across the wasteland of injustice is always long and difficult. But as Dr. King so eloquently reminded us, "the moral arc of the universe is long, but it bends toward justice."

Mr. President, the people of the United States must pledge to continue walking that dry, hot path with Bishop Tutu until the barren desert of oppression blossoms like a garden, "until justice rolls down like water and righteousness like a mighty stream"—for we know that the oppressed people of South Africa have manifested the will for freedom—and will not remain oppressed forever.

Mr. President, I ask unanimous consent that the resolution which the Senator from Maryland and I are introducing today be printed in the RECORD.

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

S. CON. RES. 103

Whereas Desmond Tutu has committed himself to nonviolent change in South Africa;

Whereas Desmond Tutu has advocated direct dialogue between blacks and whites as the central need for the future of South Africa;

Whereas Desmond Tutu has personally rescued victims of mob violence from certain injury or death at great risk to himself;

Whereas Desmond Tutu has advocated economic sanctions against South Africa as a means to peacefully encourage Pretoria to dismantle the apartheid system of racial separation;

Whereas Desmond Tutu has repeatedly turned to the United States for assistance in his quest for peaceful change in his native country, and

Whereas Desmond Tutu received the 1984 Nobel Peace Prize for his moral leadership in South Africa, Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress commends Bishop Desmond Tutu for his courageous work for peace and freedom in South Africa, and

That Congress encourages all South Africans to heed Bishop Tutu's call for a peaceful end to apartheid.

Mr. HART. Mr. President, if the previous order accommodates, I shall yield whatever time I have remaining to the Senator from Maryland.

Mr. MATHIAS. Mr. President, by this measure we salute moral leadership and a moral leader.

There can be no more exacting test of character, of leadership, than a man's willingness to stand up and put his life in danger to promote and defend his people and his principles. There is no more demanding test of that man's courage than to stand up and lead his people in the path of nonviolent change when the odds are so overwhelmingly against him.

Bishop Desmond Tutu is a man of such courage. "Valor," as Carl Sandberg wrote, "is a gift. Those having it never know for sure whether they have it till the test comes. And those having it in one test never know for sure if they will have it when the next test comes."

The tests have come with staggering frequency and intensity to Bishop Tutu in his years as a schoolmaster and a parish priest and now a truly humanitarian leader on a national and international scale. And he has passed them each time in his unrelenting search for a peaceful path to freedom and justice and reconciliation in South Africa.

Repeatedly, Bishop Tutu has called on his people to protest peacefully and without violence against the inhumane system of apartheid. Repeatedly, he has personally intervened in explosive confrontations to head off more violence and tragedy.

Repeatedly, he has sought to inspire a vision of the future when the pressures of the moment would tempt less patient and visionary men and women to precipitate violent action. While many urged immediate sanctions, he called for an 18-month to 2-year delay with a final deadline to encourage peaceful change. While many resist negotiations, he has sought talks with the leaders of South African Government. In recent weeks, he has traveled in the United States not only to honor Martin Luther King but to secure funds to expand educational opportunities for black South Africans. By such activities he has gained the attention of the world and earned the Nobel Peace Prize.

Let me close by reciting what I consider a remarkably simple and honest plea made by Bishop Tutu last year, a plea to white South Africans which reflects his commitment to peace and reconciliation:

It is that we too are just ordinary human beings. We too love to be with our wives everyday; we too want our children to rush out to meet us as we come back from work; we too would like to live where we can afford it.

We too want to be able to move freely in the land of our birth, we too want to have security of tenure. We too want to participate in the decisions that affect our lives. These are not extravagant demands. They are the expectation of any human being. We want to have a new kind of South Africa. Where we all, black and white, can walk tall together, black and white, into the glorious

future which God is opening before us, black and white together.

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 1 p.m., with statements limited to 5 minutes each.

CONRAIL SALE

Mr. SPECTER. Mr. President, in the course of approximately 15 minutes there will be a live quorum as provided by the procedural rules for the day, and then the scheduling of a cloture vote on the proposition to sell Conrail to Norfolk Southern. For the past 3 days—Tuesday, Wednesday, and today—the attention of the Senate has turned to this issue. I opposed the unanimous-consent request to proceed to the consideration of the proposed sale of Conrail to Norfolk Southern because it seemed to this Senator that there needed to be some focused attention on the underlying issues.

In the course of the presentations, we have attracted the attention of some Senators on the Senate floor, and that is always a difficult matter, especially when the facts are as complex as those present in this subject.

The debate, Mr. President, has laid the foundation to show that the Senate must give very extensive consideration to the antitrust implications of the proposed sale of Conrail to Norfolk Southern. In this matter there is no independent ICC consideration as is customary in a proposed merger, and as is present, for example, in the pending merger between Santa Fe and Southern Pacific Railroads.

It is obvious that the Department of Justice has not given the kind of analysis needed to give the Senate assurance that the antitrust considerations have adequately been considered.

Back in January of 1985, the Department of Justice wrote to the Secretary of Transportation saying that there would be antitrust violations with the proposed merger unless there were appropriate divestitures.

Since that time, Norfolk Southern has come forward with three proposals for divestiture to two small rail lines, the Pittsburgh & Lake Erie and Guilford transportation industries. Both of the first two proposals were rejected by the Department of Justice as being inadequate to provide the requisite competition.

Then, when a third proposal was made in November, in short order the Department of Justice gave what it calls preliminary approval. This is somewhat unfathomable, given the context that the Department of Justice has opposed the proposed merger of Southern Pacific and Santa Fe—a merger which would be less violative of the antitrust laws than the Conrail-Norfolk Southern proposal.

The procedures by the Department of Justice are strange, as evidenced in a letter, which I previously placed in the RECORD, from Assistant Attorney General Douglas Ginsburg to me, dated January 21, 1986. This letter referred to a request for information and documents which I had outstanding for some time, and was only delivered to me while I was on the Senate floor on Tuesday of this week, discussing this issue.

The letter from Mr. Ginsburg to me, dated January 21, 1986, contained copies of letters which have been sent by the Department of Justice to Pittsburgh & Lake Erie and Guilford.

I now refer to a letter dated January 8, 1986, from attorney Paul A. Mapes of the Antitrust Division to Joe Sims, Esq., representing Guilford, which says at page 2:

> However, the nature and viability of the rail service your client intends to provide on the divested properties is of major interest to Congress and the public.

I could not agree more with the statement of the Antitrust Division that it is of interest to Congress, and of course Congress includes the U.S. Senate. But if this body is going to be voting on the sale of Conrail to Norfolk Southern at this time, or next week or the week after, before this information is provided, then obviously, the Senate, as part of the Congress, is not in a position to review these very important matters.

That is why this Senator so strenuously contends that this entire issue is not ripe for consideration by the Senate. We are really being asked to buy a pig in a poke on a matter of enormous importance to this country—the joinder of the 18,000-mile Norfolk Southern line with the 15,000-mile Conrail line, in a context where the Department of Justice has said that this joinder would violate the antitrust laws unless there is appropriate divestiture. There have been two proposals of divestiture to the Pittsburgh & Lake Erie and Guilford railroads, which were rejected by the Department of Justice after an expansive study by a consultant, R.L. Banks. Now the Department of Justice is going back into the field and selecting a new consultant. Why they are not going to Banks is explainable only in terms of their anticipation of a finding by Banks that proposal 3 violates the antitrust laws, as proposals 1 and 2 did.

There have been preliminary studies by the U.S. Railway Association on the third plan. In a letter dated December 3, 1985, to Representative JAMES J. FLORIO, chairman of the House Subcommittee on Commerce, Transportation and Tourism, the U.S. Railway Association commented:

> Lacking definitive agreements which should clarify important terms still under negotiation, the divestiture carriers have not revised their operating plans and financial projections.

That letter makes the obvious point that there can be no determination on the sketchy state of the present record as to whether any proposals would comply with the antitrust laws.

The third proposal contains the infirmities of the first two. There will continue to be "little or no service to many of the problem markets," a failure identified by the Assistant Attorney General in charge of the Antitrust Division, in his letter to the Department of Transportation dated September 25, 1985.

The problems raised in that letter are still present. The Guilford and Pittsburgh & Lake Erie will not meet the test of the Department of Justice for effective competition. The facilities to be acquired are inferior to those to be retained by Norfolk Southern-Conrail. One specific criticism by the Department of Justice is with respect to the yard which Guilford would use in St. Louis. The very cogent objections raised by Assistant Attorney General Ginsburg in his letter of September 25, 1985, to Secretary of Transportation Elizabeth Dole are still present.

Mr. President, that is why it seems to this Senator that the underlying issue of the sale to Norfolk Southern should not be voted upon by this body until we have the details of the divestiture proposal and until there is a hearing by the Committee on the Judiciary on these very important issues. It is only after such consideration has been given that the U.S. Senate will be in a position to undertake an analysis as to whether, in any event, there could be a sale to Norfolk Southern.

Then the issue would arise as a comparison of the merits between Norfolk Southern as a buyer and Morgan Stanley as a buyer—that is, the investor group which has been put together by Morgan Stanley. When we come to that point, the arguments in favor of Morgan Stanley are very substantial.

First, Morgan Stanley has offered $200 million in excess of the Norfolk Southern offer. Second, if Norfolk Southern acquires Conrail, Norfolk Southern will have a tax advantage in the neighborhood of $400 million, or perhaps as high as $800 million.

The offer of Morgan Stanley, with $200 million excess cash on its face and additional tax factors, would bring dollars to the taxpayers of the United States in the range of $600 million, at a minimum, and perhaps as high as $1 billion. These considerations may well be undertaken by further review by the Department of Commerce.

One suggestion which may arise as a possible amendment would be to have the bill recommitted to the Senate

Committee on Commerce for consideration of the Morgan Stanley offer, and there certainly should be consideration by the Committee on the Judiciary of these very serious antitrust issues.

Mr. President, it is my thought that these matters should be foremost in the minds of Senators as we approach the consideration of this very important issue involving the transportation of our Nation.

Mr. President, I yield the floor.

Mr. DIXON. Mr. President, we are about to act on a motion to invoke cloture on the motion to proceed to S. 638, the Conrail sale legislation.

I continue to believe that S. 638 is a fatally flawed bill. It is far inferior financially to the Morgan Stanley proposal. S. 638's sale recommendation provides the Government with over $600 million less than the Morgan Stanley public offering. What is more, the bill raises the most serious kind of antitrust concerns. I think selling Conrail to the Norfolk Southern violates the antitrust laws, and that the efforts to date to cure the antitrust problems have been hopelessly inadequate. What is more, no one, including the Justice Department, has seen the kind of detailed financial and operating information made available in all other merger cases. In the absence of this information, it is impossible for anyone to conclude that the antitrust problems that even the Justice Department admits exist have been resolved.

It seems to me that the Morgan Stanley proposal represents a far better basis for Senate action on the Conrail sale issue, and that we should be moving to proceed to that bill, not S. 638. I do want to sell Conrail, however, and I want to sell it this year. I therefore intend to support cloture on the motion to proceed to S. 638. I do so reluctantly, and only because I believe there is no other practical way to bring the Morgan Stanley alternative before the Senate.

I urge my colleagues to remember, though, that S. 638 does present extremely important antitrust issues, tax issues, issues related to the value of the competing proposals, and issues related to the economic future of railroading in the East, the Midwest, and the rest of the Nation. These issues require and deserve time for full and fair consideration by the Senate. I hope and expect the Senate will provide that kind of opportunity if and when S. 638 is finally before us.

Mr. McCONNELL. Mr. President, although I oppose the sale of Conrail to Norfolk Southern Corp., I will vote for cloture on the motion to proceed. The issues posed by this legislation are too important to be clouded amidst parliamentary maneuverings. It is time we proceed to the bill at hand, and bring to light the various concerns many of us hold about the potential impact of this legislation. In my mind, this institution works best when we can avoid excessive parliamentary battles and, instead, allow the forces of debate and argument to produce the appropriate legislative response.

I welcome the opportunity to engage in the debate surrounding the Conrail Sale Amendments Act, S. 638. Indeed, only until the debate proceeds to the legislation itself can we begin the process necessary to achieve those changes which will more clearly address the problems at hand.

Mr. EAGLETON. Mr. President, I support the motion to proceed with consideration of S. 638.

Should the Federal Government remain involved in the business of supporting an ailing Conrail? That is the first question to be answered when considering this issue. I believe the answer is, "No." Each year, Conrail costs the Federal Government $20 million for employee protection alone. Since 1976, the total cost to subsidize Conrail has been $7.3 billion. As we strive to lower the Federal deficit, I cannot justify continuing such expenditures to Conrail when another alternative is at hand.

Second question: Should the Federal Government sell its share of Conrail to a group of investors led by Morgan Stanley, or should Conrail be sold to Norfolk Southern? Framing this second question is simple, answering it is much more difficult. Two highly pertinent factors to be considered in formulating our answer must be those of national interest and the interests of the Conrail employees.

On the question of employment, Conrail has proven to be a profitable rail carrier, yet it continues to abandon lines and layoff employees. Since 1976, Conrail's work force has been reduced by 59,000 employees. In the span of 1 year, July 1984 through July 1985, Conrail lost nearly 3,600 employees, or over 9 percent of its work force. As Conrail's traffic continues to decline and as it continues to scale back its operations to save money, more displacement of its work force is expected.

For example, in its most recent operating plan, Conrail projected that it will layoff some 4,500 employees over the next 5 years. Norfolk Southern anticipates only 1,800 layoffs in that same period. Further, Norfolk Southern foresees the creation of approximately 600 new positions in the next few years due to the increased business generated by a combined Norfolk Southern-Conrail.

Let me quote a letter from Jim Snyder, national legislative director of the United Transportation Union dated November 27, 1985, to a number of U.S. Senators:

> I know that you are well aware of the many problems created by the rail crisis during the past two decades and of the enormous burden that has been borne by rail employees as a result of the financial collapse of the northeastern and midwestern railroads. Unfortunately, despite massive amounts of Federal funding and major sacrifices by rail labor, Conrail management continues to find it necessary to shrink the system in order to survive. In the last 12 months alone, the railroad has reduced its work force by another 3,200 employees.

Mr. Snyder goes on to conclude:

> In my personal opinion, we would be pleased if you analyze the record of one of the bidders for Conrail, the Norfolk Southern Corp. That company, in my view, has a record of stable employment as well as one of improving its service to shippers and developing new opportunities for those who wish to locate on its lines.

On the question of national interest, it is a given in this debate that the Nation benefits from a stable, secure rail system. By my analysis, it appears that Norfolk Southern's proposal offers the ability and resources to contribute to that goal. Norfolk Southern's net income last year was $482.2 million. It has assets of $8.7 billion, cash in short-term investments exceeding $1 billion, and a long-term debt of $858 million. All of its capital improvements for the past 2½ years have been financed from current earnings. Its managerial talent and expertise in this field is substantial.

A combined Norfolk Southern-Conrail would provide an economically sound railroad and enhanced competition. The Department of Justice has not yet approved the current divestiture plan, but is confident that the current plan will encourage competition and create new markets for railway alternatives, such as in the trucking industry.

On balance, therefore, I support the sale of Conrail to Norfolk Southern. I believe it offers us the best combination of benefits for its employees and for the Nation as a whole.

Mr. HOLLINGS. Mr. President, I rise in strong support of the motion to proceed to consideration of S. 638, legislation to implement the sale of Conrail to Norfolk Southern. The time has come for the Senate to deliberate this matter, which has been under intense examination by many people for many months.

The notion of selling Conrail is not a new one. In 1981 Congress passed the Northeast Rail Services Act, which established a process for selling Conrail in the private sector. It is this process which brings us to the Senate floor today, 4 years later.

Even with this mandate, opponents of this motion to proceed will argue that several questions remain unanswered about any sale of Conrail, and thus that further study is necessary before a decision can be made. The record of deliberations in this matter does not support this conclusion.

Three years ago, in accordance with the Northeast Rail Services Act, the

Department of Transportation began the formal process of finding a buyer for Conrail by hiring an investment banker and proceeding to solicit bids. Throughout 1983 and the first part of 1984, the Department and Goldman Sachs contacted over 100 corporations, and a competitive bidding process resulted in the submission of 15 bids by June 1984. Subsequently, the Department conducted extensive analyses and negotiations regarding these bids, which culminated in the selection of Norfolk Southern in February of this year, 3 years after the process was begun.

Furthermore, numerous Senate hearings have been held on this matter. The Commerce Committee has held 5 days of hearings—1 prior to the selection of Norfolk Southern, 3 of them dealing directly with the selection of Norfolk Southern, and 1 day on the Morgan Stanley public offering proposal which was submitted after the selection of Norfolk Southern. Furthermore, the Judiciary Committee has held 2 days of hearings. Voluminous testimony has been submitted from representatives of the administration, shippers, affected railroads, rail labor, and investment bankers.

In addition to the efforts of the Department of Transportation and the testimony received, substantial information has been compiled on the various issues relating to the proposed sale. We have numerous studies on the viability of Conrail as a stand-alone entity, including analyses by the Department of Transportation, various parties who bid for Conrail, and the U.S. Railway Association. We have for our review various studies on the tax aspects of a sale to Norfolk Southern, including analyses by the Treasury Department and the Congressional Budget Office. We have numerous studies of the competitive impacts of a sale to Norfolk Southern, including an analysis by the Department of Justice and studies of traffic diversions impacting other railroads by staff at the Interstate Commerce Commission and the U.S. Railway Association. The questions have been asked and numerous answers given.

Opponents of the motion to proceed, however, will argue that because the Department of Justice has not yet given formal approval of the sale to Norfolk Southern, the Senate should not act at this time. I do not agree with this conclusion.

First of all, I might remind my colleagues that S. 638 as reported provides that no sale of Conrail to Norfolk Southern shall be consummated until the Justice Department has approved the sale.

Furthermore, the Justice Department has recently said that the sale as now structured seems to meet the anticompetitive objections it raised previously. This statement comes as a result of many months of negotiation which began late last year when the Secretary of Transportation asked the Department of Justice to review the proposed sale to Norfolk Southern. In response to the Secretary's request, the Department of Justice conducted what it has termed a most extensive review and concluded that a sale to Norfolk Southern would not pose competitive problems if certain line divestitures and joint operations were provided to other carriers in the region.

In accordance with this conclusion, Norfolk Southern proceeded to negotiate certain arrangements with Guilford Transportation and the Pittsburgh & Lake Erie Railroad. The Justice Department raised concerns that these arrangements as originally negotiated did not adequately respond to its objections, and, in response to that, the parties made a number of revisions, resulting in the package which the Justice Department recently announced seemed to satisfy its concerns.

The proposed sale to Norfolk Southern has indeed received close scrutiny by the Justice Department. It is clear that the Justice Department has played an active role in ensuring that the sale is not anticompetitive. The Senate need not wait any longer to act.

Finally, those opposed to Senate consideration of this bill will argue that there will be nothing lost by waiting, that perhaps better offers to purchase Conrail might be made in the interim, and that maybe Conrail should not be sold at all. I want to stress to my colleagues that there is harm in waiting. Conrail should be sold, and now is the time to act. The Norfolk Southern offer is the result of many months of bid solicitation assessment and negotiation. After such extensive preparation and study, should we take the risk that waiting will produce a new buyer and a better offer? Furthermore, Conrail shippers and employees need certainty about the future of rail service in the Northeast region. Delay can only create more uncertainty and perhaps frustrate a responsible sale of Conrail.

I cosponsored S. 638 because I believe that a sale to Norfolk Southern represents the strongest alternative to ensuring a more certain future for the Conrail system. Much time and effort has been spent to bring this proposal before the Senate today, and I urge my colleagues to consider its merits.

Mr. CRANSTON. Mr. President, this 2d session of the 99th Congress is just a few hours old, and yet we are already entangled in extended debate. We will have, as our first vote in 1986, a vote not on a substantive issue, but a procedural vote on cloture relating to the Conrail bill. This is not an encouraging beginning, given the seriousness and urgency of the many issues we must resolve this year. I will vote to invoke cloture on the motion to proceed to the Conrail bill. I will do so not as a merit judgment on the Norfolk-Southern position versus the Morgan Stanley position, but in the belief that we must expedite the business of the Senate. The issues raised by the proposed sale of Conrail are many and complex. I want the privilege of hearing the debate. My mind is not yet made up.

Mr. DOLE. 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. PRESSLER. 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. PRESSLER. Mr. President, I will vote against the motion——

The PRESIDING OFFICER. The Senator must suspend.

One hour having elapsed since the Senate convened, the clerk will state the motion to invoke cloture.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. For what purpose does the Senator address the Chair?

Mr. METZENBAUM. For the purpose of propounding a unanimous-consent request.

Mr. PRESSLER. I want to put a speech in the RECORD.

The PRESIDING OFFICER. The Senator will state his request.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senator from South Dakota may be heard, that immediately thereafter the Senate revert to the quorum call that was occurring, and that the Senate not be in a different posture than it was prior to the request of the Senator from South Dakota.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object.

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

The Senator from South Dakota.

THE MOTION TO PROCEED WITH CONRAIL

Mr. PRESSLER. Mr. President, I will vote against the motion to proceed to consideration of S. 638, the Conrail Sale Amendments Act, later today. I expect the Senate will vote to go forward on this issue. Indeed, I expect that many who agree with me on the merits of this issue will vote to proceed with debate. I cannot in good conscience vote to go forward at this time. This is a very unusual vote for me, so I wanted to explain my reasons for voting this way.

There are many reasons we should not go forward with debate on Conrail at this time. I will highlight just a few which I believe to be of particular importance.

LACK OF ANTITRUST INFORMATION

First, as a number of Senators have pointed out, we simply do not have adequate information on the anticompetitive impacts of this unprecedented rail merger. If we allow this merger to go forward, we will be creating the largest transportation conglomerate in the United States, indeed probably the largest in the free world, without having answered the very fundamental questions that are required to be answered in any rail merger. We do not have any study of the impact this will have on my part of the country, much less the normally detailed study of its impact on the immediate Conrail-Norfolk Southern region. The Department of Justice has explicitly refused even to consider the problems this merger will have on the Midwest, the West, and other parts of the country.

And believe me, as a member of the Commerce Committee who has been working on the Conrail issue for some time, this absence of information is not for lack of trying on our part. I, along with a number of other Senators, have been asking for this information from the start.

We discovered that the Justice Department is applying a double standard in their railroad merger analyses. They have used two very different methods in analyzing the two big railroad merger cases presently being considered in this country. In a merger case being considered in the South and Western part of the country—Santa Fe-Southern Pacific—the Department is using a fairly rigorous analysis known as the Pittman method. Justice is opposing that merger.

But in the Norfolk Southern/Conrail merger, one that is roughly twice the size of the merger they oppose in the South and West, the Department has used a much less rigorous analysis. Justice seemingly supports this merger.

I am not sure which decision was made first—whether to support the merger or whether to use a much less rigorous analysis. But I do know that this double standard approach is dangerously misleading and very unfair to the parties involved.

We have asked the Justice Department to explain. In addition to a number of earlier informal and committee inquiries, I formally asked the Department of Justice to provide me with this information as early as May 15, 1985. Nearly 5 months later, on October 3, after repeated phone calls and an editorial published in the September 25 edition of the Chicago Tribune, I received a 10-page letter from the Department of Justice dated August 30 which was long on words but short on substance. In essence it said:

> While there were minor differences in the manner in which the guidelines were applied to each transaction, the same fundamental analytical principles were followed in both cases. The differences arose largely because of the differences in the nature of the two mergers and the contexts in which the Department reviewed them and, to a lesser degree, simply because two different economic experts were involved in the two matters.

The letter goes on to state that:

> Although the amount of so-called "problem revenues" identified in the NS/Conrail merger might have been somewhat larger under Dr. Pittman's application of the guidelines, our conclusions and recommendations would not have differed under either approach.

Mr. President, I must give the Department of Justice credit in that they at least admitted there were "minor differences" between the two methodologies. But let me explain just briefly some of these "minor" differences:

First, in the Department's NS/CR analysis they came up with a 6-page printout identifying anticompetitive market points; applying the Pittman analysis to the exact same transaction we get over 500 pages of printouts identifying anticompetitive points!

Second, as the Department admitted in its letter, they applied a host of "screens" in their original NS/CR study that they did not apply in the Pittman methodology. The result of these screens was to simply factor out thousands upon thousands of problem tons which made the merger look much less anticompetitive.

Third, they did not even bother to consider affected tonnage outside the immediate NS/CR region. Indeed, under the Pittman methodology, over one-half of the problem tonnage identified was outside the NS/CR region or unaffected in any way by the proposed divestiture plan. It is this aspect of the study which upsets me the most because that tonnage is in places like the Midwest or the West, which has been ignored throughout this entire process.

There were other differences, but I think I have made my point. The point is that these differences were anything but "minor," and I have a hard time believing that the Justice Department could in good faith say that they believe their "recommendations would not have differed" when they did not even bother to check the other approach. One of the reasons given for not bothering with the Pittman methodology was that it would be too time consuming and expensive. Well, it took us 3 days using the exact same program to run these numbers through the computers. If a transaction of this magnitude is not worth 3 days of a Justice Department economist's time, I do not understand why 100 Senators should spend our time on it now. Let us get these answers and come back here when we have something to argue about.

NO PROTECTION FOR THE MIDWEST

Conrail originally became a ward of the Federal Government because of the large number of railroad failures in the Northeast. Because this merger would give Norfolk Southern a virtual monopoly east of the Mississippi, it would effectively give them control over transcontinental traffic originating and terminating in the East. This will, I am quite confident, lead to a number of railroad failures in other parts of the country. Unfortunately, I am not alone in my belief.

The various railroads around the country which face extinction agree. Despite the Department of Transportation's optimistic predictions to the contrary, we will have railroad failures as a result of this megamerger. And I for one do not like the idea of having those failures begin in my backyard. It would be ironic indeed if, as a result of turning Conrail back to the private sector and getting the Federal Government out of the railroad business in the Northeast, we unwittingly set the wheels in motion for larger railroad failures in other parts of the country, thereby starting the process all over again.

There has been a lot of talk about the viability of a "stand-alone" Conrail. Today, I will leave that issue to my other colleagues. It is not Conrail's viability that worries me. It is the viability of the many railroads throughout the country which worries me. It worries me a great deal, and it should worry many of my colleagues when they take a hard look at this proposal. I urge you to check in your own backyards and ask where this will bring us in a decade or two.

I could not help but chuckle when I found on my desk recently a copy of an impressive looking binder prepared by the Department of Transportation, full of information about how this merger will help South Dakota. I might make just a few suggestions to the Department: Call the railroads in South Dakota. Call the shippers in South Dakota. Call the transportation officials in South Dakota. Call the railroad employees in South Dakota. Call the elected officials in South Dakota. Call any of these people in South Dakota and tell them this sale will have no adverse effect on our State. Tell them how it will help the State. Better yet, maybe you should save your quarters because I have talked to them all and I think I can tell you what their response would be.

Mr. President, I raise this point because I think it is indicative of the kind of preposterous information we have been receiving from some of the agencies. They have long since lost their credibility on this issue. These

are not objective administration information packets, they are lobbyist position papers.

I would urge those Senators who have received the same packet of information to call these same people in your States and ask them these questions. I think you will find a much different picture than the rosy one painted by the Department of Transportation in the optimistic binders we all found on our desks.

CONCLUSION

I could go on and on with reasons why we should not go forward with this bill at this time. If we do, and I suspect that will be the case, I will have an amendment to offer which addresses some of the concerns I have raised, so I am prepared to go forward with that amendment if we must proceed with this bill.

We all want to see Conrail turned back to the private sector, but I hope we can find a way to do it that will not threaten the transportation system in the rest of the country, and I hope we can do it in a forum where we have all the information needed to fully debate and understand the implications of this transaction.

In conclusion, I would say my concern is for the regional railroads of America, those railroads that will have to deal with a monopoly east of the Mississippi. We are in a situation where if we create a monopoly east of the Mississippi, that railroad can engage in predatory practices with any railroad or truck line that feeds into it. Across the West and Midwest of this country small regional railroads have expressed much concern about what will happen at the gateways in terms of rates, in terms of rolling stock, and in terms of other issues that face those railroads. We are on the brink of creating the most monopolistic railroad since the late 19th century. Our entire transportation system will suffer.

I hope the Congress does not approve the Conrail plan as proposed.

Mr. President, I yield back my time.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Mr. President, before I make this request, I wish to indicate that it has been cleared with the distinguished minority leader.

I ask unanimous consent that the live quorum call under rule XXII be vitiated.

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

Mr. DOLE. I further ask unanimous consent that the cloture vote occur at 1:30 p.m. today.

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

Mr. DOLE. Mr. President, let me indicate we have been discussing this matter with the distinguished Senators from Ohio, Pennsylvania, and others, and the distinguished manager of the bill, Senator DANFORTH. It is my understanding that the distinguished Senator from Pennsylvania was going to suggest that we vitiate the vote on cloture. I indicated that many Members wanted to vote on the motion to proceed and have returned to Washington for that purpose. So we will have that vote.

At this time I yield to the distinguished Senator from Pennsylvania for further remarks.

Mr. SPECTER. I thank the distinguished majority leader.

I would like to state the substance of our conversation and my own inclination to vitiate the vote on cloture, but I understand the concern of the majority leader and the concern of my colleagues who have come back for this vote.

I had suggested vitiating the vote on cloture because it is my view that it is the sense of this body to proceed to consideration of the bill. It is also my view that any vote on cloture would not be representative of the very strong support which exists for the Morgan Stanley offer, and the very substantial opposition which exists against Norfolk Southern.

For a number of reasons, I intend to vote in favor of cloture and I would urge all those who oppose the sale to Norfolk Southern to do the same for tactical reasons, as has been the practice from time to time for everyone to vote on one side so that there is no inference as to the strength of the underlying position.

There are some important considerations which will come before this body next week. The issue that the distinguished Senator from South Dakota has raised about antitrust matters will be the subject of a motion to recommit the bill or to send the bill to the Judiciary Committee so that there can be consideration of this issue.

There may be a motion to recommit to the Commerce Committee so that the Morgan Stanley matter can be considered.

There will be an amendment as a substitute for the Morgan Stanley offer.

I have discussed with the distinguished manager of the bill, the chairman of the Commerce Committee, the possibility of some time agreements on some of those amendments. There are others of us who will reserve our rights after the cloture vote next week to take whatever action we believe to be appropriate by way of postcloture filibuster, if that should be indicated.

The distinguished majority leader has stated that he would not file a cloture motion until at least Tuesday of next week so that there will not be a vote on that cloture motion until Thursday of next week. That accommodates some of the considerations which are important to this Senator.

It seems to this Senator that it is not necessary to have extended discussion on Friday or Monday on this matter, and that all of the considerations can be accommodated when we reach the important issues next week as the matter is called again before this body. For those reasons, I would urge all those who are opposed to Norfolk Southern, and who favor Morgan Stanley, to vote in favor of cloture at this time for those tactical reasons mentioned. I thank the Chair.

Mr. DOLE. I yield to the Senator from Ohio.

Mr. METZENBAUM. I have heard the discussion between the majority leader and the Senator from Pennsylvania. I have no fault to find with it. I understand that to have abbreviated sessions in this body on Friday and Monday for the purpose of dragging out the issues does not serve the parties to this debate nor the image of the U.S. Senate. I think the indication of the majority leader that if he fails with respect to the motion to proceed and cloture in connection therewith he would not file another cloture motion on the bill itself until Tuesday, which accommodates the concerns of the Senator from Ohio.

It is my feeling that part of the purpose of this discussion which has been taking place on the floor of the Senate is to highlight the issues so that people understand the antitrust issues which have not been resolved; to make it clear that there is an offer out there of $200 million in excess of the present offer; that there is another offer that has some question about it which is $400 million higher.

I think those issues have been discussed adequately and there is no secret as to the concerns those of us who are opposed to this matter are feeling.

Having said that, I am not going to take a position contrary to the position of the Senator from Pennsylvania. I am perfectly willing to see my colleagues vote for cloture and then, as I understand it, have an oral vote with respect to the motion to proceed.

I shall go along with that, but I want to make it eminently clear that my going along with it does not indicate in any way that I have slackened my opposition, that I have any less opposition to the pending legislation. But I think that all of my rights will be preserved, that there will be adequate time to get into those, to offer amendments in connection with the pending legislation. Therefore, I urge those who have a position on this matter, whether for or against, to go along with the cloture motion, which I shall vote for. Then I have no objection if the leader wishes to vote without a rollcall on the motion to proceed.

Mr. DOLE. Mr. President, let me indicate that I appreciate the remarks of both Senators. I hope that if cloture is invoked, the motion to proceed would

be approved on a voice vote. I know a number of Senators have asked whether there will be additional votes. I am prepared to indicate at this time that unless there is a request for a rollcall on the motion to proceed, there will be no further rollcall votes today.

It is my hope that the managers of the bill might continue to discuss the bill today. I understand there will be a substitute offered, but there will be no cloture motion filed on the bill itself until next Tuesday, as the Senator from Pennsylvania pointed out. If there are discussions that can occur today, that will be fine. There will be no session tomorrow. We will be in on Monday. There may be some controversial amendments that can be taken up at that time.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 1:30 having arrived, the clerk will read the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Dole motion to proceed to the consideration of S. 638.

Bob Dole, Jack Danforth, Mack Mattingly, John H. Chafee, Ted Stevens, Don Nickles, Strom Thurmond, Al Simpson, Jake Garn, Bob Packwood, Phil Gramm, Warren B. Rudman, Malcolm Wallop, Pete V. Domenici, Pete Wilson, Dan Quayle, and Dave Durenberger.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to consideration of S. 638, a bill to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purposes, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN] and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

The yeas and nays resulted—yeas 90, nays 7—as follows:

[Rollcall Vote No. 1 Leg.]

YEAS—90

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

NAYS—7

Bradley	Pressler	Stennis
Burdick	Proxmire	
Ford	Roth	

NOT VOTING—3

Bentsen	Kassebaum	Pryor

The PRESIDING OFFICER. On this vote, the yeas are 90, the nays are 7. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The question is on the motion to proceed.

The motion was agreed to.

CONRAIL SALE AMENDMENTS ACT OF 1985

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 638) to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike out all after the enacting clause and insert the following:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Conrail Sale Amendments *Act* of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary **[**of Transportation**]** engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary **[**of Transportation**]** found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation **[**(A)**]** best meets the sale criteria of *(A)* leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and *(C)* maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, **[**in accordance with**]** *and any transactions or agreements related or incidental to such divestures, in connection with the implementation of* attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after [paragraphs] *paragraph* (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph [(20)(A);"] *(20)(A);"*; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, [in accordance with] *and any transactions or agreements related or incidental to such divestures, in connection with the implementation of* attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph [(9)(A);"] *(9)(A);"*; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, [in accordance with] *and any transactions or agreements related or incidental to such divestures, in connection with the implementation of* attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act *of 1973* Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments *Act* of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments *Act* of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments *Act* of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments *Act* of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments *Act* of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments *Act* of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which [shall, in the Secretary's judgment,] *shall* conform [substantially] to the Memorandum of Intent described in section [102(2)(A)] *102(20)(A)* of this Act. *The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.*

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

["(5)] *"(6)* The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest there-

on) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the [''Offset Amount''.] *'Offset Amount').*

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking [out] "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States [Code.] *Code.*".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the [eighteen month] *eighteen-month* period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act *of 1981* Amendments

SPECIAL COURT JURISDICTION

SEC. 121. *(a)* Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments *Act* of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

[''(7)] *"(8)* brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

[''(8)] *"(9)* brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements

shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

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

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

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 2[illegible](f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11)[(A)] The employee stock [illegible]nership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of [1954] *1954*, notwithstanding [(i)]*(A)* that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or [(ii)]*(B)* that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a) and [(b)),] *(b))* are repealed, and such section 214 is amended by striking "(C) *"(c)* ASSOCIATION.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. [1115)] *1115(c))* is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the [Regional] Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad [revitalization] *Revitalization* and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through ["1981";] *1981)";* and

(B) in subsect[illegible] (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is

amended by striking "the Consolidated Rail [Corporation,".] *Corporation,".*

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is [amended, by striking, the] *amended by striking ", the* Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. [conrail's] *(a) Conrail's* status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. [303.] *305.* If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. [304.] *306.* (a) Except as provided in subsection [(b),] *(b) of this section,* the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

AMENDMENT NO. 1437

(Purpose: To make an amendment in the nature of a substitute)

Mr. DANFORTH. Mr. President, on behalf of the Commerce Committee, I withdraw the committee's amendments, and I send an amendment in the nature of a substitute 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 Missouri [Mr. DANFORTH] proposes an amendment numbered 1437.

Mr. DANFORTH. 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:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern

Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Secretary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the

violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

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

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

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) Association.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through "1981"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Con-

rail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

Mr. BYRD. Mr. President, I will suggest the absence of a quorum until we can have a member of the committee to take this seat. I hope it will be a very short quorum call.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MCCONNELL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, for the information of all Senators, there will be no session of the Senate on tomorrow. We will be in session on Monday.

I do not anticipate any additional rollcall votes today.

We will have some discussion of the bill today, because Senator DANFORTH has offered a substitute.

On Monday, I hope we can take up amendments to the bill which are not controversial, so that they may be accepted. The distinguished Senator from Washington [Mr. GORTON] will be in a position to argue his motion to recommit.

But that vote, if a rollcall is requested, will occur on Tuesday. Then, as I have pledged to both Senator SPECTER, from Pennsylvania, and Senator METZENBAUM, from Ohio, we will not file cloture until Tuesday on the bill itself.

Mr. DANFORTH. Mr. President, some time ago I made an inquiry to the Treasury Department as to the effects on tax revenue to the Federal Government of a sale of Conrail to Norfolk Southern. Clearly, as has been recognized by everybody, there is a tax consequence. The fact of the matter is that the proposal that was made by Norfolk Southern to the Department of Transportation forgoes loss carry forward, net operating loss carry forwards and the carry forward of investment tax credit unused from prior years because Conrail has not been paying taxes. These carry forwards would otherwise be available. However, it was agreed by Norfolk Southern to forgo carry forwards of the net operating losses and of the investment tax credit.

However, there are some tax consequences to any business transaction. Why? Because anytime a corporation that generates tax losses files a consolidated tax return with a business that is making money and paying taxes, one offsets the other. So, in the future, there are tax consequences.

The Treasury Department, along with a lot of other people, including Morgan Stanley and the Joint Committee on Taxation and the Congressional Budget Office, have made analyses of what happens to tax revenues by virtue of the acquisition of Conrail by Norfolk Southern. The Treasury Department has written me. Mr. President, I ask unanimous consent that a copy of a letter that I have received from J. Roger Mentz, Acting Assistant Secretary of the Treasury for Tax Policy, be printed in the RECORD.

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

DEPARTMENT OF THE TREASURY,
Washington, DC.

Hon. JOHN C. DANFORTH,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for an analysis of the Federal income tax revenue effects of the proposed sale of Consolidated Rail Corporation (Conrail) to the Norfolk Southern Corporation (Norfolk Southern). Our analysis is based on the proposed sale transaction as reflected in S. 638, the Conrail Sale Amendments of 1985, and in the Memorandum of Intent signed on February 8, 1985, by Norfolk Southern and the Department of Transportation. Pursuant to your further request, we also have analyzed the tax revenue effects of an alternative proposal for a sale of Conrail to a syndicate of investors organized and headed by Morgan Stanley & Co., Incorporated (Morgan Stanley). We have relied for the details of a sale of Conrail to the Morgan Stanley syndicate upon Morgan Stanley's written description of the proposal dated May 14, 1985, as subsequently amended.

OVERVIEW

Subject to the uncertainties and qualifications noted below, we estimate that a sale of Conrail to Norfolk Southern, in comparison with a continuation of the Federal government's ownership of Conrail, would result in a present value revenue loss of $125 million for the 1986-1990 budget period. Without adjustment for the time value of money, the nominal loss in Federal tax revenues over this period is $174 million. Alternatively, we estimate that a sale of Conrail to the Morgan Stanley syndicate, again in comparison to continuation of Conrail's current ownership, would result in a present value increase in revenue of $18 million over the same 1986-1990 period. This positive revenue effect represents a nominal revenue gain of $24 million.

As discussed in further detail below, the difference in estimated revenue effects of a sale of Conrail to Norfolk Southern and a sale to the Morgan Stanley syndicate is attributable primarily to differences in the rate at which losses and credits generated by Conrail after the sale would be utilized under the alternative sale proposals.[1] Thus, our estimates reflect period and present value differences in the revenue effects of the alternative proposals, even though their revenue effects on a long-run, undiscounted basis would be very similar.

In addition, we must emphasize that the difference in estimated revenue effects of the alternative proposals in highly sensitive to a number of legal and factual issues as to which there is substantial uncertainty. We have, for purposes of our estimates, attempted to resolve these issues on a basis that reasonably reflects the comparative revenue effects of the sale proposals. Alternative assumptions concerning a number of these issues would have been defensible, however, and could have significantly altered the absolute and relative revenue effects of the proposals. We also must emphasize that our revenue estimates do not represent an analysis of the relative merits of selling Conrail to Norfolk Southern or to the Morgan Stanley syndicate. In particu-

[1] Both the Norfolk Southern and Morgan Stanley proposals contemplate that existing Conrail loss and credit carryovers would be extinguished in the sale transaction.

lar, we have made no attempt to evaluate non-tax budgetary effects of either sale proposal, or to weigh the effects of either proposal on the future health of Conrail.

EFFECT OF TAX REFORM

The difference in estimated revenue effects between a sale of Conrail to Norfolk Southern and a sale to the Morgan Stanley syndicate is attributable primarily to the fact that a Conrail owned by Norfolk Southern would be included in Norfolk Southern's consolidated group of corporations and would thus be able currently to pass through all or some portion of the benefit of net operating losses and unused tax credits to Norfolk Southern. It is important to recognize that the extent to which Conrail generates future net operating losses and tax credits that could be passed through to Norfolk Southern is heavily dependent on the cost recovery rules that apply to future Conrail investment. As a matter of convention, our estimates assume that current law cost recovery rules will remain in effect.

The House of Representatives, however, recently passed H.R. 3838, the Tax Reform Act of 1985, and the Senate is expected to consider tax reform legislation early this year. H.R. 3838, like a number of tax reform proposals, including "The President's Tax Proposals to the Congress for Fairness, Growth and Simplicity," would repeal the investment tax credit and extend the period over which the cost of depreciable investment is recovered for tax purposes. Enactment of these or similar proposals altering current tax incentives for depreciable investment would substantially reduce or perhaps eliminate the excess tax benefits generated by Conrail over the period of the revenue estimate. This would reduce correspondingly the benefit to Norfolk Southern of tax consolidation between it and Conrail, and thus the absolute and relative revenue costs of a sale of Conrail to Norfolk Southern. In addition, H.R. 3838 would impose new limitations on the use of certain losses following corporate acquisitions. This too would affect the tax treatment of Conrail and could change substantially the revenue effects of the alternative proposals.

CONRAIL OPERATING PROJECTIONS

Net Income. Our estimates assume that Conrail's net book income for the period 1986-1989 will be as projected in the June 7, 1985 report of Conrail management, with income for 1990 increased by four percent over 1989. These projections update and significantly alter prior Conrail projections that formed the basis for the April 1985 United States Railway Association analysis of Conrail's future operations.

In order to provide a consistent basis for comparison, we have not adjusted the Conrail projections to reflect possible differences in operating results depending upon whether Conrail is sold to Norfolk Southern or to the Morgan Stanley syndicate, or is instead retained by the Federal government. In addition, we have not conformed the macroeconomic assumptions underlying the Conrail projections to the Administration's economic forecasts.

Capital Investment. We also have followed Conrail management's June 7, 1985 report in estimating Conrail's levels of capital investment for 1986-1989, with investment for 1990 again increased by four percent over the 1989 level. Moreover, we have assumed the same levels of capital investment regardless of whether Conrail is sold to Norfolk Southern or to the Morgan Stanley syndicate. This assumption is consistent with our assumptions about Conrail income, and is useful in comparing the revenue effects of the alternative means of returning Conrail to the private sector. At the same time, the assumption of equivalent levels of capital investment disregards the effect on such investment of Conrail's ability to use currently the associated tax deductions and credits. As discussed below, a Conrail owned by the Morgan Stanley syndicate may have a relatively limited ability to transfer the benefit of excess deductions and credits. Although this translates to a present value revenue saving to the Federal government, it also produces a higher after-tax cost of additional capital investment for a Conrail owned by the Morgan Stanley syndicate than a Norfolk Southern-owned Conrail.

UTILIZATION OF CONRAIL TAX BENEFITS

Present Value of Revenue Effects. Based on our assumptions concerning its future earnings and capital investment, Conrail will over the next several years generate deductions and credits well in excess of its ability to use them currently. In general, the varying tax revenue effects of a sale of Conrail to Norfolk Southern or to the Morgan Stanley syndicate turn on Conrail's relative capacity to utilize these excess deductions and tax credits or alternatively to transfer them to other taxpayers. For the most part, this resolves to a question of the rate at which Conrail's excess deductions and credits would be utilized, since it is likely that all of Conrail's losses and credits would eventually be utilized regardless of whether it is owned by Norfolk Southern or by the Morgan Stanley syndicate. Thus, the estimated revenue effects of the alternative sale proposals would be very similar on a long-run, undiscounted basis. There are, however, significant potential differences in the rate at which Conrail's excess deductions and credits would be utilized depending on whether it was owned by Norfolk Southern or the Morgan Stanley syndicate. Of course, the more rapidly Conrail's excess deductions and credits are used, the greater the revenue cost to the government in present value terms.

Consolidation vs. Leasing. Under current law, there are two principal strategies by which utilization of Conrail's deductions and credits could be accelerated. Conrail could consolidate its net operating losses and unused credits with the income of another taxpayer by acquiring or being acquired by a tax-paying corporation. In addition, Conrail could transfer a portion of its excess deductions and credits to other taxpayers by leasing rather than purchasing its new depreciable property.

If Conrail were sold to Norfolk Southern, Conrail would be included in the Norfolk Southern consolidated group, and thus its losses and credits would generally be available to offset income and tax liability of Norfolk Southern. For purposes of our estimates, we assumed that Norfolk Southern's taxable income would be as reflected in its most recent annual report, and would grow at an annual rate of four percent through 1990. We further assumed that Norfolk Southern's level of capital investment would be consistent with its recent historical experience, and would similarly grow at a four percent annual rate through the five-year budget period.[2] On this basis, Norfolk Southern would have sufficient taxable income during the budget period to absorb all projected Conrail losses on a current basis, but its use of Conrail investment tax credits would be limited in four of the five years by the 85 percent of tax liability ceiling imposed under current law.

A Conrail owned by the Morgan Stanley syndicate would not be able to pass through its losses and credits to its owners, and would thus be left to pursue leasing or the purchase of a tax-paying business as a means to accelerate utilization of its losses and excess credits. In this regard, Conrail at the present time engages in leasing transactions, and our estimates assume that it would continue to do so if it were sold to the Morgan Stanley syndicate or retained by the Federal government.[3] Much of the depreciable property acquired by Conrail is not eligible to be leased under current law, however, and thus a Conrail owned by the Morgan Stanley syndicate would have excess losses and credits even if it pursued an aggressive leasing strategy. Our estimates assume that such excess losses and credits would be carried over to future taxable years of Conrail, to be used as Conrail begins eventually to generate taxable income. This deferral of Conrail tax benefits to later years produces a relative savings in revenue from a sale of Conrail to the Morgan Stanley syndicate as compared to a sale to Norfolk Southern.[4]

Implicit in the revenue estimate for each sale proposal is the assumption that Conrail would not attempt to accelerate utilization of excess deductions and/or credits by acquiring a tax-paying business. Although a contrary assumption might be supportable, it would require wholesale speculation as to the terms of the acquisition and the characteristics of the business acquired. The "no-acquisition" assumption reduces the estimated revenue cost of each sale proposal; it has greater significance, however, with respect to the Morgan Stanley proposal because of the greater portion of Conrail tax benefits that would be unused currently. The assumption may thus overstate the rel-

[2] Our estimates assume that Norfolk Southern would have taxable income of $438 million in 1986 (before adjustment for certain interest costs incurred to purchase Conrail), which is based on Norfolk Southern's 1984 annual report and the assumption of 4 percent annual growth for 1984-1986. Our estimates further assume that Norfolk Southern's capital investment in 1986 would be $600 million, which is consistent with its average levels of investment (adjusted for inflation) over the recent past. Although an averaging approach would perhaps have been appropriate with regard to the assumed level of Norfolk Southern taxable income, the result would be unduly influenced by certain extraordinary tax deductions available to Norfolk Southern in recent years. In 1984, the base year for our income forecast, the effect of such deductions was relatively small and Norfolk Southern's book income was consistent with recent historical levels.

[3] In contrast, we have assumed that a Norfolk Southern-owned Conrail would not engage in leasing transactions, despite the fact that it would generate investment tax credits that could not be used by Conrail or Norfolk Southern during the budget period. This assumption reflects the much shorter period over which excess tax benefits would be deferred in the case of a Norfolk Southern-owned Conrail.

[4] Our estimates indicate that a sale of Conrail to the Morgan Stanley syndicate would actually increase revenues over the budget period. This positive revenue effect is attributable to the use of Conrail funds, under the Morgan Stanley proposal, to make certain payments to Conrail employees. The use of Conrail funds for this purpose effectively transfers income-earning assets from an entity not currently paying taxes to individual taxpayers, i.e., from Conrail to Conrail employees, with a corresponding positive effect on revenues. We did not consider the effects of such transfer on the financial health of Conrail.

ative revenue loss resulting from a sale to Norfolk Southern.

Built-In Deduction Limitations. As described above, the tax revenue costs of a sale of Conrail to Norfolk Southern reflect that Conrail, as a member of Norfolk Southern's consolidated group, would be able to pass net operating losses and credits through to Norfolk Southern. Under current law, however, the benefits of such consolidation may be limited with respect to certain depreciation deductions and losses attributable to Conrail's existing assets. As explained in our letter to you of March 27, 1985, the consolidated return regulations limit the extent to which an acquired corporation's so-called "built-in deductions," including depreciation deductions attributable to basis in excess of the value of depreciable assets, can be utilized by the acquiring corporation. In general, the built-in deduction rules would limit Norfolk Southern's use of Conrail depreciation deductions to the extent the basis in Conrail's existing depreciable assets exceeded the value of those assets.[5]

Information provided to us by the Department of Transportation indicates that Conrail has a total basis in its assets (other than cash) of $4.3 billion, with $3.0 billion of this amount attributable to depreciable assets. Although there is no direct evidence as to the value of Conrail's depreciable assets, a reasonable approximation of their value could in theory be drawn from the proposed purchase price for Conrail's stock. This would require that the cash purchase price be increased to reflect the implicit cost of Conrail's liabilities (and, perhaps, as well of certain covenants to be provided by Norfolk Southern), and adjusted further to account for the value of Conrail's nondepeciable assets, such as cash, receivables, land and rights of way. We have not, for purposes of our estimates, attempted to resolve the uncertainties that would be involved in this process,[6] and have instead assumed that the value of Conrail's depreciable assets is sufficiently high so that the built-in deduction rules would not apply to limit Norfolk Southern's utilization of Conrail depreciation deductions. This assumption does not reflect a judgment about the likely outcome of any judicial or administrative determination on the question of value; rather, it is made in recognition of the uncertainties involved, and tends, in this regard, to produce an upper-bound estimate of the potential loss in tax revenue that would result from a sale of Conrail to Norfolk Southern.

Although we have assumed for purposes of our revenue estimates that the built-in deduction rule would not apply to limit Norfolk Southern's use of Conrail's losses, it has been suggested that any authorizing legislation provide expressly that losses attributable to Conrail's existing assets not be available to offset Norfolk Southern's income. Thus, any legislation authorizing the sale could provide that all post-acquisition deductions attributable to existing Conrail assets would be treated as built-in deductions. In effect, the value of Conail's depreciable assets would be deemed to be zero for purposes of the built-in deduction rules, so that the benefit of tax consolidation would be denied to Norfolk Southern to the extent Conrail incurs tax losses attributable to the depreciation of its existing assets. We estimate that inclusion of this provision in the authorizing legislation would reduce the present value revenue cost of a sale of Conrail to Norfolk Southern from $125 million to $83 million, with a corresponding reduction in nominal revenue loss from $174 million to $111 million.

Long-Term Revenue Effects. Our estimates of the revenue effects of the alternative sale proposals reflect only the five-year budget period. We estimate, however, that significant tax benefits generated by Conrail during the budget period would be unused in that period regardless of whether Conrail is owned by Norfolk Southern or by the Morgan Stanley syndicate. Although such unused benefits could add significant long-term revenue costs to either sale proposal, we do not reflect them in our estimates because of the additional uncertainties involved in estimating revenue effects beyond the budget period. Any estimate based on projections and assumptions for such future periods would have very limited reliability or significance.

OTHER ISSUES

Payments to Labor. The proposals for a sale of Conrail to Norfolk Southern or to the Morgan Stanley syndicate each contemplate certain payments to labor in respect of the employees' interests in Conrail's Employee Stock Ownership Plan (ESOP) and to compensate the employees for past wage concessions. Although the tax consequences of the proposed payments could significantly affect the revenue implications of either sale proposal, such consequences have been disregarded in our estimates for a number of reasons. Most importantly, there are significant factual and legal uncertainties concerning the nature of the proposed payments and the attendant tax consequences. Although the payments would likely generate an ordinary business deduction to the extent treated as satisfying an existing Conrail obligation to compensate its employees, the entire amount could be nondeductible if treated as a cost of acquiring the stock of Conrail. Similarly, depending on the form in which they are made, the payments could create a current tax liability for Conrail employees or instead be taxable only on a deferred basis. The labor payments thus present a matrix of possible outcomes, ranging from deductibility of a significant portion of the payments with no current tax consequences to Conrail employees, to capitalization of the entire amount but full and current taxation to Conrail employees. Resolving which of this range of outcomes should be reflected in a revenue estimate would require not only resolution of significant legal uncertainties, but broad speculation as to the terms of the agreement between labor and any eventual purchaser of Conrail.

Although we have not quantified, for purposes of our estimates, the tax consequences of the labor payments, their likely net effect under either proposal would be to enhance revenues over the budget period. In the case of a Conrail owned by the Morgan Stanley syndicate, deductibility of the labor payments would only increase Conrail losses generated but unused during the budget period. Thus, to whatever extent the labor payments were currently taxable to Conrail employees, tax revenues over the budget period would be increased. A similar net revenue effect is likely in the case of a Norfolk Southern-owned Conrail, although in such case deductibility of any portion of the payments would produce a current tax benefit to Norfolk Southern. The extent of such benefit would depend on what portion, if any, of the labor payments was deductible, but would in any event be limited by a corresponding reduction in Norfolk Southern's ability to utilize investment tax credits during the budget period.[7]

Because of Norfolk Southern's ability to benefit currently from additional Conrail deductions, excluding the labor payments from our estimates may understate, to the extent of such benefit, the relative difference in the revenue effects of the alternative sale proposals. It is our understanding, however, that Norfolk Southern has tentatively agreed to provide additional compensation to labor to reflect any tax savings it receives by virtue of its payments to labor. To the extent such provision were incorporated in any ultimate agreement between Norfolk Southern and labor, Conrail employees rather than Norfolk Southern are the interested parties in the tax treatment of the labor payments. Since the Memorandum of Intent between Norfolk Southern and the Department of Transportation is silent as to the tax consequences of the labor payments, it is possible to regard them as an issue separable from the other tax consequences of the proposed transaction. In this respect, Congress could, consistently with the Memorandum of Intent, define specifically the tax consequences of the labor payments in any legislation authorizing a sale of Conrail.

Employment Effects. Various parties have asserted that a sale of Conrail to Norfolk Southern and a consolidation of their operations would have positive or adverse effects on employment within Conrail and Norfolk Southern and, more broadly, within the railroad industry as a whole. We have not attempted to resolve these conflicting assertions for purposes of our estimates, and thus have assumed that railroad employment would not be affected by a sale to Norfolk Southern. If a sale to Norfolk Southern were instead to cause a relative decline or increase in railroad employment, there would be corresponding tax effects, both with respect to income tax revenues and railroad retirement tax revenues.

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[5] Under a de minimis exception, the built-in deduction limitations would not apply if the aggregate value of Conrail's assets (other than cash and certain marketable securities) equalled or exceeded 85 percent of Conrail's basis in those aggregate assets.

[6] Norfolk Southern has indicated to us in informal discussions that its estimates of the value of Conrail's depreciable assets, based on the purchase price for Conrail's stock, ranged from $1.5 billion to well over $3.0 billion depending on the weight assigned to certain liabilities and covenants. Norfolk Southern has further indicated that it believes a value toward the higher end of that range, which could leave it unaffected by the built-in deduction limitations, would be legally supportable. Although we have not examined the basis for Norfolk Southern's position in detail, we believe the weight that would be assigned to certain liabilities and covenants under its analysis is open to substantial question.

[7] Because of the 85 percent of tax liability ceiling on investment tax credit utilization, the creation of additional Conrail deductions that would pass through to Norfolk Southern would generate a corresponding reduction in Norfolk Southern's ability to use credits currently. Assuming that the labor payments were currently deductible to the extent not allocable to Conrail's ESOP (on a $48 per share basis), the effect would be to increase the revenue cost of a sale of Conrail to Norfolk Southern by approximately $11 million over the budget period on a present value basis. Although any such negative revenue effect would very likely be more than offset, in absolute terms, by the revenue gained from taxation of the labor payments to Conrail employees, it would nevertheless increase the revenue cost of a sale to Norfolk Southern relative to the Morgan Stanley proposal.

SUMMARY

The following estimates of the revenue effects resulting from a sale of Conrail to Norfolk Southern or to the Morgan Stanley syndicate, as compared to the base case of retaining Federal ownership, reflect the assumptions described above.

Fiscal years 1986-90

	Millions
Sale to Norfolk Southern:	
1986	−$14
1987	−35
1988	−37
1989	−41
1990	−47
5-year sum:	
Nominal	−174
Present value	−125
Sale to Morgan Stanley syndicate:	
1986	4
1987	7
1988	3
1989	4
1990	6
5-year sum:	
Nominal	24
Present value	18

I would be happy to discuss further with you the details underlying these estimates.

Sincerely,

J. ROGER MENTZ,
Acting Assistant Secretary (Tax Policy).

Mr. DANFORTH. Mr. President, what the letter shows is that the sale of Conrail to Norfolk Southern would result in a present value revenue loss of $125 million for the 1986-90 budget period; that is, the discounted present value of the future revenue loss would be, for that 5-year period of time, $125 million.

By contrast, if Morgan Stanley were to acquire Conrail, there would be a revenue gain of $18 million. So the net effect over this 5-year period of time, present value net effect over the 5-year period of time, is $143 million.

Mr. President, I would say this: The loss to the Treasury by virtue of the consolidation of Norfolk Southern and Conrail is not unique to the Norfolk Southern transaction. In fact, the merger of Conrail with any taxpaying entity would have precisely the same consequences; that is to say, if Conrail were not to be sold at all or if it were to be sold to Morgan Stanley and then a few years down the road Conrail were to decide or somebody else were to decide to merge with Conrail, the result of that would be exactly the same.

If you have a losing entity and you have a taxpaying entity and they file a consolidated return, the losses of one are available on the other's tax returns.

So, Mr. President, those who object to this transaction on the basis that the acquiring corporation will have available tax losses of the other corporation are really objecting to the fact that Norfolk Southern is successful, that Norfolk Southern pays taxes, that Norfolk Southern is a healthy railroad. That is the point of objection.

Mr. President, I would gladly forgo $125 million of tax revenue over a 5-year period of time to unite Conrail with a winning, successful, strong taxpaying railroad. I believe that Norfolk Southern is one of the few railroads that pays taxes and I know that of all the railroads in the United States, Norfolk Southern pays the lion's share of taxes to the Federal Government. It is, perhaps, the strongest railroad in the United States today.

The issue that will be before the Senate as we proceed with this bill has to do with the future of rail transportation in the United States, not $125 million over a 5-year period of time, not even the difference in cost or the difference in purchase price.

I am sure that the Secretary of Transportation considered purchase price and considered direct economic consequences to the Treasury. But, Mr. President, in all of my conversations with the Secretary of Transportation, as we were proceeding to analyze various potential buyers for Conrail, I stated the position that the exact amount of the purchase price pales in significance to the long-term health of rail transportation in the Northeast corner of our country.

Again, I submit this letter for the RECORD in order to make it clear to Members of the Senate precisely what the consequences are. It would be the $125 million revenue loss projected by the Treasury is far less than what was said to be the revenue loss by Morgan Stanley. But what else could we expect from Morgan Stanley? I do not, in any way, want to cast aspersions on really a wonderful institution, and Morgan Stanley is. But it is an interested party and this is a disinterested projection by the Department of the Treasury.

Again, the question, though, is not how many dollars over a 5-year period of time might flow to the Treasury, but whether we can unite Conrail with a successful, going railroad enterprise or whether the future of Conrail is going to be continually up for grabs as a stand-alone railroad, out there under the Morgan Stanley proposal, all by itself, being bled of cash year after year, with its future constantly in doubt.

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

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

TRIBUTE TO PAULA FRANCES HADLEY

Mr. KENNEDY. Mr. President, no words can truly express my feelings about Paula Hadley, a member of my staff and one of the best friends I ever had—a brave young woman who fought as courageously as anyone has ever fought against the illness that finally took her from us.

Paula was 40 years old when she died—an age which is only half a lifetime in today's world. Yet in that half a lifetime, Paula crowded more into her life than most people who live to be twice her age.

I understand that in her teenage years, she not only led the cheerleaders at Bourne High School, she even advised the athletic director on how to coach the teams.

In her spare time she was known to open a book occasionally, and she walked off with most of the academic honors at graduation—but not before she had arranged the senior prom and decorated the hall.

This same uncommon energy took Paula to the University of Massachusetts. She traveled back and forth in here famous tiny blue Volkswagen, and they seemed the perfect match for each other. The car got the most miles per gallon, and Paula got the most done per minute of any person I have ever met.

Paula always regarded summers and vacations as occasions to do bigger and different things. So she traveled—not to places you and I might know—but to the far corners of this planet, such as Afghanistan, Nepal, and the outback of Australia. She lived for one summer in a Kibbutz in Israel, and they tell me that the Kibbutz doubled that summer in productivity.

Her favorite place on Earth was the land of her ancestors from which her maternal grandparents emigrated. And it was in Italy that she learned to speak Italian like a native, after studying at the Universities of Bologna and Perugia.

One of Paula's favorite presents to her friends were the chocolates made in Perugia. The pollsters didn't know it, but my occasional rise in weight and drop in the polls had more to do with Paula's chocolates than with Presidential politics.

Her fluency in Italian was a great help to Paula when she taught in the Boston public schools. It also was a disciplinary tool. To hear Paula raise her voice in Italian was to believe she could calm the most unruly student.

There was hardly a trip around the city when Paula did not meet a student she had taught in high school. They didn't just remember her—they loved her. More than once I have seen people shake my hand half-heartedly, then watch their eyes light up when

they came to Paula in the receiving line.

Paula first entered my life as a volunteer in my 1980 Presidential campaign, helping to organize the New England area.

Two years later, she became an indispensable part of my re-election campaign in Massachusetts, handling all the finances. The campaign workers knew how closely Paula guarded the treasury. Her word was law—no receipt, no reimbursement. I was concerned that she might be overdoing it when I heard that Paula was demanding a receipt even for tunnel toll fares, but she told me:

Senator, unless you want to run on "empty," you stick to the politics and I'll take care of the bookkeeping.

One of the best things to happen to any Kennedy came after that campaign when Paula agreed to come to Washington to manage my household in McLean. What a difference she made. For the first 6 months I thought I was living in a construction zone, because Paula decided that everything needed to be fixed, all at the same time. And, of course, everything got done twice—once by the contractor and then by Paula. I remember coming home from the Senate late one afternoon and walking through the house calling for Paula. I could hear her responding but I had no idea where her voice was coming from. Finally, I stepped outside and there was Paula on the roof—hammering down a losse shingle that the contractor had improperly installed. "I want to make sure that we got what you paid for," was her explanation.

Paula was also a genius at setting up dinners and receptions at my home for visiting dignitaries. One of her greatest frustrations was being in Brigham and Women's Hospital last year during President Reagan's visit to my home. But the phone beside her bed was busy Paula made sure that the staff preparing the event was properly instructed. It was a wonderful evening thanks to Paula, but it was only half complete. President Reagan came to dinner, and Paula wasn't there.

My sons Teddy and Patrick and my daughter Kara not only respected her ability and her loyalty but, more important, they loved her like a member of the family. I learned who really counted most at home on the day Paula warned me: "Don't you use the hot tub without your son's permission. He's got a special date." Paula had the key to the hot tub, and I believe that not even the Holy Father could have used it without a dispensation from Paula.

That's the Paula who was part of our lives—boundless energy, boundless confidence, boundless love. Teacher, counsellor, campaign worker, friend—Paula brought an energy and an intensity to everything she did that left some of us, at times, out of breath. She was always a young woman with great dreams—and so little time to make those dreams come true.

To her parents, Paul and Mary, her brothers Richard and Alan, and her sisters Linda and Barbara, all of us know the sorrow and the emptiness in their hearts. We shall never forget the joy she gave us. To Teddy, Kara, Patrick, and me, Paula was one of the happiest parts of our lives.

Just before Thanksgiving, I was in Rome and I called Paula to tell her that I couldn't find any pasta in all of Rome to equal the pasta she knew how to make. And I am sure that somewhere today, the word is being passed in heaven that Paula is there, and her pasta is the best.

We saw Paula last just before I left 2 weeks ago for Latin America. We went to her room together and sang Christmas carols. We kissed her and she told us to have a safe trip.

We talked about her often on the trip and in the past year. Patrick said she was always so busy asking about him that he seldom had the chance to ask about her—that it took him a year to learn that she had been in Nepal.

Teddy said the thing that was so unique about her was her quality of giving—which never stopped. She taught us all the meaning of love.

I had just returned from Latin America last Friday, safe as she wished, when Paula died. I was calling her, and her mother answered the phone—and I heard the news. I hope her family will not mind if I say she was a precious part of ours. She knew we loved her.

Now her shingles are all nailed down; her schedules are all finished, and her must-do files are all done. Thank you, Paula, not only for what you did—but for the kind of person you were. You were a light in our lives—and in our hearts, that light will never go out.

I will miss her very much.

DON'T DRIVE DRUNK

Mr. CRANSTON. Mr. President, efforts at the local level to raise the national consciousness about the needless slaughter of our citizens resulting from drunk driving are beginning to pay off.

In 1983 the Presidential Commission on Drunk Driving recommended reliance on long-term educational and prevention efforts to reduce drunk driving.

As an example that educational activity is taking place and having some impact, I'd like to share with the Senate a powerful poem, written by a young California student, Melissa McCarty. Melissa, whose poem was forwarded to me by her driver education teacher, William Brusin, is a ninth grader at Nevada Union High School in Grass Valley, CA.

I ask unanimous consent that Melissa's poem be printed in the RECORD.

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

STATISTICS

(Written by Melissa McCarty, 1985)

The streets stood scattered with traces of blood, as a tiny child lay in broken glass and mud.

The small, limp body was carried away, never to see the light of another day.

The car sat still, without a scratch, with only some blood stains, and the front window smashed.

A disheveled woman, her head held low, stood watching the scene, unable to go.

A policeman came up, and read her, her rights; he tested her breath, then he tested her sight.

This is the making of another statistic, the facts are depressing, the scene is realistic.

So here is the truth, you've heard, it's not junk. Don't drink if you drive, and PLEASE, Don't Drive Drunk!

JOSEPH KRAFT

Mr. MATHIAS. Mr. President, it is difficult to make a public speech about the death of a personal friend, but friendship comprehends respect and admiration as well as affection. Few people have both earned and received respect and admiration in such full measure as Joseph Kraft. The evidence of the high regard in which he was held is contained in the many statements made at the time of his death.

I shall miss his great, inquiring mind, and his unfailing ability to see clearly through the fog that often covers political Washington. I also shall miss his wit and humor and the breadth of his interests. But most of all, I shall miss his friendship. We spent many hours over the last couple of decades talking about life and politics and human frailty. We did not agree on every issue, but he always brought depth, clarity, and a broader perspective to any subject we discussed. A wise man who cared about the world in which he lived, he cannot be replaced.

Mrs. Mathias joins me in expressing our sympathy to Polly Kraft and her family.

Mr. President, I ask unanimous consent to have printed in the RECORD a moving and eloquent editorial about Joseph Kraft that appeared in the Washington Post on January 12, 1986, and his obituary that appeared on January 11.

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

[From the Washington Post, Jan. 12, 1986]

JOSEPH KRAFT

The Romans had a word for it, *gravitas*—meaning gravity, seriousness, weight. You say it of a serious person. But you do not mean by this a person who is without humor—humor surely goes with seriousness. Rather you say it of a person who knows what really matters and who, consequently, really matters himself. You say it of a person like Joseph Kraft, our columnist of 20 years, who died at the age of 61 on Friday. Above all Joe Kraft had *gravitas.* He was in the rare, best sense a serious man.

Mr. Kraft had another attribute that, to be both polite and somewhat cryptic about it, perhaps not all his fellow journalists shared. He was amazingly generous to and about his colleagues, especially many of the younger ones whose work he greatly respected and encouraged and who, in turn, were deeply devoted to him. This generosity was not something that existed apart from his work, as a kind of cultivated virtue or side-line human experience. Rather it reflected precisely Joe Kraft's abiding commitment to journalism and his ferocious, even obsessive, pursuit of the excellent in his chosen line of work. He wanted to be better himself and he wanted others to be better too and he did everything in his power to bring about both results. It did not occur to him to be stingy or secretive or acquisitive or self-protective in relation to his colleagues. He gave them everything he could.

It has been said of Joe Kraft repeatedly in the past couple of days that he was a direct descendant of the great political columnists like Joseph Alsop and Walter Lippmann and James Reston who distinguished and dominated the middle years of 20th century American journalism. And in many respects this is true. Mr. Kraft's prodigious work, his mastery of the head-breaking issues of national and international life, his devotion to subject, his horror of the superficiality and exhibitionism of much modern journalism, his insistence on having something more than merely an opinion to offer his readers—all this made him part of a particular honorable tradition.

He didn't do a buck and wing. He worked like a dog and gave you his best analysis. He moved easily among the people who were making the large decisions and also among those in the ranks who often had more to tell than their bosses did. He had some big successes with individual columns; he sometimes made news in that space at the left-hand top of the op-ed page, and, like all good columnists, he was assiduously plagiarized by his pals. It was Mr. Kraft, you may have forgotten, who put the term "middle American" into the journalistic vocabulary, though not he who drove it into the ground.

Our reservation about the insistence on seeing Mr. Kraft in terms of earlier titans of the trade especially seeing him as the man who would or did replace Walter Lippmann, is this: it doesn't acknowledge what Mr. Kraft himself had become in his own right. You will notice we have dwelt on Mr. Kraft's syndicated newspaper column at the expense of his other writings—his books and magazine articles—and his academic enterprises, important as they were. That is because the column was at the core of what Joe Kraft did and because he did it like no other. The question is not: whom did Joseph Kraft replace as a columnist? The question is: who can replace him?

[From the Washington Post, Jan. 11, 1986]

NEWSPAPER COLUMNIST JOSEPH KRAFT, 61, DIES

(By Martin Weil)

Joseph Kraft, a syndicated newspaper columnist whose work appeared in The Washington Post for 20 years and who was admired for his reportorial energy, his intellectual gifts and his broad spectrum of interests, died last night at the Washington Hospital Center. He was 61.

Regarded as a modern Renaissance man among columnists, Mr. Kraft was a seasoned traveler and tireless interviewer who was at home with economics and social issues as well as with foreign and domestic politics.

As a columnist for the Los Angeles Times and for the Los Angeles Times syndicate, Mr. Kraft was published, according to estimates of syndicate officials, in more than 200 newspapers, whose circulation numbered in the many millions.

Known for penetrating analysis rather than partisan attacks, Mr. Kraft was widely considered to be an heir and exemplar of the great tradition of such eminent predecessors as Walter Lippmann.

Mr. Kraft, who lived in Georgetown was admitted to the hospital center shortly after Christmas. He died at 7:10 p.m. yesterday. Hospital officials said the cause of death was not immediately known, but one of his assistants said he died of heart failure.

He had a long history of heart problems and friends said he had suffered three heart attacks.

"I think he was a great columnist," said Meg Greenfield, editorial page editor of The Post.

Calling Mr. Kraft one of the last survivors of "the great tradition of the extremely well informed generalists," Greenfield said "nobody did as much work as Joe in mastering a variety of very tough subjects."

". . . We are going to miss him terribly much," she said. "I think newspapers all over the country will."

Born in South Orange, N.J., on Sept. 4, 1924, Mr. Kraft entered journalism at the age of 14 on a part-time basis when he began to cover high school sports for the old New York World Telegram.

After Army service from 1943 to 1946, he received a bachelor's degree from Columbia University in 1947 and went on to graduate studies at Princeton University, at the Institute for Advanced Study in Princeton, N.J., and at the Sorbonne in Paris.

After a brief stint in the early 1950s as an editorial writer for The Post, Mr. Kraft worked as a writer for the Sunday section of The New York Times from 1953 to 1957, and then published two books, "The Struggle for Algeria" in 1961 and "The Grand Design" in 1962.

For three years, beginning in 1962, he was Washington correspondent for Harper's magazine, and he was writing a column in the old Washington Evening Star in 1965.

When Benjamin C. Bradlee, now The Post's executive editor, joined The Post that year, one of his first moves was to induce Mr. Kraft to change newspapers.

Bradlee called Mr. Kraft a deeply intellectual man who displayed great humor and a breadth of interests that included nuclear policy, French politics and the Washington Redskins.

Among colleagues and peers, Mr. Kraft was known for his refusal to indulge in ivory-tower punditry and for the diligence with which he pursued the information on which his columns were based.

"He worked the phones unbelievably," Bradlee said. ". . . He was no thumbsucker. He was out on the street. He moved around. He talked to lots of people."

With the possible exception of I.F. Stone, "no journalist of his time in Washington studied the official documents more carefully, questioned officials more precisely, or worked so hard, knowing he had so little time, to fight for the facts and against the television pretenses of contemporary politicians," said James Reston of the New York Times.

Mr. Kraft held three awards for distinguished reporting from the Overseas Press Club. He contributed to The New Yorker and was the author of four books in all. The third and fourth were "Profiles in Power," published in 1966 and "The Chinese Difference," published in 1973.

During the 1960 presidential campaign, he wrote speeches for then-Sen. John F. Kennedy, and he was later a Ford fellow at Harvard and a Poynter fellow at Yale. In 1979 he delivered the Jefferson lectures at the University of California at Berkeley. France made him a chevalier of the Legion of Honor.

In describing his own work, he once said, "I try to identify what is important amidst the bewildering variety of events that continually occur."

After the death of Walter Lippmann in 1974, Encounter magazine described Mr. Kraft, in words echoed often last night, as "the only visible replacement for Walter Lippmann."

Anthony Day, editor of the editorial page of the Los Angeles Times, called Mr. Kraft "a fiercely independent and superb and brave journalist."

For many years, despite serious health problems, he produced three columns a week. In recent years, the number was two. His last published column appeared on the page opposite the editorial page of The Post on Dec. 29. It was an optimistic column.

In it, Mr. Kraft called the year that was closing a "turnaround year."

"So my hunch is," he concluded, "that when all the figures come up on the table . . . Americans will find a way to beat the odds. We will balance welfare and defense and investment and social improvement in a rough way that does not blight vast numbers of lives. Both in dealing with the Russians and in dealing with ourselves, we will make good the promise of a turnaround year."

In addition to his wife, Polly, survivors include two stepsons, Mark Stevens, of New York, and David Stevens of Denver, and a brother, Gilman Kraft of Los Angeles.

SOUTH AFRICA—MAMELODI TRAGEDY—PEACEFUL PROTEST, BRUTAL RESPONSE

Mr. LEVIN. Mr. President, I stand in the Senate today angry, a man who is overwhelmed and stunned by what I am about to share with my Senate colleagues. I searched my soul for some way to express my true emotions, but often times, as you know, words simply cannot truly relate what one feels. I wish to appeal to our compassion, sense of justice, and deep value for human life. For what I am about to relate to this body, deeply touches all of those emotions.

Mr. President, earlier this week our country honored and recognized a man whose moral vision, uncommon courage, and passionate concern for social justice stirred the conscience of our Nation, Dr. Martin Luther King, Jr. Last week, I had the honor of meeting with an individual who has the same struggle as that of Dr. King's, a struggle of equality, justice, and freedom in his country of South Africa, Bishop Desmond Tutu. Bishop Tutu is a Nobel laureate, a bishop of one of the largest dioceses in South Africa, and yet, he cannot vote in his land of birth. While the means of peaceful protest became the symbol of the civil rights movement, the seeds for the South African liberation movement was embedded with the same ideals. I want to share with you an incident which occurred on November 21, 1985 in Mamelodi, South Africa, where 19 peaceful protestors were shot and killed by the South African security forces and hundreds of others were injured. Among the dead were two 10-week-old babies and seven people between the ages of 50 and 70.

The Lawyers Committee for Human Rights, a public interest law center which promotes international human rights, released a report on January 9, 1986, examining the tragic deaths of these citizens of Mamelodi. These indiscriminate killings are considered to be one of the "worst incidents in South Africa's history of racial turmoil since the legendary Sharpeville massacre in 1960." The excessive use of force by the South African security forces is often times brutal, as it is unnecessary.

The Mamelodi march was intended to be a peaceful demonstration organized by the women of the township to present specific grievances to the mayor. The demonstrators were protesting a ban on weekend funerals, high rent, and the brutal action of the security forces toward their families. Many of the protestors were carrying signs which read "Do not shoot. We are not fighting" and "This is a peaceful march." Approximately, 50,000 demonstrators, of whom two-thirds were women, marched to the administration boards office with a police escort to address the mayor. Almost without warning, the police began firing teargas into the crowd and started shooting people as they tried to flee. I would like to read to my colleagues some excerpts from the Lawyer's Committee report, detailing many eyewitness accounts of what happened that day.

The report examines the case of Ms. Thoko Malaza, a 24-year-old woman and activist in the women's organization, who was one of the people killed by the South African security forces. Here is how a witness who was near Ms. Malaza describes her death:

> We were all running for cover but we did not have time to get inside a house before they shot her and blew her head open. Part of her forehead was blown off and her brains scattered. Joseph M. (owner of a nearby house) tried to put her body into his car to take it to a mortuary. He was shot at by the police who then picked up her body and threw it into a police van. After they picked up her body, they went and found part of her skull which had been blown off and threw that in the van too. They were laughing as they did so.

The report also details an eyewitness account of a 64-year-old woman who was killed while walking home after she had hidden herself from the police in a shopping center:

> A police van was coming behind her and she was shot in the back. Her lungs were protruding from her chest—she died instantly. Some of her insides spilled out onto the ground where she fell. They tried to clear it up but you can still see the marks. As we tried to approach her, the police threw tear gas at us. Then they went to her, handcuffed the body and threw it into the van.

Moreover, according to the report: The police operation was not only confined to the march itself but was also carried out in areas quite some distance from the march, apparently with equal brutality. Mary, a 20-year-old student, had stayed at home and was sitting outside her house under a tree with her brother and some friends when a police van drove by. The police got out and demanded to see the students' reference books and to know where they lived. Mary told the Lawyers Committee:

> They kicked one of the boys very hard. I was scared and I went into my house. The boys started to run away. Jerry Shikwane Ngwatla, who was 19 years old and one of my friends, took a different direction to the others. As he was running, I saw the police shoot him in the back. He fell to the ground and the policeman walked over to him and roughly dragged Jerry over to the police van using the belt of his trousers. Blood was running out of his mouth as he was loaded into the van.

According to Mary, Jerry's brothers later went to the police station to see the body and have reported that, in addition to the bullet wound in the back, Jerry had also been shot in the chest, groin and head. Mary said, "I do not know when or how this occurred, although it must have been after he was driven away because I only saw him shot from behind before he was put into the van."

Unfortunately, Mamelodi is not an isolated incident. There has been an alarming increase in the amount of violence perpetrated by the South African security forces. In the township of Langa on March 21, 1985, the police opened fire on a funeral procession, killing at least 20 people. I find these indiscriminate killings to be appalling and I am outraged at such blatant violations of people's basic rights.

Another area of grave concern to me is the deliberate attempt by the South African Government to restrict the dissemination of information regarding these repressive acts. Specifically, the South African police have withheld vital information on the whereabouts of seriously injured citizens. In a recent case, a mother of a victim had to petition the Supreme Court to find out where her son was located. As it turned out, he was killed by the South African security forces. This restrictive policy only adds to the pain and suffering the families must endure.

Furthermore, the South African Government has severely restricted press coverage of confrontations between peaceful demonstrators and the South African security forces. The complete story of the Mamelodi incident did not emerge for several days and nearly 3 weeks had elapsed before the final death toll was confirmed. The police report issued on November 21, never mentioned the march, it only stated that one woman had died when the "police opened fire in Mamelodi after a mob of youths attacked a police vehicle."

In addition, the South African broadcasting network briefly mentioned in their late report that two people had died, but did not give information as to how or why it happened. While flying over Mamelodi, a CBS film crew was forced to land and immediately arrested and a British television crew was forcibly escorted out of the township. I believe this is part of the South African Government's draconian approach to shield their actions from public scrutiny and concern. It is an obvious confession of their discrimination, oppressive behavior and brutality. I detest this as a gross violation and massive denial of decent standards of conduct.

Moreover, there have been significant discrepancies between official police reports and eyewitness accounts. For example, in the official police report, Brigadier Hertzog Lerm reported that the police had "feared for the marchers own safety and that he had warned the crowd to disperse within 40 minutes." However, according to the Lawyer's Committee report, none of the eyewitnesses standing in the front of the crowd recalled hearing any such warning. The police public relations division alleged that the demonstrators attacked police vehicles with bricks, stones, and petrol bombs, thus, prompting the police response. Again, none of the eyewitnesses reported seeing anyone carrying a weapon, except the walking canes of the elderly, hardly a threatening weapon.

The Mamelodi incident is another grave tragedy in South Africa, a direct result of the repressive policies of the South African Government. We must do everything in our power to stop the brutality of such policies. The elec-

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tions of August 1984—the so-called colored elections—were a mockery of the democratic process. They have not brought peace or justice to South Africa for the simple reason that they still deny the right to vote to the majority.

Mr. President, let us again reaffirm our support for the legitimate struggle of the majority of South Africans who want a united, nonracial, and democratic South Africa. As we commemorate the great contributions of the late Dr. Martin Luther King, let us remember the struggle in South Africa and our obligation to do everything we can to allow individuals the basic dignity. In this new year, let us all rededicate ourselves to this goal, a goal which is the lesson of our own history.

Mr. President, I have previously introduced legislation which expresses the sense of Congress that President Reagan should urge the Government of South Africa to implement a system of political representation for all South Africans based on the principle of one person, one vote. Mr. President, I am submitting for the RECORD two letters that were recently sent to the South African Government. These letters were initiated by Senator KASSEBAUM, Senator ROTH and Senator GLENN and signed by many concerned colleagues in the House and Senate.

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

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, December 5, 1985.

State President P.W. BOTHA,
The Republic of South Africa, Union Buildings, Pretoria, South Africa.

DEAR MR. STATE PRESIDENT: We want to register our strenuous objections to the restrictions on press reporting imposed by the South African government.

Freedom of the press is fundamental to democracy. The restrictions that you have imposed damage South Africa's international image, and lend weight to the arguments of critics that South Africa is a repressive police state.

Reduced press access will make it increasingly difficult for South African and Western audiences to have an informed and accurate perception of what is happening inside the country. This will have a profound impact on South Africa and its relations with the West.

We call on the government of South Africa to protect freedom of the press and to rescind the restrictions.

Sincerely,

Nancy Landon Kassebaum, William V. Roth, Jr., Richard G. Lugar, Charles McC. Mathias, Jr., Claiborne Pell, Paul S. Sarbanes, Alan Cranston, Christopher J. Dodd, Rudy Boschwitz, Larry Pressler.

William Proxmire, Edward M. Kennedy, Lowell P. Weicker, Jr., Pete V. Domenici, John H. Glenn, Jr., Gary Hart, John C. Danforth, Thomas F. Eagleton, John F. Kerry, Frank H. Murkowski.

Quentin N. Burdick, Daniel K. Inouye, J. Bennett Johnston, Jake Garn, Dale Bumpers, Patrick J. Leahy, Howard M. Metzenbaum, John H. Chafee, John Heinz, David Durenberger.

John W. Warner, Bill Bradley, J. James Exon, Alfonse M. D'Amato, Frank R. Lautenberg, Tom Harkin, John D. Rockefeller IV, Donald W. Riegle, Jr., Spark M. Matsunaga, Max Baucus.

David L. Boren, William S. Cohen, Carl M. Levin, Arlen Specter, Albert Gore, Jr., Mitch McConnell, Joseph R. Biden, Jr.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, December 18, 1985.

His Excellency HERBERT BEUKES,
Ambassador of South Africa.

DEAR MR. AMBASSADOR: It has recently come to our attention that the Government of South Africa intends, on January 1, 1986, to effect the incorporation of the Moutse area into the so-called "homeland" known as KwaNdebele, which is slated for "independence" in 1986, and that a similar incorporation is planned later for Ekangala. It is also our understanding that this is being done without reference to the wishes of the people of Moutse and Ekangala.

We have long considered the "homeland" policy one of the most inhumane manifestations of apartheid. To transfer the people of Moutse and Ekangala, against their will, to KwaNdebele, and thus deprive them of their South African citizenship is tantamount to a forced removal, and a most telling example of the injustice of the "homeland" policy.

You made a particular effort to bring to the attention of Members of Congress the September 30th policy address by President Botha. Among the key points made by the President "on the agenda for continued political and social reform" were: "the Government is committed to one citizenship and a universal franchise within a united South Africa" and "South African citizenship will be restored to all those who lost it in the creation of the homeland states". A decision to proceed with the forced incorporation of Moutse and Ekangala into KwaNdebele would make a mockery of those stated intentions.

Hence, we urge your government to reconsider the decision to redraw the boundaries of KwaNdebele and, instead, to hold a referendum to determine the will of the residents of Moutse and Ekangala.

Sincerely,

John Glenn, William V. Roth, Jr., Nancy Landon Kassebaum, Mitch McConnell, Christopher J. Dodd, Albert Gore, Howard M. Metzenbaum, Paul S. Sarbanes, George J. Mitchell, William Proxmire.

Tom Harkin, John F. Kerry, Edward M. Kennedy, Carl Levin, Thomas F. Eagleton, Alan Cranston, Gary Hart, Patrick J. Leahy, Claiborne Pell, Donald W. Riegle, Jr., Paul Simon, U.S. Senators. Dante B. Fascell, William H. Gray III, Vin Weber, Howard Wolpe, Stephen J. Solarz, Members of Congress.

THE GHOSTS OF DEFICITS FOREVER

Mr. BOSCHWITZ. Mr. President, I rise to put into the RECORD one of the most interesting and provocative articles that has appeared in the Washington Post for many, many months. It is an article written by the chairman of the Budget Committee, PETE DOMENICI. It is a remarkable piece of writing which deals with budgets past, budgets present and looks to the future. He spins a Dickensian tale for the returning Congress. He traces how we got to where we are, where we are, and our options for the future. He explains how bad it could get, but also how we can deal with the problems that are before us if we act decisively and without hesitation.

I have been part of the budget proceeding during the entire period that our colleague PETE DOMENICI traces in this particular tale. I recognize every step of the way and can attest to the fact that we are where we are because of the reasons outlined by Senator DOMENICI.

Also, I think his predictions for the future are most appropriate and give a great deal of hope. But they also warn us that if Congress—the Senate, the leadership—does not take this thing into hand, we could continue to go in the wrong direction. Just as easily, however, if we do move as a unit and if we support a united leadership effort on both sides of the aisle, we can bring this budget into balance, bring interest rates down and have a real upsurge in our economy.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

THE GHOSTS OF DEFICIT FOREVER

In less than three weeks the automatic spending cuts of Gramm-Rudman-Hollings will be triggered unless a court challenge to the new law succeeds. The papers will be filled with the confusion of federal agencies trying to fulfill the law and the outrage of those program beneficiaries who see their activities threatened. Before the coming public panic consumes us, we should review where we are, how we got here, and where we are likely to end up in our struggle with the deficit.

As a prelude, I should note that I am extremely optimistic about the nation's economic potential. We have solved problems of the highest order. We have created millions of jobs for "Baby Boom" workers. We have embarked on a new era of entrepreneurship and rising per-capita incomes. A leanness and quickness characterizes the private sector.

The only cloud on the horizon, and a cloud of mammoth proportions in my view, is the inability of the government to control deficits. The extraordinary deficits we now face symbolize this impotence and also hold the substantive prospect of plunging the nation into an unprecedented economic recession—ironically, one that could well be avoided. The deficit, simply put, remains the foremost policy and political problem confronting the nation. If I may borrow from Dickens, I will call upon three ghosts to lead us on our budget odyssey: the ghosts of budget past, present and yet to come.

1. BUDGET PAST

Our Ghosts of Budgets Past conjures up a scene of candidate Ronald Reagan speaking

in Chicago in September 1980. He explains in some detail his four-part plan for the economy and the federal budget: 1) a 10 percent across-the-board tax cut for individuals in each of the next three years to increase take-home pay and the dismal national savings rate; 2) major changes in the corporate tax code aimed at reviving the staggering American economy; 3) an all-out attack on waste, fraud and abuse in government spending, coupled with a permanent shrinking of the government's programs, directed at saving tens of billions of dollars a year; and 4) a major increase in defense spending.

The president-to-be calmly explains that the increase in defense spending will be "affordable," because his other policies will yield a combination of new revenues to the government (from economic growth) and less domestic spending (from a shrinking of federal domestic programs).

Our ghost next takes us to March 10, 1981. The president releases the details of his 1982 budget, which replaces the budget of former president Jimmy Carter. The budget is truly revolutionary. It calls for domestic spending cuts in fiscal year 1982 alone of $67 billion. Between FY 1981 and FY 1986, the domestic cuts would total $475 billion.

On top of unprecedented domestic spending restraint, the president fulfills his second major campaign promise by requesting the largest single defense increase in the nation's history. For FY 1982, this increase would reach nearly $29 billion and would push defense spending from the FY 1980 level of $146 billion to $226 billion in just two years—an increase of 55 percent.

The budget also keeps the president's promise on taxes. It requests individual and corporate tax cuts of $54 billion in FY 1982 and $718 billion through FY 1986.

Above all, our ghost points to the line in the president's budget that shows that if all his policies were fully implemented, the federal budget would be balanced by FY 1984 and would be running a $28 billion surplus by 1986.

Two major points overlooked by many in that first, fateful budget will come back to haunt the nation. First, almost $75 billion in domestic cuts necessary for achieving a balanced budget in 1984 are not itemized and "will be identified later." Second, the economic projections underlying the budget assume real growth in the economy almost double the historical average for the past 12 years (4.6 percent projected compared to 2.5 percent actual for the 1972-84 time frame).

Finally, our Ghost of Budgets Past takes us to the private conference room of the Senate majority leader, Howard Baker, in early spring of 1981. In the room for an extraordinary meeting is the president, who has left the White House and journeyed to the Hill. The president leans across the table and tells the 12 Republican members of the Senate Budget Committee that he will not support a bipartisan attempt in that committee to freeze cost-of-living adjustments for Social Security recipients as part of a deficit-reduction plan. He asks them to join his opposing effort. In front of the senators is a sheet showing savings from a one-year freeze on the COLAs—$88 billion over five years, and more than $24 billion in the year 1986 alone.

The senators relent. They go back to committee and vote against the move to freeze COLAs. Social Security, although larger than all domestic non-entitlement spending programs put together, is protected in future budget battles; it comprises almost 25 percent of the non-interest spending in the federal budget.

2. BUDGETS PRESENT

Our Ghost of Budgets Present arrives, looking weary and battered. He has watched three years of congressional deadlock; the deficits for the first four years of the Reagan administration have amounted to more than all the deficits accumulated by all other presidents in the nation's lifetime. America is amassing debt—corporate, individual and governmental—at a record pace.

Yet, no perceptible crisis is at hand. Unemployment has subsided below the 7 percent mark; inflation and interest rates are down and dropping further; the economy is perking along at about the historical average growth: 2.5 to 3 percent annually. Everyone thinks the deficit may be a problem, but the political will to tackle it head-on is fading. The short-term pain of policies that would really cut deficits overwhelms the short-term gain of voting to retain Congress' favorite programs.

Our Ghost of Budgets Present reveals an internal congressional staff memo showing that despite public displays of budget-cutting enthusiasm, Congress has allowed large spending increases since FY 1980: an increase of $132 billion (99 percent) in national defense; $169 billion in new spending for domestic entitlement programs (an increase of 60 percent), driven by new Social Security increases; and an additional $26 billion in domestic, discretionary spending (a 17 percent hike).

It turns out that many of the "cuts" were measured from baselines that assumed growth, so even with a cut there was frequently an actual increase in dollars. The memo also shows that revenues have dropped off from those original FY 1982 presidential projections by about $150 billion in FY 1986. Moreover, the gross national product forecast by that FY 1982 budget fell short of reality by $2.4 trillion for FY 1982-86! Almost nothing is "affordable" anymore, in the sense that word was used way back in September 1980.

Even worse, the restraint in spending that has occurred has spared programs that stress present consumption (pensions are a prime example) and hampered programs that stress investment in the future (research in nondefense scientific areas, basic physical infrastructure, education).

Interest payments on this debt are $200 billion annually and are the fastest growing element of federal spending. This means that America cannot make the basic commitment to the future that needs to be made in order to ensure the unparalleled prosperity to which all other indicators point.

We now move to February 1985. The president has emerged from his reelection campaign with one of the most overwhelming victories in America's history. Undeterred deficit-fighters in the administration and in Congress conspire to make one last fight to get deficits under control.

The president's budget asks once again for large domestic spending cuts, $180 billion over three years, with the elimination of more than a dozen major domestic programs as the centerpiece of the plan. The budget also asks for a $30 billion increase in defense spending for FY 1986 alone, and rejects tax increases. It projects a deficit of $144 billion in FY 1988, twice as high as any deficit in the non-Reagan era, but a substantial move toward what economists are now calling "structural budget balance."

The ghost now takes us to a dramatic moment. It is May 9, well past midnight. The Senate has concluded debate on an unprecedented deficit reduction package, incorporating Social Security COLA freezes and eliminating several programs. It not only will meet the president's deficit reduction goal in FY 1986, it will yield substantially lower deficits by FY 1988.

The vote stands at 49-48 against the proposal. Sen. Pete Wilson of California arrives from a hospital, where he underwent emergency appendectomy surgery earlier. Against doctors' recommendations, he has come to the Senate in a wheelchair, an intravenous tube in his arm, to vote. He votes for the proposal. With the vote 49-49, Vice President George Bush, in his capacity as president of the Senate, votes for it. It passes, 50-49.

Although only a few suspect it at the time, that moment in the Senate chamber will be the high point for deficit cutting for the year. Our Ghost of Budgets Present speeds over a troubled summer. The budget finally hammered out between House and Senate falls far short of the Senate-passed version, in large part because the president finally opposes any change in Social Security COLAs. His decision dooms any significant congressional action.

Congress finds it impossible to pass almost any significant bills. Appropriations bills fail to move. Approaching is an autumn vote to extend the federal debt the government has run up. Sens. Gramm, Rudman and Hollings conceive a new deficit-cutting mechanism and attach it to the debt limit bill.

Our ghost now takes us to December 1985. Congress sends the president a farm bill that costs an estimated $50 billion during the next three years, about double what the president requested in his FY 1986 budget of nine months earlier. Congress finds it difficult to comply with even the watered-down budget it passed just four months earlier. Congress staggers through a chaos of short-term continuing appropriations and short-term debt extensions, all of which threaten to shut down the government.

Finally, Congress passes more spending bills, postpones action on a multibillion-dollar deficit reduction measure that the administration threatens to veto, and heads home. The president signs the farm bill into law. He signs all of the spending bills, even though they contain in the aggregate about $40 billion more in domestic spending than he wanted and about $30 billion less for defense. He signs the Gramm-Rudman-Hollings bill.

Within a fortnight, the Justice Department announces that it will join in attacking the constitutionality of Gramm-Rudman-Hollings. The president asks for $4 billion more spending for the Commodity Credit Corporation, sending up his formal request Dec. 23. A year that began with high hopes for deficit reduction fizzles into the winter rain of utter failure. Our Ghost of Budgets Present decides to become a consultant to corporations on the impact of Gramm-Rudman-Hollings.

3. BUDGETS YET TO COME

Our Ghost of Budgets Yet to Come offers us a choice. First he takes us to February 1986. The president and Congress have been given the size of the automatic cut order (called a sequester order) mandated by the Gramm-Rudman-Hollings bill for FY 1986. It will take a total of $11.7 billion from federal outlays, equally split between defense and nondefense programs.

This leaves defense spending in March 1986 about $40 billion less than the president's original request for the year. Nondefense programs will be cut in some cases below last year's level. Senators up for reelection later in the year are besieged by interest groups hit by the sequester.

Yet, this tiny cut pales in comparison to what may be necessary later in the year. Our ghost reveals internal staff documents that show deficits of more than $205 billion in FY 1987, a full $60 billion over the Gramm-Rudman-Hollings target of $144 billion. The president presents his budget in early February. It contains a request for $20 billion more in defense spending. It terminates scores of federal programs through direct cuts and privatization ideas. It rejects new taxes. It is kept alive by Congress mostly as a vehicle for repudiation.

Here our ghost presents two scenarios. Sadly, one is more likely than the other. The first scenario is the hope of many of us who voted for Gramm-Rudman-Hollings—a comprehensive compromise on the deficit. It goes like this:

1) Late March 1986: the president and Congress, unable to come up with a budget for the 1987 year, agree to a "Grand Summit" on the budget. Tax reform plans in the Senate are temporarily laid aside in order to focus on deficit reduction.

2) April 1986: After weeks of negotiations, Congress and the president agree on a historic deficit-cutting package, including fundamental reforms and reductions in domestic spending, a slowing of the defense buildup, and new revenues.

3) May and June 1986: Congress passes new laws implementing the "summit" agreement and appropriations bills that are consistent with it.

4) August 1986: the Congressional Budget Office and the Office of Management and Budget compare their spending updates and conclude that because of presidential and congressional action, the deficit targets of Gramm-Rudman-Hollings will indeed be met.

5) The stock market surges, interest rates drop, and the economy takes off. America soars into the future.

But that scenario may be unlikely for many reasons, so our ghost provides a second scenario, feared by many of us who are familiar with the realities of both the budget and of the politics of 1986:

1) Late March 1986: The president's budget has been rejected in all quarters. Congress tries to devise its own budget and fails. The president vigorously pursues his tax reform plan in the Senate, opposing any tax increase within the plan.

2) April and May 1986: the Senate, with 30 members watching primary results that will select their opponent in the November elections, is stymied. Tax reform is stalled, the budget cannot move, and appropriations bills await some resolution of the deadlock. The House puts off action, claiming it cannot act until some initiative is taken by either the president or the Senate.

3) June 1986: The Supreme Court rules Gramm-Rudman-Hollings constitutional.

4) Summer 1986: As the stock and bond market and most of the rest of the world watch, America's government is nearly paralyzed. The size of the amounts needed to meet the $144 billion deficit target prohibit action: $30 billion from defense and from nondefense spending translate into as much as $75 billion in budget authority from defense spending (or almost one-fourth of all new spending authority for defense) and about $45 billion from nondefense programs (or about one-third of all new budget authority in the appropriated, discretionary accounts).

5) September 1986: Gramm-Rudman-Hollings in the amount of a $60 billion sequester goes into effect, causing grave concern among America's Western allies. Most Senate campaigns are now in the post-Labor Day "hot" period. Groups that participate in federal domestic programs, especially teachers and health professionals, descend on Washington in huge numbers. Many state governments begin to lay off large numbers of employees to try to compensate for cuts in state and local aid.

6) October 1986: One month before the 1986 federal elections, the president decides that his position as commander-in-chief compels him not to sign the final sequester order because it would violate his oath of office to defend the nation's security. Already more than 100 lawsuits have been filed against the Gramm-Rudman-Hollings cuts by potential program beneficiaries.

7) Mid-October 1986: Congress, faced with an unprecedented uproar, coupled with a plummeting stock and bond market, tries to devise a way to cope with the new crisis. Everyone attempts to find a way to get out from under the new law. Someone suggests that we need a budget forecast that shows a recession sometime in the next four quarters. The person who makes the suggestion is widely applauded as a genius, and soon the Gramm-Rudman-Hollings bill is suspended.

8) November 1986: Huge numbers of incumbent senators and representatives of both parties are defeated at the polls, saddled with explaining their position on Gramm-Rudman-Hollings. Our Ghost of Budgets Yet to Come concludes his gloomy scenario by revealing an internal staff memo that shows deficits will be $200 billion or more as far as the eye can see.

I conclude this little budget journey through time by saying that the concept behind the second scenario is a real possibility if both the president and Congress refuse to compromise on major deficit-reduction options. The amount of deficit reduction needed to meet the Gramm-Rudman-Hollings targets, or to make any real dent in deficits regardless of any law, is very large.

If the nation's leadership fails to agree by late spring, especially in a year charged with important elections, the mechanism of Gramm-Rudman-Hollings will take effect. To allow that to happen would be a national, and even international, tragedy.

A TRIBUTE TO LUCY DuCHARME

Mr. CHILES. Mr. President, I am proud to have the opportunity to pay tribute to Lucy DuCharme, a distinguished Polk County educator, civic leader, and community advocate, upon her retirement. Dedication is a word often used to describe the career efforts of outstanding leaders. But Lucy's career of service and participation—in the schools, the community, and the State—goes beyond dedication. I think the word that might best describe her particular contribution is "efficacy." It is a good thing to care. It is noble to work hard. It is a greater thing to be effective, to make the world work, so to speak, in those endeavors one undertakes.

For the past several years our Nation has embarked on a quest of excellence in education. The State of Florida has been in the forefront of educational reform. At the heart of this national and statewide effort has been the grassroots, recognizing that what happens at the local level—in the classroom, in the community, in partnership with business—is the key to educational qualty and excellence.

If every one of the nearly 16,000 school districts in the Nation had just one Lucy DuCharme, we could be assured of the quality of education in this country. Lucy has epitomized and acted on the concepts of quality education throughout her entire career.

The research and studies of education tell us, "Good schools must have clear goals and standards." Lucy has been a standard-bearer for Polk County schools with business, civic groups, parents, and the community. She has articulated consistently the policies of the school system to the public.

We know that good schools depend on common dedication and a united plan of action throughout the rank and file of school personnel—from the classroom teacher to the lunchroom worker and the custodian. Lucy has led the way in developing this type of esprit de corps in Polk County school employees.

We are told that school administrators are critical elements in educational excellence—that the leadership, problem-solving, planning, and motivational skills of principals, program supervisors, and superintendents make the difference between good schools and mediocre ones. Lucy not only exemplifies these skills, but she has worked within the Polk County system to inspire her colleagues to achieve these attributes of excellence.

Good elementary and secondary schools do not exist in a vacuum, but are an integral part of a continuum of education from the preschool years through postsecondary education. Lucy has been a dedicated participant in all levels of education, from her leadership of the Southern Scholarship Foundation at Florida State University, to her service on the board of trustees of Polk Community College, to her presidency of the Florida Council for the Social Studies and the Sunshine State School Public Relations Association.

Florida faces the challenge of growth and competition with the rest of the Sun Belt for the industries that bring jobs and the highest standard of living to our future. In Lucy DuCharme we have a model of how dedicated education leaders can attract the best of business to an area and open up the dialog of mutual benefit be-

tween the corporations and the schools.

Lucy has found the time and energy to participate and lead a broad range of activities beyond the sphere of education, including her service to the American Association of Women, the Pilot Club, Polk General Hospital Auxiliary, Delta Kappa Gamma, the Women's Club, and Democratic Women's Club. I am particularly grateful for her participation on my Academy Selection Committee and as chairperson of the West Florida Academy Selection Committee.

It is easy to see in Lucy a bright light shining, an ever-enthusiastic, never-tiring leader for the good of children, the community, and the State. But I think what has made her career so exemplary is not only the light that shines from within, but her role as a mirror of the change and aspirations of the people and community she serves. Lucy DuCharme has led and has advocated, yet has never forgotten the importance of being a thoughtful listener. And I trust her retirement will be an active one, in which her willing ears and positive counsel will continue to benefit us all.

STATE OF THE STATE ADDRESS OF GOV. GEORGE R. ARIYOSHI

Mr. INOUYE. Mr. President, it is with pride that I rise today to submit for the RECORD, the 12th and last state of the State address delivered by the Governor of the State of Hawaii, the Honorable George R. Ariyoshi.

George Ariyoshi became Acting Governor in 1973 and was elected the third chief executive of the State of Hawaii in 1974. He has served our State as Governor longer than any other person: 13 years. His state of the State address, which he delivered to the joint session of the 13th legislature on January 21, 1986, sets forth a distinguished record for his administration. In his remarks, he details some of his accomplishments and outlines his vision for Hawaii's future. Governor Ariyoshi's record inspires pride, hope, and confidence. I feel certain that there are many other Governors who wish they could make the same claims.

Governor Ariyoshi epitomizes the finest qualities that a person can bring to public office. I am certain that my colleagues in the U.S. Senate will join me and the people of Hawaii in wishing him continued success during his last year in office.

Mr. President, I ask unanimous consent that the full text of Governor's Ariyoshi's 1986 state of the State address be printed in the RECORD.

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

GOV. GEORGE R. ARIYOSHI, STATE-OF-THE-STATE ADDRESS

Mr President, Mr. Speaker, Members of the Legislature, distinguished guests, and my fellow citizens:

In the summer of 1787—a hundred and ninety-nine years ago—a remarkable document was created in the City of Philadelphia—the Constitution of the United States. Thinking it up and writing it down was perhaps the most creative political act in history. And just over twenty-five years ago, our own State came into being with a similar document.

Our State Constitution's Preamble says:

"We, the people of Hawaii . . . reserve the right to control our destiny, to nurture the integrity of our people and culture, and to preserve the quality of life that we desire."

And in Article Five, the Constitution says:

". . . The Governor shall, at the beginning of each session . . . give to the legislature information concerning the affairs of the State, and recommend to its consideration such measures as the governor shall deem expedient."

For nearly half the life of our State, I have obeyed this mandate each January. This morning I appear before you to recommend—for the last time—what I deem not only expedient, but also what I think is the right thing for us to do.

The details of what our Administration is proposing this year are in the written Message that will be delivered to each of you. I shall touch upon them in my remarks, but will do so in less detail than in earlier years.

I want to invite you now to step back with me and take a look at the broader picture.

Let us look back beyond the past year, beyond my time as Governor, even beyond the past century. For we are the inheritors not only of what was achieved in 1985; we are the inheritors of the entire past. Abraham Lincoln said that we cannot escape history. It is from the past that we can get a sense of our future potential—as a State, an Island economy, an Island society.

I take this approach in my final State-of-the-State Address because I am convinced that all of us—even in the midst of solving the everyday problems of life, even in the midst of surviving and raising a family—all of us must keep in mind each day the special nature of this place we call home—this place which history has prepared for us.

If you drive down Kapiolani Boulevard during the evening rush hour, you might easily think that you are on Wilshire Boulevard in Los Angeles. For something remarkable has taken place here in the past forty years. The intricate machinery of a complex consumer society has been put together here in our small Islands. We live on the tips of great volcanic mountains that rise up from the floor of the vast Pacific. And we realize more and more that there's not much room here!

The straight-line distance between Kaena Point and Makapuu Point is only 44 miles. And the longest dimension of what we call the Big Island is only 93 miles. There is no place else in the world quite like these fragile Islands. Today they support a resident population of over a million people and welcome five million visitors a year. To make this place work, to make it habitable for future generations as well as for ourselves, we cannot afford to forget that our Island State has limits. On a vast continent, mistakes can be made in the use of land and water. In our Islands, the same mistakes can be fatal. Living together here in the middle of the sea, we need a richer sense of community than is found elsewhere.

The ancient Hawaiian society—a society that had existed for a thousand years before Captain Cook came ashore at the mouth of the Waimea River on Kauai—had such a sense of community. That Polynesian society emphasized ohana, a connectedness, a sharing of resources. Things were not perfect, of course. The common people were controlled by strict laws. The kapu system governed a great portion of everyone's life. And capital punishment was often used in support of that system. But the Hawaiian people were self-sufficient. They provided their own food supply. They were culturally rich and socially stable. Their world was in balance.

Two hundred and eight years ago, when Captain Cook swung open the door to the Sandwich Islands—as he called them—everything changed. He and those who followed him brought a new and strange world to Hawaii, and these Islands would never be the same again. Along with a new religion, they brought the energetic mercantile traditions of Europe and America. And we are still living today with the effects of Cook's arrival.

During the middle of the 19th century, the people of our Islands experienced innovation and confusion, success and failure, and political turmoil. And they faced a basic question:

"How can we survive as part of the modern world?"

Today, we in Hawaii are still facing the same question.

The early solution was to survive on the basis of successive single economies. At first it was sandalwood, and when that ran out, it was whaling, then ranching, then sugar.

By the turn of the century Hawaii's new political, economic, and social structure was well established. It was in the year 1901 that James Dole borrowed the money to plant his first pineapple field out near Wahiawa.

The structure was pretty simple. After Annexation, the plantation economy was based on sugar, and later pineapple. Politics and social status were dominated by the "Big Five" and their families. Old Hawaiian traditions had faded into the background, and the tiny seaport of Honolulu was the center of business and trade.

This was another time of apparent social stability and economic consolidation. But the benefits came at a high price.

The vast majority of Islanders had little political freedom—and little opportunity for economic or social mobility. A handful of people in power made the decisions and reaped the rewards. And that's the way it was for fifty years.

At the end of World War II came the next big change. I was privileged to help in a modest way in contributing to that change. Had it not come, I would not be standing here today.

When Jack Burns urged me to run for the Territorial Legislature back in 1954, it was with the conviction that we could change things for Hawaii's people. With our party gaining in strength, there was a chance not merely to change the political players in the game, but also to bring new opportunities to more people; to build a more decent and equitable society. Indeed, if we took office and did not do these things, we would be guilty of exactly what we were complaining about.

So there it was: a chance to make democracy a reality; a chance for people to realize their best potential in getting a job and get-

ting ahead; a chance for almost everybody to contribute to the well-being of our Islands. We knew that it would not be easy. There are many reasons why people do not get ahead in life at the same rate—why some are more successful than others. But if we could make everyone feel at home here—if we could make the government fair—then we knew we would be on the right track. And for more than 30 years, that's the track we've been on.

No one person, no one administration, and no one political party can take all the credit for the constructive evolution of these years. Once it got started, it gained its own momentum, and the legislative accomplishments between 1954 and the mid-1970's were remarkable.

In addition to establishing the efficient structure of the State Government itself, the Legislature passed bills for tax reform; for critically important land-use reform; for greatly increased support for education at all levels; and for increased home rule for the Counties. It also passed better laws to benefit our working people.

Ralph Waldo Emerson once wrote that "the height of the pinnacle is determined by the breadth of the base." These were the years when, working together, we broadened the base of Hawaiian life.

As I came into office as your Governor, my fundamental aim was to continue this opening-up process. In my Inaugural Address in 1974, I put it this way:

"Whatever the challenge, we will at least try. I would rather try and err honestly than be faulted for failing to meet a challenge. To all those who would join in our endeavors, I want you to dare, to be imaginative, to be creative." But I also said this in the same address: "In this Administration, we will speak of our efforts and our successes. But we will also speak of our disappointments and setbacks."

As in all endeavors, there have been disappointments and setbacks. Some stand out more clearly than others in my mind:

We are today nowhere near as active a place for international trade as we have wanted to become.

The fact that H-3 has not yet been built is a disappointment to this Administration—and to thousands of commuters, as well.

We have worked for years to establish a general aviation airport on Oahu, but it still eludes us.

We have built new correctional facilities in each County in the effort to foster rehabilitation. However, with an inmate population that has grown from 300 to more than 1,800 in the last 12 years, we are hard-pressed just to find room for all these offenders.

Yet over the years there have been many achievements along with the setbacks. Before I touch on them, however, let me say that nobody knows better than I that the achievements have been made by working with the Legislature, not against it.

As I look out across this Chamber, I see my political friends and colleagues of a lifetime. As the issues have come and gone, you have been with me in some and against me on others—but we have remained colleagues. There are 76 of you. You represent your own areas—and each area has its own needs. Yet you work in the end as a whole. Only through the consent of a majority in each House can a bill become law. It is in the Legislature that the tensions between the needs of the individual and the needs of the whole community are addressed and resolved.

When that great Democratic President, Franklin D. Roosevelt, was campaigning for his first re-election exactly fifty years ago, he went home to vote in Hyde Park—a little town on the Hudson River in New York. On the night before the election, he spoke to his neighbors from the front porch of his house, and he said this:

"We Americans have had to put up with a good many things in the course of our history. But the only rule we have ever put up with is the rule of the majority. And that is the only rule we will ever put up with. If we spell the word with a small 'd,' we are all democrats."

Here then are some of the accomplishments that, working together, we have achieved in the past few years in Hawaii:

ALTERNATE ENERGY

We have today a worldwide reputation as a leading center of research, development and use of renewable energy resources. Our pioneering work will be proven even more important whenever our oil supply is cut off for any reason—or when the oil finally dwindles away entirely.

DIVERSIFIED AGRICULTURE

Its growth has been incredible. In ten years, the value of Hawaii's diversified ag products has tripled to more than two hundred million dollars a year. The State's leadership in developing agricultural parks, in supporting research, financing, marketing, and export promotions, has contributed significantly to this growth.

AQUACULTURE

Although we have had some setbacks, aquaculture has come in one decade from being just a dream to being one of our State's fastest-growing and most profitable industries. Today, we have 47 aquafarms, and 18 more are on the drawing boards.

HAWAIIAN HOME LANDS

By the end of 1986 we will have made more awards of Hawaiian home lands in the past 12 years than were made in all of the prior Administrations, beginning with Wallace Rider Farrington's Administration back in the 1920's. The thousand lots distributed in 1985 alone exceeds by far the distribution for any earlier year—and an additional fifteen hundred lots will be offered during this fiscal year.

FRESH WATER SUPPLIES

Like our land, our supplies of fresh water are limited. We have given the highest priority to our search for new water sources, and we have had considerable success. In the future, it is clear that we shall have to turn to the sea and our coastal waters for our drinking water. We are preparing for that. We have done something equally important by conserving the water resources we do have. Some years ago there was a risk of over-pumping the Pearl Harbor aquifer as a short-term solution to increased demand. Your government would not allow the most valuable aquifer on Oahu to be endangered in such a way.

IMPROVEMENTS IN EDUCATION

This Administration has been committed irrevocably to quality in education. Sixty-two percent of the discretionary money of our State General Fund goes to the Department of Education and the University of Hawaii. We are also committed to the goal that very classroom session—at every level of learning—will attain the hghest possible standards. The amount we spend on educaton is certainly important. But how we spend it—and what improvements in quality we get—are issues of equal importance. We want to make sure that every dollar we spend firmly supports the learning process itself.

SUPPORT FOR TOURISM

In 1975, we set up the State Tourism Office thus beginning a decade of unqualified support—both direct and indirect—for our leading industry. We have helped the Hawaii Visitors Bureau expand its capabilities. We have helped increase the number of foreign visitors to Hawaii—and they add impressively to the total number of tourists. In the past year, we welcomed close to five million visitors.

FACILITIES

We have been constantly improving the physical facilities of the State—the infrastructure that makes life easier for everybody.

There is a new campus for Kauai Community College.

The Fort Ruger campus of Kapiolani Community College has also been built.

We renovated and consolidated the colleges in Hilo and made major improvements throughout the University system.

H-2 is complete today.

There are new hospitals in Hilo and Kona, and others elsewhere have been extensively improved.

We established a brand new harbor at Barbers Point, and made major improvements to commercial and recreational harbors across the State.

We have built gymnasiums and new classrooms and libraries, and improved our airports. Our Honolulu International Airport is one of the finest in the world.

NEW STATE PARKS

Since 1974, we have added 8,000 acres to our parks, spending almost one hundred million dollars to secure these priceless lands for our present and future generations.

GOVERNMENT FINANCE

Due to our firm fiscal policy, this Administration has never presided over a State deficit. Federal budget policies of the 1980's meant very difficult times for every State in the Nation. Most States had to increase taxes or make massive expenditure cuts including layoffs, or both. In Hawaii, we have not increased general fund taxes. We were even able to give rebates to our taxpayers. There have been no significant layoffs of civil service workers. We have always stayed within the spending ceiling set by our State Constitution. I share your pride in these accomplishments.

JOBS AND THE ECONOMY

When I became Governor in 1974, Hawaii's unemployment rate was well above the national average. Since then, it has generally been below that average. Even in the 1980's, when our nation suffered its worst recession since the Great Depression, Hawaii's unemployment rate was several percentage points below that of the country as a whole. And this has occurred in a State with a population growth rate significantly higher than those of other States.

Complementing our economic growth, our training programs have produced a quality labor force. Hawaii's workers have taken full advantage of the opportunities available—and have contributed in this way to our low rate of unemployment.

NEW INDUSTRIES

New industries in Hawaii rarely become major ones overnight. Sugar took many

years, and tourism took time to reach its present success. But for both of these someone began the work. In the past twelve years, we have either begun work on new industries, or nurtured along some seedlings. Diversified agriculture, biotechnology, aquaculture, film production, and energy resources development have all sprouted and are growing nicely. Even astronomy is now a growth industry in Hawaii, which has become a world leader in this field.

This process of seeding an economic forest should not be undertaken sporadically. It needs to be an ongoing process. In the future, we should continue to foster the development of our ocean resources and of high technology appropriate to Hawaii.

In looking at what we have done, and at the new things we can do in the future, it becomes clear that our citizens have more options than ever before. And where once there may have been, as my predecessor put it, "a subtle sense of inferiority" in our people, we have tried to overcome that, so that all might have the confidence to succeed. The job is not complete, but we are on the right track.

There is a unifying thread that runs through this list of achievements. The word is "improvement." Our Hawaii State Plan encourages each person to strive to improve the conditions of his or her own life. We have wanted to help people help themselves. Admiral Chester W. Nimitz, who ran the wartime Pacific Fleet from his headquarters at Makalapa, once said:

"If you need a helping hand, you can always find one right there at the end of your arm."

There are, of course, those who say that we might have accomplished more. I agree. But no one is prouder of what we have accomplished than I am. And no one is clearer about what yet needs to be done.

Our Administration will bring many issues before you. Let me list just four of them now:

First, right down to our last day in office, industrial diversification and economic growth will be at the top of our list—just as it will be for you this Session. Each of us will be taking action and making decisions on this issue.

We will be counseled by some that our decisions must be to do whatever is necessary to meet today's problems. But let me emphasize that we cannot afford to look simply at the short term. We must always be aware of what impact today's decisions will have on tomorrow's Hawaii.

Economic development does not have to mean that we abandon all restraint. Indeed, in a small Island State such as ours, economic development means we cannot abandon restraint. If we are to control our own destinies, if we are to leave a richer legacy for future generations, we must exercise responsible control and use common sense and the wisdom we have gained through our own experiences, to regulate wisely land use, water, waste, and our limited resources. Our desire to control our own destinies is realized through what I would call "collective self-discipline." If we don't achieve it, these valuable resources will be squandered—and the heritage we leave will be a sad one.

For example, I was disappointed that the Federal government wanted to sell Fort DeRussy to help pay for its operational expenses. What would be gained in the Federal treasury is nothing compared to what would be lost in Hawaii. And for the same reason, I am concerned about the City and County of Honolulu's apparent interest in selling some of its lands for a single year's budget needs.

Let us make decisions that will give us the best use of the resources we have—for today and for the future.

My second issue: In past years, we have become quite adept at marketing Hawaii as a place to visit. Now we must turn these selling skills to making Hawaii more adept at marketing our expanding list of products and services. In addition to agricultural products, we should increase the export of our high-level professional skills, and sophisticated manufactured items. There is much more that we can do.

My third issue: Down to our last day in office, we shall continue to urge participation and leadership in the affairs of the dynamic Pacific Basin.

If you take a globe of the earth and hold it in your hands so that you are looking down directly on Pitcairn Island, you will notice something surprising as you look around the edge of that globe. Except for a sliver of Mexico, you cannot see any continental land at all! All you can see is the vast Pacific—dotted with tiny islands. Viewed from this perspective, the Pacific seems to cover half the earth!

Well, this is our ocean! Not in a legal sense, but it is our ocean in the sense that it presents enormous opportunities to Hawaii.

Over the past few years, the people of Hawaii have become more and more aware of what is happening in the Pacific. There are significant developments in trade, science, and technology. Because of historic and cultural ties to many parts of this vast region, we have a unique mixture of Asian, Polynesian, and Western traditions. Yet to play our larger and rightful role in the region, we must now go beyond being simply a multi-cultural society. We need to become even more international. We need to make a greater effort to speak the languages of the Pacific region, and to supply the goods and services needed by the people of this immense territory.

Even though specific opportunities may not be immediately clear, our Administration will urge expanded Pacific interchange, through organizations like the Pacific Islands Conference, the East-West Center, the Pacific Basin Development Council, and our own non-profit corporation formed last year, PICHTR—the Pacific International Center for High Technology Research. The future of these organizations is bright, and we must offer them continuous support. Hawaii has a head start over other parts of our country in perceiving the potentials of the "New Pacific." We must retain that lead.

My fourth issue: Down to our last day in office, we shall continue to stay in touch with the human side of things—particularly as we work to give our young people the best start in life.

Our responsibility begins with their education. I have indicated that we spend great sums of money on education. How we allocate that money will continue to be critical. Ours is a good system today. More students are learning more than ever. Yet we can do even better. The link between the student and teacher remains pivotal. We must provide new forms of support for the classroom teachers who desire to do an ever better job of teaching. We must also be certain that our schools can open practical doors of opportunity to the working world as well as to the world of higher education.

Our University of Hawaii is a source of learning and a beacon of hope for our young citizens. Even as it trains a student for a specific vocation, it also invites that person to consider the broader spectrum of human experience. At the University, our young people are challenged by history's noblest men and women who have contributed in wonderful ways to our civilization. Our University invites our youth to explore the depths of the human mind and heart, as well as the mysteries of our vast oceans and the infinity of outer space. They must be well prepared to lead Hawaii in this New Pacific Age.

But it is not only in formal education that we have this responsibility to our young people. It also extends to the media, to the business world, and indeed to the very way that we conduct our own lives each day.

If we are responsible, our young people will come to appreciate the past—to appreciate, for example, the immigrant experience that began centuries ago with the original voyages of unknown Polynesian pioneers. Hokule'a's Voyages of Rediscovery, having proved the navigational skills of the distant past, have been an outstanding example of the non-formal educational process.

If we are responsible, our young people will come to understand a citizen's right to constructively criticize his or her community—and also the obligation to pitch in with time and talent and energy on a specific community effort.

If we are responsible, and if we are enthusiastic about our future, then our children will be, too.

Abraham Lincoln said this about children:

"A child is a person who is going to carry on what you have started. You may adopt all the policies you please, but how they are carried out depends on the children. They will assume control of your cities, states, and nations. They will move in and take over your churches, schools, universities, and corporations. The fate of humanity is in their hands."

I realize that this is a formal legislative occasion, but I trust that as I near the end of this address, you will grant me the time to make a few personal reflections about this job that I have held for so long—and about the process of which it is a part.

Over the years, hundreds—thousands—of people have come to me complaining about our political process. They say that—it involves too much argument, it moves too slowly, it interferes too much in their lives, it doesn't do enough, it tries to do too much!

These perceptions are not altogether inaccurate, but I think they may arise because many people do not understand the basic nature of the kind of government we are living under.

Unlike the workings of the private sector of our society, which searches always for a clear, immediate, and hopefully profitable final result, the democratic process never quite arrives at the final result. The give and take of the political system creates a kind of uncertainty. To get the benefits of the freedom it confers, we must live with contributions and criticisms from a thousand sources. And we are always asking the important question:

"Shall we change things or shall we leave things as they are?"

By contrast, from a dictator or tyrant we would always get a clear, quick answer—but we couldn't do anything about it if it wasn't the answer we wanted.

As a public servant, how does one get anything done at all in the midst of so many conflicting ideas? Well, I'll tell you. Our next Governor—whoever he or she may be—

may follow a different path, of course, but this has been my way:

When people come to me with a complaint or a proposal, I have been willing to listen carefully. I have always asked questions so their aim or their problem becomes clear to me. I have tried to consider the needs of all who might be affected by what they propose—to think of the whole, rather than just the part.

I have tried to respect the opinions of others, even when they have collided directly with my own. As you know, I have tended to stand firm especially in unpopular decisions, when I have felt that such decisions would clearly benefit the State. In working toward any decision, I have always been more impressed by what I see as the value of an idea than by the number of people supporting it. And finally, I have always tried in this process to envision the future as well as remember the past.

There is, however, a stabilizing factor in the midst of all this dynamic give and take. I have found that most people are good at heart. Most people want to do the right thing—when they can define what it is. And being citizens of Hawaii has helped them to define it, for here we have a political process unique in all the world.

We have the powerful drive of free enterprise.

We have the fairness of democracy.

And we have the tempering, humane note of the Aloha spirit. No other State has this special spirit. And though it has been severely tested at times, it has never been extinguished. It is alive today, just as it was back in 1854 when Kamehameha the Fourth ascended the throne of the Kingdom of Hawaii and said this:

"To be kind and generous to the foreigner, to trust and confide in him, is no new thing in the history of our race. I therefore say to the foreigner that he is welcome. But the duties that we owe to each other are reciprocal."

Thus Hawaii began in generosity, and my feeling—after spending over half my life in public service in my native State—is that Hawaii will continue in generosity. For it is generosity that helps create a sense of community and of shared opportunity. We must continue to create this sense of shared opportunity—as newcomers arrive, as new ideas have their impact, and as the past recedes beyond memory.

If indeed we can find a little time each day to actually do what it says in our Constitution—to control our destiny, to nurture the integrity of our people, to preserve the quality of life that we desire—then all will be well in the Aloha State.

Blessed by Divine Providence and a beautiful nature, we shall have fashioned a decent and durable society—a society that can perhaps exert a modest influence in calming the awful winds of fury that blow each day across so many places in this world.

We will be a useful example—the symbol and the reality of a community that is dynamic and humane—a place of peace and progress, a place of harmony and hope.

Mahalo and Aloha.

SOUTHIE SUCCESS STORY

Mr. KENNEDY. Mr. President, a recent article in the Boston Globe praises my longtime friend and constituent Tom McIntyre as a man who gets the job done.

Tom, who lives and works in South Boston, is the international vice president of Local No. 3 of the Bricklayers Union. He is known for his "can do" attitude and his direct approach to any issue or problem. But more importantly, he is known for his unflagging support and loyalty to his friends from all walks of life. All you have to do is join him for a sandwich and a beer at Amrhein's on West Broadway and you know that here is a man you want on your side.

For those folks who have grown up on Andrew Square, off Dorchester Street, who have married and raised children there, Tom McIntyre is in their corner. As the Boston Globe story of November 24, 1985, shows, Tom McIntyre has worked to provide affordable housing for many young families during a time when inflation has put housing out of reach. During a time of high unemployment for union members in the construction trades, Tom McIntyre has created jobs. This is a man who gets things done. I am proud to call him my friend.

I ask unanimous consent that David B. Wilson's article from the Boston Globe of November 24, 1985, be printed in the RECORD.

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

[From the Boston Globe, Nov. 24, 1985]

BARGAIN HOUSES—NO SPECULATORS NEED APPLY

(David B. Wilson)

SOUTH BOSTON.—New, archtct-dsgn, brick frnt, 2br town houses, Pkng, off Xway 6 mins to Park Street, walk to beach, $68,900, Bricklayers & Laborers Non-Profit Housing Co. Inc.

No such ad will appear in the Globe because, by spring, when the BLNPHC is ready to sell these 18, sunny, special places, the word will be around and they will all be taken.

And if you don't live in the neighborhood—that's the key word—of Andrew Square, forget it. Tom McIntyre didn't lay up all that brick for yuppie speculators. He did it for what he calls "the two-dollar bettors."

You do not mess with Tom McIntyre. He is international vice president of Local No. 3 of the Bricklayers Union. You do not get to be that and stay that by avoiding or losing fights. He is Mission Hill Irish, silver-haired, black-browed, tough, decisive, the kind of man other men will follow. He also is an idealist with a creative imagination, language to which he would no doubt object.

Like the wheel, great ideas are simple. McIntyre's was, is, this: Boston is desperately short of housing. Housing costs too much because land costs too much. People can't afford to live where they grew up, formed families. The city owns a lot of land, abandoned schools, burn-outs, tax-title takings, vacant lots strewn with rubble and broken glass, going to waste.

The way to produce housing that neighborhood people can afford is to build it on city land conveyed for $1 to a nonprofit developer. A bank that enjoyed the union's pension business ought to be interested in financing. Union craftsmen, paid scale, working for a union-backed outfit, could do the work. And the buyers would get a double discount—the land cost and the developer's profit.

This is pretty radical stuff, you know. No federal funds. No limited partnerships. No sales commissions. No syndicated tax shelters. No complex gimmickry, publicity campaign, extended planning procedures, environmentalist tedium, hearings, seminars, workshops, committees, reviews. Just do it. But you need an architect.

Bill Rawn is an architect. Matter of fact, he is The Architect in Tracy Kidder's best seller, "House." Through Ed Lashman, a mutual friend, McIntyre found Rawn. One night last January they had dinner at Amrhein's on West Broadway and discovered that they liked each other's style and ideas.

It helped—a lot—that McIntyre had been with Ray Flynn early in the 1983 election. It helped that Arthur Cola and Pat Walsh of the Laborers Union were willing to get aboard. It helped that Billy Bulger had gone to the Andrew School. It helped that Dave Mirabassi was willing to take charge as general contractor and that attorney Valerie Swett was fascinated by the legal issues.

Bill Rawn delivered plans a month after the Amrhein's dinner. A month later, McIntyre had cost estimates from Mirabassi. In May, the city issued requests for proposals for the old Andrew School site. In June, to the surprise of almost no one, the BLNPHC was chosen. It took title in August and broke ground Sept. 9. In May, people will be living in the houses.

Boston is not supposed to work that way. In Boston, people love to fight, brood upon ancient wrongs, to chew over issues, to debate important principles, to punish and reward old foes and friends, to convene and consult and pick nits. Instead, Tom McIntyre, the Mission Hill kid, and Bill Rawn, the post-modernist 1 Yalie, Harvard Law graduate and oncoming national celebrity, and their friends, went out and built 18 houses.

You can see them today, framed in and rough-plumbed, their bay windows shining out on Dorchester street, with the fine, clean smell of new lumber blending with the sour scent of mortar. It is the fragrance of progress and growth. Thousands of empty lots in this city could use a little of it.

Valerie Swett has written deed restrictions designed to prevent speculation, and she thinks they will work. The houses, of course, are worth on the open market two to three times their expected price.

Tom McIntyre may have discovered a no-lose game. The union gets work and jobs for apprentices and badly needed public relations. The neighborhood gets some protection against gentrification. A development model has been established. Ray Flynn looks great. The city gets taxes and neighborhood stability. Bill Rawn gets an exciting commission. Valerie Swett breaks new ground in her profession. And people get places to live. Each new unit, just about, creates a corresponding vacancy.

If it all does not work out exactly as planned, well, somebody tried. Right away. Now. Tom McIntyre's way.

AN INVITATION TO MR. GORBACHEV

Mr. PELL. Mr. President, sometime this year the leader of the Soviet Union, Mikhail Gorbachev, will visit

Washington for a summit meeting with President Reagan.

In this regard the senior Senator from West Virginia, our distinguished Democratic leader, has proposed in a speech to the Senate earlier today that Mr. Gorbachev be invited to address a joint meeting of Congress. Such an address, of course, would certainly be carried on all the American networks and would provide Mr. Gorbachev an unparalleled opportunity to take his country's case to the American people.

Senator BYRD would attach two conditions to this invitation; first, that President Reagan be invited to address a joint meeting of Congress prior to, or following, the Gorbachev address; and second, that President Reagan's speech be carried live and in its entirety on Soviet television.

The proposal of the Senator from West Virginia is an innovative and extremely constructive one. The people of each country would get an opportunity to understand the positions and perspectives of the other. I would hope such understanding will lead to a more peaceful environment and will stimulate public pressure in both countries for a prompt and successful conclusion to the arms control negotiations.

Mr. President, I urge the President and the Speaker, in consultation with the rest of the leadership of the two Houses, to move forward with Senator BYRD's proposal.

UPDATE ON RADIATION EXPOSURE ISSUES

Mr. CRANSTON. Mr. President, as many of my colleagues are aware, the General Accounting Office [GAO] in November 1985 completed a review that I requested be done of certain issues concerning radiation safety measures during the 1946 Pacific nuclear weapons test series, Operation Crossroads. The findings of this study, entitled "Operation Crossroads: Personnel Radiation Exposure Estimates Should be Improved," are both significant and of vital interest not only to the Congress but to the public at large.

THE GAO REPORT ON OPERATION CROSSROADS

I believe that there has been no more important document regarding radiation safety activities of the U.S. Atmospheric Nuclear Weapons Test Program than this November 8, 1985, GAO report. Thus, I want to provide an update on this review and the related followup work.

A consistent theme that has generally punctuated Federal Government statements on the issue of possible exposure to radiation as a result of the Nuclear Test Program has been that there is no need for any action because few if any of the veterans involved in the Atmospheric Nuclear Weapons Test Program or with the occupation of Japan after World War II were exposed to other than very low levels of radiation and such levels are not thought to be a potential cause of harm.

The recent GAO report, although it does not purport to establish or estimate any specific exposure levels for veterans who were present at Operation Crossroads, casts significant doubt on the assertions by the Defense Department that the only exposures were to low-level radiation. This report—produced by an entity with no stake in the underlying issue—creates, I believe, a strong mandate for further action to sort out the question of the actual exposure experience at Operation Crossroads—and to apply the learning from that effort to other nuclear blast exposures.

Pursuing study such as that conducted by the GAO is particularly important because the Veterans' Administration [VA] has relied on the Department of Defense [DOD] radiation exposure estimates, calculated by the DOD's Defense Nuclear Agency [DNA], for denying veterans' compensation claims. According to the VA, approximately 500 veterans have claimed injury due to radiation exposure during Operation Crossroads. None of these claims have been approved.

Altogether, an estimated 220,000 military personnel participated in 19 peacetime atmospheric nuclear weapons test operations in which a total of 235 nuclear bombs were detonated. Operation Crossroads, conducted in the Pacific Bikini Island lagoon, was the first such test. Two nuclear bomb detonations were set off there, Shot Able, an atmospheric test, on July 1 and Shot Baker, which was detonated underwater on July 25, 1946.

After completion of the Operation Crossroads study, GAO officials estimated that 41 percent of the 42,000 Crossroads participants—approximately 17,000 people—probably received heavier radiation dosages than previously assumed. The GAO report concluded that the highest risk for exposure was among military personnel who tried to decontaminate the target ships following Test Baker, along with personnel who retrieved those ships and crews who boarded submarines which had resurfaced through the highly radioactive water. About 70 of the 80 Test Baker target ships were eventually sunk "because they were not considered fit for continued use or decontamination proved unsuccessful."

Among the most significant findings of the GAO's review were that:

First. Only 6,300 of the participants in the Operation Crossroads test series—15 percent of the total—wore film badges designed to detect radiation exposure. To make matters worse, the DNA's radiation exposure estimates "made no allowance for inaccuracies" in the film or its processing. The GAO noted that, while the "DNA acknowledges that the recorded film badge readings would have an overall inaccuracy of approximately 30 percent," tests by the National Bureau of Standards suggest that actual exposure could have been twice the amount indicated.

Second. The DNA's estimate of radiation exposure did not take into account the possibility that "personnel may have retained radioactivity on their bodies and clothes." The GAO believes this possibility exists because decontamination procedures were only evolving at Operation Crossroads. The GAO pointed out, for example, that the earliest evidence it found that military personnel were being required to shower or change clothes after returning from contaminated target ships "was in procedures issued on July 31, 6 days after the second detonation." Moreover, even after comprehensive decontamination guidelines were issued, the GAO found that "some violations were reported. Thus, Crossroads participants were probably exposed to more radiation than accounted for by DNA."

Third. The DNA study did not adequately measure internal radiation exposure. For example, it may have underestimated "by a factor of from 5 to 10" the exposure to alpha rays from inhaling radioactive materials, according to the GAO. The DNA also did not consider the possibility of radiation exposure from ingestion and open wounds. The DNA, "believed, incorrectly, a prohibition against food consumption aboard target ships effectively precluded ingestion," the GAO reported. Additionally, DNA "did not know how to calculate for open wounds."

SPECIFIC FOLLOWUP ACTIONS

In view of the many controversies raised by the GAO study, I have taken or will be taking the following steps regarding radiation exposure in the U.S. nuclear weapons test program:

I requested that the Veterans' Affairs Committee conduct a hearing to investigate the findings of the GAO report and to define more precisely the issued relating to Operations Crossroads which need to be resolved. On December 11, the committee held such a hearing during which the members heard from both GAO and DNA, as well as number of individuals who were at Operation Crossroads.

In a November 16, 1985, letter to the Comptroller General, I have asked GAO to do a followup study, focusing on a later nuclear test, as yet unselected, conducted at the Nevada test site in the midfifties, to address the question of whether there were improvements in the safety, personnel monitoring, and decontamination proce-

dures and practices during the course of the atmospheric nuclear test program after Operation Crossroads and, if so, to what extent and generally at what point did such improvement occur. The Comptroller General has agreed to do this followup and has assigned it for action.

In view of allegations that certain Air Force veterans were exposed to radiation as a result of their being in aircraft that were flown through the mushroom clouds which followed certain nuclear detonations in Operation Redwing, I requested GAO to investigate this issue as well as any other issues that arise in the course of investigation with respect to manned planes flying through post-blast nuclear clouds. Specifically, in my November 15, 1985, letter to the Comptroller General, I asked GAO to provide its views on the extent of exposure to radiation experienced by the Operation Redwing plane and plane maintenance crews, whether other individuals were similarly exposed during other detonations and whether the DOD or other governmental entity or any entity acting for the Federal Government has made any attempt to follow these individuals so as to monitor their health status.

In a December 4, 1985, letter, I requested Defense Secretary Weinberger, in consultation with GAO, to arrange for a new, independent review of Operation Crossroads, taking into account the findings and recommendations in the GAO report. With reference to this request, I do not question the integrity of the individuals involved in the DNA efforts. I do believe, however, that the GAO report raised questions of such a degree about the results of those efforts as to require a new review to be carried out and to be carried out by an entity not connected with DNA or with any other reconstruction effort.

I also asked the President to carry out his statutory responsibility, under section 601(c) of Public Law 98-160, to see that such objective work is done on this issue. Without such a review, we will be left with the DNA's views on the one hand and GAO's on the other with no way to reconcile them. That is not a satisfactory result. So, the ball is now in the President's court to bring about a satisfactory resolution of the impasse.

I will be following up with the VA regarding that agency's plans for handling claims for benefits based on a veteran's presence at Operation Crossroads. I congratulate the VA for the generally constructive views the agency expressed to GAO on a draft of the report.

I will continue to pursue diligently getting the Government to carry out scientifically valid study of the health of veterans exposed to radiation, as was mandated in a 1983 law I authored—section 601 of Public Law 98-160. That decision is now pending with VA Administrator Walters. Among other alternatives, one option I have raised with Administrator Walters in a July 24, 1985, letter, and again in a letter of January 21, 1986, was the possibility of making a specific study of veterans who are present of Crossroads. In light of the GAO report, I am pressing ahead with that suggestion.

In January 21, 1986, letters to Dr. Frank Press, Chairman of the National Research Council [NRC], and to Administrator Walters, I have urged follow-up study with regard to the NRC's May 1985 report, entitled "Mortality of Nuclear Weapons Test Participants." Specificially, I urged that, in order to validate the NRC's findings: First, the accuracy of data from the VA's beneficiary identification and records locator subsystem [BIRLS], which was used for identifying deceased veterans for this study, should be verified in light of 1981 changes in veterans' entitlement to VA burial allowances; and second, the NRC should consider the need for comparing the mortality data for nuclear weapons test participants with a similar cohort of other former military personnel, rather than with the general U.S. population which includes individuals whose basic health status may have excluded them from entry into military service, so as to control the results for the so-called healthy soldier effect in the NRC study.

I will continue to assist individual veterans and their survivors who are seeking VA benefits, either from exposure at Operation Crossroads or from some other nuclear blast. On this point, I note that the extension which I proposed, in introducing S. 6 a year ago, of the Public Law 97-72 health-care eligibility for veterans exposed to radiation has now been enacted in Public Law 99-166. That authority will now run through September 30, 1989, the end of fiscal year 1989.

MANY VALUABLE CONTRIBUTIONS

Mr. President, in closing, I want to congratulate the GAO for a job well done on this report, especially the very thorough and careful work of Mr. Robert J. Baney, the project manager for this review.

I also want to note the work of many others who, in one way or another, contributed to bringing Operation Crossroads to the fore for a reexamination, beginning with the late Dr. Stafford Warren whose papers were the starting point for the inquiry. As an Army colonel, Dr. Warren headed a team of 400 physicians, nurses, paramedics, and technicians who were responsible for monitoring safety precautions and radiation exposure at Operation Crossroads. Earlier, Dr. Warren had been in charge of radiation safety on the Manhattan project, which developed the atomic bomb, and it was he who recommended the sudden halt to Operation Crossroads before all planned actions were complete. I note also the work of Dr. Robert Ruffvold, who called attention to the presence of Dr. Warren's papers at the UCLA Library, Dr. Dorothy Legarreta of the National Association of Radiation Survivors, who traveled to Los Angeles to review the material, Anthony Guarisco, who, with his wife, Mary, spent a number of weeks at UCLA cataloging the material, and Dr. Arjun Makhijani and David Albright, who prepared an analysis of Operation Crossroads based on the Warren papers.

CONCLUSION

Mr. President, I believe very strongly that this past year has brought to light some highly significant findings and developments in the effort to better understand the possible adverse health effects from veterans' exposure to ionizing radiation in the Atmospheric Nuclear Weapons Test Program. Many questions remain to be answered, and I look forward to working together to resolve some of these questions with the chairman, Senator MURKOWSKI, and other members of the Veterans' Affairs Committee, as well as with my good friend from Illinois, Senator SIMON, whose bill, S. 707—the proposed Atomic Veterans Relief Act of 1985—is now pending before the committee. I also look forward to continuing my efforts, in cooperation with my other colleagues here in the Senate, Members of the House of Representatives, the scientific community, veterans' organizations, and the many concerned veterans and other individuals across the Nation, to gain this greater understanding and effectively address these important issues.

Mr. President, I ask unanimous consent that my November 15 letter to the Comptroller General, as well as my December 4 letters to Secretary Weinberger, President Reagan, and VA Administrator Walters, all regarding followup study to the GAO's findings, along with my July 24 letter to Administrator Walters, and his August 26 response, and my January 21, 1986, letters to him and Dr. Frank Press, Chairman of the National Research Council, all regarding health-effect studies on nuclear test participants, be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, November 15, 1985.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States, General Accounting Office, Washington, DC.

DEAR CHARLES: As the Ranking Minority Member of the Veterans' Affairs Commit-

tee, I am writing to you in connection with the GAO report—Operation Crossroads: Personnel Radiation Exposure Estimates Should Be Improved (GAO/RCED-86-15)—which you recently completed and transmitted to me.

First, I want to express my appreciation for the high quality of the report—it is in the best traditions of GAO. The project manager responsible for this report, Mr. Robert J. Baney, should be highly commended for the very thorough, very professional job that he did on this project. I ask that you convey to Mr. Baney and the other GAO employees who worked on this report my sincere congratulations for a job very well done and that a copy of this letter be placed in Mr. Baney's personnel file.

As you know, this report concludes that there are many significant questions about the adequacy of the safety procedures which were in place during Operation Crossroads and also about the degree to which the Defense Nuclear Agency (DNA) has estimated that personnel participating in that operation were exposed to radiation. In view of these important questions and DNA's disagreement with many of the findings in the report, I believe that there is a need for follow-up activity. Therefore, in my Committee capacity, I am requesting that you assign appropriate personnel to continue this project so as to provide me with a report or reports in response to the following questions:

1. Is there a basis for concluding that the safety precautions improved during the course of the atmospheric nuclear test program and, if so, to what extent and generally at what point? In addressing these questions, please select for study and evaluation a nuclear test that was carried out at the Nevada Test Site at a time sufficiently removed from Operation Crossroads so that the changes in safety procedures, if any, would be in place. (Specifically, please consider the possibility of studying Shot HOOD or Shot SMOKY in 1957.) Also in answering this question, please comment specifically on any changes in personnel monitoring procedures and decontamination procedures.

2. In view of the findings in your report, do you recommend that the regulations issued by the Veterans' Administration in accordance with Public Law 98-542 be changed in any way, either with reference to Operation Crossroads or to all nuclear tests or otherwise?

3. In further view of those findings, do you recommend that the regulations issued by the Department of Defense in accordance with section 7 of Public Law 98-542 be changed in any way?

4. A. What do you estimate would be the cost if DNA were to implement fully your recommendation that the "Crossroads participants exposure estimates" be adjusted so as to take into account the various exposure factors identified in the report (on pages 55 and 56).

B. In this regard, the VA, in its advance comments on this report, which were set out in an August 26, 1985, letter from Deputy Administrator of Veterans' Affairs Everett Alvarez (reprinted on pages 68 and 69 of the report), noted that "[w]hile GAO recommends revised methods of calculating radiation exposure levels for Crossroads participants, it appears that this new methodology should also be applied to participants in all atmospheric nuclear tests." What do you estimate would be the cost of such a global effort?

C. Is there any feasible way that an entity other than DNA could be the agent for applying the new methodology, in order to lend the appearance of greater objectivity given DNA's adamant resistance to the GAO analysis and recommendations?

5. In light of all the information gathered in the course of preparing your report, please prepare a series of "worst-case scenarios" in terms of possible levels of exposure for service personnel who were present at Operation Crossroads throughout the operation and who participated in decontamination efforts on target ships?

In a related matter, a report was made public last week concerning certain Air Force veterans' exposure to radiation as a result of their being in aircraft that were flown through the mushroom clouds which followed certain nuclear detonations in Operation Redwing. I am enclosing a copy of that report which also includes a Department of Defense document—Preliminary Report, Operation Redwing, Early Cloud Penetrations, issued by Headquarters Field Command, Armed Forces Special Weapons Project, Sandia Base, Albuquerque, N.M.—on this matter. As part of your response to this followup letter, I request that your office investigate this issue, as well as any issues that arise in the course of this investigation with respect to manned planes flying through post-blast nuclear clouds, and report your findings to me. I am particularly interested in learning your views on the extent of the exposure to radiation experienced by the Operation Redwing plane crews, whether other individuals were similarly exposed during other detonations, and whether the Department of Defense or other governmental entity or any entity acting for the Federal Government has made any attempt to follow these individuals so as to monitor their health status.

Finally, in view of his excellent work on the November report and the great expertise he has now acquired in this field, I would greatly appreciate that all the work I am requesting in this letter be carried out under Mr. Baney's supervision if that can appropriately and feasibly be done.

As always, I deeply appreciate your cooperation and assistance.

With warm regards,

Cordially,

ALAN CRANSTON,
Ranking Minority Member.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, December 4, 1985.

Hon. CASPAR W. WEINBERGER,
Secretary of Defense,
The Pentagon, Washington, DC.

DEAR CAP: I am writing with reference to the recently completed General Accounting Office (GAO) report, dated November 8, 1985, "Operation Crossroads: Personnel Radiation Exposure Estimates Should Be Improved" (GAO/RCED-86-15).

This report raises major questions about the conclusions of the Defense Nuclear Agency, as set forth in the May 1984 DNA historical report on Operation Crossroads and elsewhere, that none of the participants at that operation were exposed to other than low levels of radiation. Although I realize that the DNA has rejected GAO's analysis, I believe that that analysis and GAO's point-by-point rebuttal of DNA's official response published in the final report fairly raise the question whether some portion of the 42,000 personnel (GAO has suggested up to 17,000) who participated in the operation were actually exposed to radiation at levels higher than the levels accounted for by DNA.

In view of GAO's analysis and the weight of the evidence on which it is based, I believe that it is incumbent on the Federal Government to take further steps to study this operation to resolve this stark difference of opinion. Thus, I request that, in consultation with the Comptroller General, you arrange for a new, independent review of Operation Crossroads to be carried out with a specific focus on determining the degree to which participants there were or may have been exposed to higher levels of radiation than DNA has calculated. Such a review should take into account all findings and recommendations in the GAO report, including GAO's findings regarding the accuracy of the film badges used, the safety procedures that were prescribed and the extent to which they were followed, the decontamination activities that were carried out by participants, and the possibilities for exposure through inhalation, ingestion, and open wounds.

In order to ensure that such a review will have the credibility necessary to be accepted by veterans who participated in Operation Crossroads, others with an interest in this issue, and the general public, I believe that such a review must be carried out other than by or under the auspices of DNA, which has rejected the report of the GAO. Accordingly, I ask that you have such a review conducted by an entity not previously connected with the Operation Crossroads reconstruction effort or with any other DNA reconstruction of a nuclear test activity.

I look forward to hearing from you in response to this request at your earliest convenience.

With warm regards,

Cordially,

ALAN CRANSTON,
Ranking Minority Member.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, December 4, 1985.

Hon. RONALD W. REAGAN,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am writing to call to your personal attention the enclosed letter that I am today sending to Secretary of Defense Caspar Weinberger.

In this letter, I note a recent report from the General Accounting Office—"Crossroads: Personnel Radiation Exposure Estimates Should Be Improved" (GAO/RCED-86-15)—which casts serious doubt on prior Department of Defense estimates of the degree to which service personnel who participated in the Operation Crossroads nuclear test were exposed to radiation. In light of this GAO report, I urge that Secretary Weinberger have a new, independent review carried out of that operation, applying the GAO findings and recommendations. In order to attempt to ensure that any such review is credible to those most concerned about Operation Crossroads—the veterans who participated in that operation, their families, and their survivors—as well as the general public, I further urge that the review be carried out by an entity outside of DNA which has no previous involvement with any atomic-test reconstructions.

In this regard, section 601(c) of Public Law 98-160 charges the President with responsibilities for the purpose of ensuring that activities of the Federal Government

with respect to adverse health effects in humans from exposure to radiation are scientifically valid and conducted with efficiency and objectivity. Further effort by the Department of Defense with respect to Operation Crossroads clearly is such activity, and I believe that it is vital that such effort be carried out with objectivity, effectiveness, and credibility. Certainly, a review that has little or no credibility would be ineffective. Hence, I respectfully request that, in fulfillment of your section 601(c) statutory responsibility, you direct that Secretary Weinberger provide for the new review I have recommended and that the review be carried out by an independent entity.

Thank you for your attention to this request.

With warm regards,

Cordially

ALAN CRANSTON,
Ranking Minority Member.

Enclosure.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, December 4, 1985.

Hon. HARRY N. WALTERS,
Administrator of Veterans' Affairs,
Washington, DC.

DEAR HARRY: I have today written Secretary Weinberger (a copy of my letter is enclosed) in connection with the recent GAO report "Operation Crossroads: Personnel Radiation Exposure Estimates Should Be Improved" (GAO/RCED-86-15), dated November 8, 1985. You reviewed an advanced text of this report earlier this year and submitted your views on it to the GAO on August 26.

I have urged Secretary Weinberger to have a new, independent review of Operation Crossroads carried out, as recommended by GAO, in order to determine the levels of exposure to which participants at that operation were exposed. I believe that such a new review is absolutely vital for many purposes, including, of course, giving veterans and survivors with claims for VA benefits based on participation in Operation Crossroads confidence that the information regarding veterans' exposure on which the VA will base its decisions is as accurate as possible.

In light of your appreciation of the importance of having an investigation of a highly controversial issue carried out by an entity with no preconceived notion about or stake in the result—as evidenced by your decision to assign to CDC the responsibility for conducting the Agent Orange study—I urge you to express to Secretary Weinberger your support for such a new, independent review of Operation Crossroads.

Such a statement of support from you would be both particularly valuable—because the principal beneficiaries of such a new review would, of course, be the veterans who participated in that operation—and fully appropriate as an exercise of your statutory responsibility, set forth in section 220 of title 38, United States Code, to promote the maximum effectiveness of all governmental activity relating to veterans.

Thank you, Harry, for your ongoing cooperation and assistance and for your attention to this request.

With warm regards,

Cordially,

ALAN CRANSTON,
Ranking Minority Member.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, July 24, 1985.

Hon. HARRY N. WALTERS,
Administrator of Veterans' Affairs,
Washington, DC.

DEAR HARRY: I have recently received and reviewed a copy of the July 1985 Office of Technology Assessment Staff Memorandum entitled "An Evaluation of the Feasibility of Studying Long-Term Health Effects in Atomic Veterans", which was prepared in response to your December 19, 1984, request that OTA review a proposed protocol for a study of veterans exposed to radiation and advise you as to the feasibility of such a study. I am writing to express my views on this issue in light of the mandate in section 601 of Public Law 98-160 that such study be carried out.

The OTA staff memorandum appears to me to be very well done and quite comprehensive, and I have no basis for disagreeing with the OTA staff conclusions that, first, a study "carried out in accordance with the outlines of the VA plan would not produce meaningful scientific results" and, second, that "a study of the group of 1200 atomic veterans with more than 5 rem exposure [an option OTA considered on its own initiative] would be even less powerful than would the study of the entire cohort."

Notwithstanding these conclusions regarding the likely merits of comprehensive studies, however, I continue to believe that valid study, within the context of section 601, of the adverse health effects of exposure to radiation among veterans exposed during the nuclear test program or in connection with the occupation of Japan following World War II can be carried out. Therefore, I urge you to consider, prior to making any final decision that such study is infeasible, the feasibility of study approaches other than those reviewed by OTA. In this regard, I believe that it is important to note that the study mandate clearly contemplates, in section 601(a)(1)(B) of P.L. 98-160, that, even if it is determined that it is not feasible to carry out some elements of the mandated study, other elements as to which a determination of infeasibility cannot be made would continue to be required.

Among the possible study approaches that I urge you to consider before making any final decision are two that are discussed in the OTA staff memo—namely, periodic follow-up studies of the veterans who witnessed the SMOKY shot and a study of the veterans who were present at the tests carried out during Operation Crossroads (with comparisons being made between the health status of these veterans with an appropriately designed control group of veterans who were not exposed to radiation during the test program). This latter study would appear to be particularly important in light of the concerns about the level of exposure and safety precautions at Crossroads which were raised by the Operations Radiological Safety Officer at the shots, the late Colonel Stanford Warren, in various memoranda and letters which were presented to the Congress in 1983 and which have been the subject of a nearly completed GAO study. (I understand that your staff has already reviewed this study in draft.) In addition to these two studies, there may be others focusing on particular shots or series of shots or some other subset of the total population of veterans exposed to radiation that could be the subject of valid study, and I urge you to look for such options before reaching any final decision regarding the infeasibility of carrying out any study under section 601 of P.L. 98-160.

In addition, I urge you to have members of your staff contact appropriate staff at the National Research Council (NRC) to discuss with them the possibility of the VA providing funding support for a further analysis, using a properly constituted control group of veterans, of the information gathered by the NRC in connection with the recently reported study entitled "Mortality of Nuclear Weapons Test Participants". Such an analysis, which members of the Committee staff have already discussed with NRC, would be a valuable addition to the body of information available at present on the health status of veterans exposed to radiation.

Thank you for your continued cooperation.

With warm regards,

Cordially,

ALAN CRANSTON.

VETERANS' ADMINISTRATION,
Washington, DC, August 26, 1985.

Hon. ALAN CRANSTON,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR ALAN: Thank you for your letter of July 24, 1985, concerning whether it is feasible to conduct a scientifically valid study of veterans who participated in nuclear weapons testing programs or who served in Hiroshima or Nagasaki, Japan, following World War II. I agree with you that the Office of Technology Assessment has done a commendable job in reviewing the Veterans Administration's proposed "Assessment of Veterans With Military Service at Sites of Temporarily Augmented Ionizing Radiation." I have asked the Chief Medical Director to review and comment upon the suggestion that the Veterans Administration undertake mortality studies of those veterans who participated in Shot Smokey or in Operation Crossroads. I will report to you the recommendations of the Chief Medical Director as soon as they become available.

Sincerely,

HARRY N. WALTERS,
Administrator.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, January 21, 1986.

Hon. HARRY N. WALTERS,
Administrator of Veterans' Affairs,
Washington, DC.

DEAR HARRY: I am writing in follow-up to your August 26, 1985, letter (which responded to mine of July 24) regarding the Veterans' Administration's efforts in response to the mandate in section 601 of Public Law 98-160 to carry out study of veterans exposed to radiation from nuclear detonations.

As you know, the General Accounting Office recently released a report, entitled "Operation Crossroads: Personnel Radiation Exposure Estimates Should Be Improved", on its review of various issues regarding safety procedures and radiation exposure at that first post-World War II nuclear test operation. In light of the GAO report findings which cast significant doubt on the assertions by the Department of Defense that the only exposures at Operation Crossroads were to low levels of radiation, I am renewing the suggestion in my July 24 letter that the VA consider a study focusing specifically on veterans at Operation Crossroads. I would appreciate learning your views on this suggestion.

I would also appreciate your views on the suggestion in my July 24 letter that the VA consider the possibility of providing funding support for a further analysis, using a properly constituted control group of veterans, of the information gathered by the National Research Council of the National Academy of Sciences in connection with the NRC study entitled "Mortality of Nuclear Weapons Test Participants". Enclosed is a copy of my recent letter to Dr. Frank Press, Chairman of the National Research Council, which addresses the same issue.

Thank you, Harry, for your cooperation and assistance.

With warm regards,

Cordially,

ALAN CRANSTON,
Ranking Minority Member.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, January 21, 1986.

Dr. FRANK PRESS,
Chairman, National Research Council, Washington, DC.

DEAR FRANK: I am writing in connection with the study carried out by the National Research Council—"Mortality of Nuclear Weapons Test Participants"—which was released last year.

As the Ranking Minority Member of the Senate Veterans' Affairs Committee, I have long been concerned about the search for answers to the many questions about the health status of veterans exposed to ionizing radiation from nuclear detonations. Specifically regarding this NRC study, I am concerned about certain assumptions which were made relating to it.

First, in light of the 1981 changes in the entitlement to VA burial allowances, it is not clear to me what level of confidence can or should be given to the reporting of veterans' deaths to the VA Beneficiary Identification and Records Locator Subsystem (BIRLS) in 1981 to 1982, information that was assumed to be accurate in calculating the results in the mortality study. Because of the importance of data from BIRLS—not only with reference to this study but for any study which would rely on that system—I believe a verification of the current accuracy and completeness of the data in BIRLS should be undertaken. In this regard, I believe that the NRC should consider requesting financing for such research and would appreciate your views on the need for such an effort, its cost, and likely duration.

Second, I am concerned that the NRC study compared mortality data for former military personnel with mortality data for the general U.S. population, thereby ignoring the so-called "healthy soldier" effect. As the principal investigator for the 1985 report, Mr. Seymour Jablon, wrote in "Effects of Selection on Mortality", *American Journal of Epidemiology*, in 1974:

It is apparent that the selection process for admission to military service has exerted a profound effect on mortality rates of Army veterans after separation from service. Generally, the mortality rates within the first few years of discharge are considerably lower than those of the general population, but the rates gradually approach those of the parent population over succeeding years. The effect of the bias of selection on subsequent mortality is not short but on the contrary quite prolonged and may persist even after 23 years from Army discharge.

* * * * *

Two conclusions appear to follow: First, the evident lesson that mortality comparisons cannot be made between cohorts that have been screened unequally, or between a screened cohort and the general population; and second, since, in the absence of randomization, "survey" cohorts that differ as to some feature that we wish to study will also differ in other ways, some known to us, but others unknown, we cannot rely on the mere passage of a few years to overcome the unwanted, confounding, distinctions. Initial characteristics may cast long shadows.

In view of the above and questions that have been raised in connection with the validity of the NRC study, I hope that the NRC will seek funding to make a mortality comparison for that study using an appropriate cohort of veterans. Such a further effort seems particularly important in light of the November 8, 1985, General Accounting Office report entitled "Operation Crossroads: Personnel Radiation Exposure Estimates Should be Improved" (GAO/RCED-86-15), which casts significant doubt on the notion that few if any military personnel were exposed to other than low levels of radiation as a result of nuclear detonations. A copy of that report is enclosed.

Thank you for your cooperation.

With best wishes,

Sincerely,

ALAN CRANSTON,
Ranking Minority Member.

MESSAGES FROM THE HOUSE

At 1:56 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2013. An act to delay the referendum with respect to the 1986 through 1988 crops of Flue-cured tobacco and to delay the proclamation of national marketing quotas for the 1986 through 1988 crops of burley tobacco.

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-2250. A communication from the Attorney General of the United States transmitting a notice of litigation challenging the constitutionality of portions of "Gramm-Rudman", and advising of the position of the Department of Justice in the litigation; to the Committee on the Judiciary.

EC-2251. A communication from the General Counsel of the Department of the Treasury transmitting a draft of proposed legislation relating to firearms and explosives; to the Committee on the Judiciary.

EC-2252. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on prevention activities undertaken by the Alcohol, Drug Abuse, and Mental Health Administration; to the Committee on Labor and Human Resources.

EC-2253. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on the health consequences of smoking; to the Committee on Labor and Human Resources.

EC-2254. A communication from the Acting Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, the annual report on NASA's industrial application centers; to the Committee on Small Business.

EC-2255. A communication from the Clerk of the U.S. Claims Court transmitting, pursuant to law, a copy of the Court's judgment order for the plaintiffs in the matter of the Navajo Tribe of Indians versus the U.S.; to the Committee on Appropriations.

EC-2256. A communication from the Executive Associate Director of the Office of Management and Budget transmitting, pursuant to law, a report on the reapportionment of an appropriation on a basis necessitating a supplemental appropriation for the American Battle Monuments Commission; to the Committee on Appropriations.

EC-2257. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, notification of the President's intent to exempt $63.1 billion of the military personnel appropriations from sequestration under Gramm-Rudman; to the Committee on Appropriations.

EC-2258. A communication from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, notice of the intention of the Navy to exclude from examination by the Comptroller General records of a contract with a Turkish shipyard; to the Committee on Armed Services.

EC-2259. A communication from an Assistant to the President transmitting, pursuant to law, a report relative to the military implications of Soviet treaty violations; to the Committee on Armed Services.

EC-2260. A communication from the Acting Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a waiver of certain requirements of law involving certain technology transfers and NASA's alternative plans for conducting transfers of technology; to the Committee on Commerce, Science, and Transportation.

EC-2261. A communication from the Assistant Secretary of the Interior transmitting, pursuant to law, a report on the administration of the Marine Mammal Protection Act; to the Committee on Commerce, Science, and Transportation.

EC-2262. A communication from the Acting Chairman of the Federal Trade Commission transmitting, pursuant to law, a report on impacts on competition and on small business of agreements and plans carrying out provisions of the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2263. A communication from the Secretary of Energy transmitting, pursuant to law, a report on actions taken under the Uranium Tailings Radiation Control Act; to the Committee on Energy and Natural Resources.

EC-2264. A communication from the Acting Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a report on the progress of the Upper Atmospheric Research Program; to the Committee on Environment and Public Works.

EC-2265. A communication from the Acting Fiscal Assistant Secretary of the Treasury transmitting, pursuant to law, a report on the Liabilities and Other Financial Commitments of the U.S. Government as of September 30, 1985; to the Committee on Finance.

EC-2266. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the U.S. within the 60 days previous to January 10, 1986; to the Committee on Foreign Relations.

EC-2267. A communication from the Chairman of the Federal Communications Commission transmitting, pursuant to law, a report on the system of internal accounting and financial management of the Commission; to the Committee on Governmental Affairs.

EC-2268. A communication from the Acting Assistant Secretary of Health and Human Services transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2269. A communication from the Acting Assistant Secretary of Health and Human Services transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2270. A communication from the Chairman of the U.S. Merit Systems Protection Board transmitting, pursuant to law, the 1984 annual report of the Board; to the Committee on Governmental Affairs.

EC-2271. A communication from the Acting Director of the National Park Service transmitting, pursuant to law, a report on the disposal of surplus Federal real property for parks and recreation purposes under the public benefit discount program; to the Committee on Governmental Affairs.

EC-2272. A communication from the Secretary of the Interior transmitting, pursuant to law, a report on donations received and allocations made from the fund for the advancement of the Indian race; to the Select Committee on Indian Affairs.

EC-2273. A communication from the Executive Director of the Neighborhood Reinvestment Corporation transmitting, pursuant to law, a report on its compliance with the Freedom of Information Act; to the Committee on the Judiciary.

EC-2274. A communication from the Chairman of the Copyright Royalty Tribunal transmitting, pursuant to law, the Tribunal's annual report for FY 1985; to the Committee on the Judiciary.

EC-2275. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the annual report of the National Heart, Lung, and Blood Advisory Council; to the Committee on Labor and Human Resources.

EC-2276. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the annual report on the status of handicapped children in Head Start Programs; to the Committee on Labor and Human Resources.

EC-2277. A communication from the Secretary of Education transmitting, pursuant to law, a notice of final funding priority—Handicapped Special Studies Program; to the Committee on Labor and Human Resources.

EC-2278. A communication from the Assistant Secretary of Defense transmitting, pursuant to law, a report on the feasibility of DOD issuing food stamp coupons to overseas households of members stationed outside the U.S.; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2279. A communication from the Under Secretary of Agriculture transmitting, pursuant to law, the quarterly commodity and country allocation table for food assistance; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2280. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, the cumulative report on rescissions and deferrals as of January 1, 1986; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations and the Committee on the Budget.

EC-2281. A communication from the President of the United States transmitting, pursuant to law, a report on his issuance of an Executive Order blocking all property and property interests of the Government of Libya and the Central Bank of Libya within or under the control of the U.S.; to the Committee on Banking, Housing, and Urban Affairs.

EC-2282. A communication from the President and Chairman of the Export-Import Bank of the U.S. transmitting, pursuant to law, a report on guarantee and insurance transactions supported by the Bank during November 1985 with Communist countries; to the Committee on Banking, Housing, and Urban Affairs.

EC-2283. A communication from the Secretary of Transportation transmitting, pursuant to law, a report and inventory of State practices relative to overweight vehicles, penalties and permits; to the Committee on Commerce, Science, and Transportation.

EC-2284. A communication from the Secretary of Commerce transmitting, pursuant to law, a report on the extension of certain export controls for foreign policy; to the Committee on Foreign Relations.

EC-2285. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the U.S. during the 60 days previous to January 7, 1986; to the Committee on Foreign Relations.

EC-2286. A communication from the Attorney General of the United States transmitting, pursuant to law, a report on the Department of Justice's internal accounting and administrative control systems; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-545. A resolution adopted by the Undergraduate Student Organization of Southern Illinois University at Carbondale favoring corrections in Federal food stamp policies; to the Committee on Agriculture, Nutrition, and Forestry.

POM-546. A resolution adopted by the Governing Body of the Tribal Council of the Penobscot Nation forbidding the establishment of any nuclear waste repositories on Penobscot lands; to the Committee on Energy and Natural Resources.

POM-547. A resolution adopted by the Fourth Congress of the Federated States of Micronesia; to the Committee on Energy and Natural Resources.

"FEDERATRED STATES OF MICRONESIA—RESOLUTION

"Whereas, the social, political, and economic development of our Nation will be imperiled if our citizens do not have sufficient access to post-secondary education to enable them to acquire essential knowledge and skills; and

"Whereas, Pell grants have made it financially possible for many of our citizens to have access to post-secondary education; and

"Whereas, the continued availability of Pell grants is essential if citizens of the Federated States of Micronesia are to continue to have adequate access to post-secondary education; and

"Whereas, Pell grants may not continue to be available to our citizens unless the Government of the Federated States of Micronesia and the Commission on Future Political Status and Transition are able to reach an agreement with the Government of the United States regarding their continued availability; Now, therefore,

Be it Resolved by the Fourth Congress of the Federated States of Micronesia, Second Regular Session, 1985, That it is the sense of the Congress that Pell grants are valuable and necessary to the future of our Nation and must be preserved; and

Be it Further "Resolved, That certified copies of this resolution be transmitted to the President of the Federated States of Micronesia, the Chairman of the Commission on Future Political Status and Transition, the President of the United States of America, the Speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, Ambassador Fred M. Zeder II, and the Honorable Clairborne Pell of the United States Senate."

POM-548. A resolution adopted by the House of Representatives of the Commonwealth of Pennsylvania; to the Committee on Environment and Public Works:

"HOUSE RESOLUTION No. 209

"Whereas, The Environmental Protection Agency recently proposed to permit the incineration of PCB waste materials in special ships in the Atlantic Ocean off the New Jersey coast; and

"Whereas, The potential for serious environmental hazards has not been eliminated and there is the possibility of ocean contamination or rain-carried contamination reaching from Virginia to Ohio, Maine and Canada, thereby affecting large numbers of individuals; and

"Whereas, PCB is a well-known and well-documented carcinogen; therefore be it

"Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress of the United States and the Environmental Protection Agency to prohibit the incineration of PCB waste materials in the Atlantic Ocean; and be it further

"Resolved, That copies of this resolution be transmitted to the presiding officers of each House of Congress, to each member of Congress from Pennsylvania and to the Administrator of the Environmental Protection Agency."

POM-549. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Finance:

"RESOLUTION

"Whereas at the present time under the United States Social Security Act, individuals who became eligible for benefits in or after 1979 receive reduced benefit levels compared to individuals who became eligible prior to 1979, due to changes made in 1977 in the benefit computation formula; and

"Whereas this disparity in benefit levels has been referred to as the "notch" and has resulted in the award of reduced benefits to approximately 1.3 million persons; and

"Whereas any remedy for narrowing the gap in benefits is complicated because the notch has been in use since 1979; and

"Whereas H.R. 4093 has been introduced in the 98th session of the United States Congress by Representative Roybal, the Chairman of the House Committee on Aging, in an effort to eliminate the notch; and

"Whereas it is appropriate that the Legislature of the State of Maine take a stand in support of this legislation to protect the rights of the citizens of our State: Now, therefore, be it

"*Resolved*, That We, your Memorialists, do hereby respectfully urge the Congress of the United States to adopt H.R. 4093 or similar legislation to eliminate the disparity in benefit levels awarded under the United States Social Security Act with respect to benefits awarded prior to 1979 and in and after 1979, so as to provide equitable benefits for retirees; and be it further

"*Resolved*, That a copy of this resolution, duly authenticated by the Secretary of State, be transmitted by the Secretary of State to the Honorable Ronald W. Reagan, President of the United States; the President of the Senate; and the Speaker of the House of Representatives in the Congress of the United States and to each Member of the Maine Congressional Delegation."

POM-550. A resolution adopted by the Board of Chosen Freeholders of the County of Monmouth, New Jersey favoring the adoption of policies and programs concerning nuclear weapons; to the Committee on Foreign Relations.

POM-551. A resolution adopted by the Senate of the Commonwealth of Pennsylvania; to the Committee on Governmental Affairs.

"SENATE OF PENNSYLVANIA—RESOLUTION

"Whereas, As the name Piper is synonymous with "Cub," so "Cub" is synonymous with Lock Haven, and the late industrialist William T. Piper left an impact on aviation still known around the world to this day; and

"Whereas, William Thomas Piper, Sr. (1881-1970), the "grand old man of private flying," has often been called the "Henry Ford of Aviation" because of his efforts to bring the airplane within the financial reach of hundreds of thousands of pilots around the world interested in private flying; and

"Whereas, The year 1987 will mark 50 years of contribution to the general aviation industry by the Piper Aircraft Corporation and William Thomas Piper, Sr., the man and his "Cub"; and

"Whereas, From the christening of his newly relocated manufacturing plant at Lock Haven in November 1937 as the "Piper Aircraft Corporation" to the state-of-the-art corporate aircraft produced today, W. T. Piper and his Piper Aircraft Corporation made advancements that were destined to bring aviation recognition to the town of Lock Haven, the State of Pennsylvania and the United States; and

"Whereas, During World War II, the "Cub," also called the "Grasshopper," served revolutionary new roles in military liaison and directing field artillery and tactical warfare as well as ambulance service. Between Pearl Harbor and V-J Day, Mr. Piper supplied the armed forces with nearly 6,000 of what GI's called the "flying jeeps." After the war, Piper helped provide the general aviation aircraft that have now become a vital part of our modern transportation system. He envisioned an airport in every town, with the light plane serving as a link to the larger commercial airports; and

"Whereas, The "Cub" has been ranked with the DC-3 as one of the world's most significant airplanes, since over 75% of the United States World War II pilots received their first training in a "Cub"; and

"Whereas, The foresight and "imagineering" of W. T. Piper has caused more J-3 Cubs to be produced than any other airplane in aviation history. More pilots, private and commercial, learned to fly in the "Cub" than in any other aircraft. The "Cub" has created a larger following of devoted afficianados who own, restore and fly these historic planes than any other plane in aviation history. The list of owners and operators of the fabric-covered rag-wing Piper aircraft represents a true cross-section of the American population who fly them for business and recreation; and

"Whereas, With Lock Haven, Pennsylvania, being the "home" of the Piper Cub, the year 1987 being the 50th anniversary of the Piper name, and a large extensive, international celebration already being planned to honor this event, it seems proper that the Post Office in Lock Haven, Pennsylvania, have the privilege of presenting a first-day issue of a W. T. Piper and "Cub" memorial stamp; therefore be it

"*Resolved*, That the Senate of Pennsylvania recognize the great contributions made to aviation history by William Thomas Piper, Sr., and his remarkable "Cub" airplane, and urge the citizen Stamp Advisory Committee of the United States Postal Service to issue a W. T. Piper and "Cub" memorial stamp; and further request that the Post Office in Lock Haven, Pennsylvania, be designated as the place of presenting the first-day issue of the memorial stamp; and be it further

"*Resolved*, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania, and to Mr. Belmont Faries, Chairman, Citizen Stamp Advisory Committee of the United States Postal Service."

POM-552. A petition from a citizen of Salem, Massachusetts, praying for a redress of grievances; to the Committee on the Judiciary.

POM-553. A resolution adopted by the Board of Education of the Carlsbad Municipal School District, Carlsbad, New Mexico, favoring the rejection of H.R. 1523 and S. 415; to the Committee on Labor and Human Resources.

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. LUGAR (by request):

S. 2015. A bill to provide for the security of U.S. diplomatic personnel, facilities and operations, and for other purposes; to the Committee on Foreign Relations.

By Mr. DIXON:

S. 2016. A bill to provide for public financing of Federal elections for the U.S. Senate, and for other purposes; to the Committee on Rules and Administration.

By Mr. CHILES:

S. 2017. A bill to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the employees health benefits fund; to the Committee on Governmental Affairs.

By Mr. ROTH:

S. 2018. A bill entitled the "Federal Employees Health Benefits Rebate Act of 1986"; to the Committee on Governmental Affairs.

By Mr. TRIBLE:

S. 2019. A bill to bar construction of new prison facilities at the Lorton Prison in Fairfax County, VA, to accelerate the completion of new prison facilities within the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

By Mr. RIEGLE (for himself, Mr. ROTH, Mr. PROXMIRE, Mr. EXON, Mr. INOUYE, Mr. QUAYLE, Mr. DECONCINI, Mr. LUGAR, Mr. GRASSLEY, Mr. PELL, Mr. KENNEDY, Mr. MURKOWSKI, Mr. DOMENICI, Mr. PRESSLER, Mr. LEVIN, Mr. ROCKEFELLER, Mr. PRYOR, Mr. SIMON, Mr. GORE, Mr. KERRY, Mr. BUMPERS, Mr. BRADLEY, Mr. HEINZ, Mr. DIXON, Mr. DOLE, and Mr. BURDICK):

S.J. Res. 258. A joint resolution designating "Baltic Freedom Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DIXON:

S. Res. 297. A resolution to call for an International Congress on Terrorism; to the Committee on Foreign Relations.

By Mr. WEICKER (for himself, Mr. HATCH, Mr. KENNEDY, Mr. STAFFORD, Mr. NICKLES, Mr. KERRY, Mr. THURMOND, and Mr. SIMON):

S. Res. 298. A resolution expressing support and encouragement of the Senate for the U.S. Disabled Ski Team at the 1986 World Disabled Ski Championships to be held in Salem, Sweden, on April 6 through April 17, 1986; to the Committee on Commerce, Science, and Transportation.

By Mr. HART (for himself and Mr. MATHIAS):

S. Con. Res. 103. A concurrent resolution to commend Bishop Desmond Tutu for his courageous work for peace and equality in South Africa; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR (by request):

S. 2015. A bill to provide for the security of U.S. diplomatic personnel, facilities, and operations, and for other purposes; to the Committee on Foreign Relations.

DIPLOMATIC SECURITY ACT

● Mr. LUGAR. Mr. President, by request, I introduce for appropriate reference a bill to provide for the security

of U.S. diplomatic personnel, facilities, and operations.

This proposed legislation has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a section-by-section analysis of the bill and the letter from the Under Secretary of State for Management to the President of the Senate dated December 19, 1985.

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

UNDER SECRETARY OF STATE
FOR M. NAGEMENT
Washington, December 19, 1985.

Hon. GEORGE BUSH,
President, U.S. Senate.

DEAR MR. PRESIDENT: Enclosed for consideration by the Congress is a draft bill to provide for the security of United States diplomatic personnel, facilities and operations, and for other purposes.

In June of this year the Secretary of State's Advisory Panel on Overseas Security, chaired by Admiral Bobby R. Inman, concluded its work and issued its Report. The Report contained 91 recommendations designed to strengthen the Department of State's security program to meet the difficult challenges posed by terrorism directed at diplomatic personnel, facilities and operations. This draft bill is based upon the Report and recommendations of the Advisory Panel.

The proposed legislation contains three principal features.

First, it sets forth the responsibility of the Secretary of State with respect to the security of diplomatic operations at home and abroad. It also provides for the Bureau of Diplomatic Security of the Department of State to be headed by an Assistant Secretary of State and sets forth certain provisions relating to the Diplomatic Security Service of the Department of State.

Second, the proposed legislation calls for the Secretary of State to convene Accountability Review Boards to investigate incidents involving serious injury, loss of life or significant destruction of property at or related to United States Government missions abroad (other than military installations). As part of the accountability review process, the board convened in response to an incident would not only make findings and recommendations relating to security generally; it would also determine whether, and in what ways, a breach of duty by an individual employee contributed to the incident, and it would make appropriate disciplinary recommendations.

Third, the proposed legislation provides an authorization of appropriations for Fiscal Year 1986 and for Fiscal Year 1987, to enable the Department to fulfill its security-related responsibilities. In addition, the bill authorizes appropriations for Fiscal Year 1986 for counter-terrorism research and development.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this legislation, and that its enactment would be in accord with the program of the President.

Sincerely,

RONALD I. SPIERS.

Enclosures: Bill and Analysis.

S. 2015

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Diplomatic Security Act."

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the United States has a crucial stake in the presence of United States Government employees representing United States interests abroad; and

(2) conditions confronting United States Government employees and missions abroad are fraught with security concerns which will continue for the foreseeable future.

(3) the resources now available to counter acts of terrorism and protect and secure United States Government employees and missions abroad, as well as foreign officials and missions in the United States, are inadequate to meet the mounting threat to such personnel and facilities.

(b) PURPOSES.—The purposes of this Act are—

(1) to set forth the responsibility of the Secretary of State with respect to the security of diplomatic operations in the United States and abroad;

(2) to provide for an Assistant Secretary of State to head the Bureau of Diplomatic Security of the Department of State, and to set forth certain provisions relating to the Diplomatic Security Service of the Department of State;

(3) to maximize coordination by the Department of State with Federal, State, and local agencies and agencies of foreign governments in order to enhance security programs;

(4) to promote strengthened security measures and to provide for the accountability of United States Government employees with security-related responsibilities; and

(5) to provide authorization of appropriations for the Department of State to carry out its responsibilities in the area of security and counterterrorism, and in particular to finance the acquisition and improvements of United States Government missions abroad, including real property, buildings, facilities, and communications, information and security systems.

TITLE I—DIPLOMATIC SECURITY

SEC. 101. RESPONSIBILITY OF THE SECRETARY OF STATE.

(c) SECURITY FUNCTIONS.—The Secretary of State shall develop and implement in consultation with other agencies having personnel or missions abroad, within the scope of the resources made available, policies and programs, including funding levels and standards to provide for the security of United States Government operations of a diplomatic nature and foreign government operations of a diplomatic nature in the United States, to include—

(1) protection of all United States Government employees on official duty abroad, other than those under the command of a United States area military commander, and their accompanying dependents;

(2) establishment and operation of security functions at all United States Government missions abroad, other than facilities or installations subject to the control of a United States area military commander;

(3) establishment and operation of security functions at all Department of State facilities in the United States; and

(4) protection of foreign missions, international organizations and foreign officials and other foreign persons in the United States, as authorized by law.

(b) ASSISTANCE.—Other Federal agencies through agreements shall cooperate to the maximum extent possible with the Department of State and may—with or without reimbursement—provide assistance to the Department, perform security inspections and provide logistical support relating to the differing missions and facilities of other agencies, and perform other overseas security functions as may be authorized by the Secretary of State, to facilitate fulfillment of the responsibilities described herein. Specifically, the Secretary of State may agree to delegate operational control of overseas security functions of other Federal agencies to the heads of such agencies, subject to the Secretary's authority as set forth in subsection (a) and provided that the agency head receiving such delegated authority shall be responsible to the Secretary of State in the exercise of the delegated operational control. Upon request and with or without reimbursement, the Department of State may provide training assistance and related equipment to host government personnel assigned to protect United States Government employees and missions abroad.

(c) CHIEF OF MISSION.—Nothing contained herein shall be construed to limit or impair the authority or responsibility of a chief of mission under section 207 of the Foreign Service Act of 1980, as amended (22 U.S.C. 3927).

(d) OTHER AGENCIES.—Nothing contained herein shall be construed to limit or impair the authority or responsibility of any other Federal, State or local agency with respect to law enforcement or domestic security operations, as confirmed by Sections 125 and 126 of Public Law 99-93 (99 Stat. 416-418) or with respect to intelligence activities as defined in Executive Order 12333, or successor orders, and intelligence personnel and information associated therewith.

(e) CERTAIN LEASE ARRANGEMENTS.—The Administrator of General Services is authorized to lease up to 250,000 square feet in the United States for the Department of State to accommodate the personnel required to carry out the purposes of this Act. The Department of State shall pay for such space at the rate established by the Administrator of General Services for space and related services.

SEC. 102. BUREAU OF DIPLOMATIC SECURITY.

(a) ASSISTANT SECRETARY.—The Bureau of Diplomatic Security of the Department of State shall be headed by an Assistant Secretary of State.

(b) NUMBER OF ASSISTANT SECRETARIES.—The first section of the Act entitled "An Act to strengthen and improve the organization and administration of the Department of State, and for other purposes," approved May 26, 1949 (22 U.S.C. 2652), is amended by striking out "fourteen" and inserting in lieu thereof "fifteen".

(c) POSITIONS AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—Section 5315 of title 5,

United States Code, is amended by striking out "(14)" following "Assistant Secretaries of State" and inserting in lieu thereof "(15)".

SEC. 103. DIPLOMATIC SECURITY SERVICE.

(a) DIRECTOR.—The Diplomatic Security Service of the Department of State shall be headed by a Director designated by the Secretary of State. The Director shall be a member of the Senior Foreign Service or the Senior Executive Service and shall be qualified for the position by virtue of demonstrated ability in the area of security, law enforcement, management or public administration. Experience in management or operations at overseas diplomatic posts shall be considered an affirmative factor in the selection of the Director. The Director shall act under the supervision and direction of an Assistant Secretary of State.

(b) ASSIGNMENT AND APPOINTMENT.—Positions in the Diplomatic Security Service shall be filled in accordance with the provisions of the Foreign Service Act of 1980, as amended (22 U.S.C. 3901 *et seq.*), and title 5, United States Code. The Secretary of State shall prescribe the qualifications required for assignment or appointment to such positions. In the case of positions designated for special agents, the qualifications may include minimum and maximum entry age restrictions and other physical standards, and shall incorporate such standards as may be required by law in order to perform security functions, to bear arms and to exercise investigatory, warrant, arrest and such other authorities as are available by law to special agents of the Department of State and the Foreign Service. The regulations to be prescribed by the Secretary with respect to such special agents, pursuant to section 37 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709), may provide for such special disciplinary procedures as are deemed necessary to carry out the purposes of this Act.

(c) FUNCTIONS.—The Diplomatic Security Service shall perform such functions as may be assigned to it by the Secretary of State.

TITLE II—PERFORMANCE AND ACCOUNTABILITY

SEC. 201. ACCOUNTABILITY REVIEW.

In any case of serious injury, loss of life or significant destruction of property at or related to a United States Government mission abroad which is covered by the provisions of this Act (other than a facility or installation subject to the control of a United States area military commander), the Secretary of State shall convene an Accountability Review Board (hereinafter in this title referred to as the "Board"); provided, however, that no such Board shall be convened where the Secretary determines that a case clearly involves only causes unrelated to security, or that a case clearly involves no breach of duty by a United States Government employee.

SEC. 202. ACCOUNTABILITY REVIEW BOARD.

(a) MEMBERSHIP.—The Board shall consist of not less than three nor more than five members, including a Chairperson, designated or appointed by the Secretary of State. The Director of Central Intelligence is authorized to designate a member. In cases where intelligence sources and methods are involved, the Secretary of State and the Director of Central Intelligence shall jointly designate the members of the Board.

(b) FACILITIES, SERVICES, SUPPLIES AND STAFF.—

(1) SUPPLIED BY DEPARTMENT OF STATE.—The Board shall obtain facilities, services and supplies through the Department of State. All expenses of the Board, including necessary costs of travel, shall be paid by the Department of State. Travel expenses authorized under this subsection shall be paid in accordance with subchapter 1 of chapter 57, title 5 of the United States Code, or other applicable law.

(2) DETAIL.—At the request of the Board, employees of the Department of State or other Federal agencies, members of the Foreign Service or uniformed members of the military services may be temporarily assigned, with or without reimbursement, as staff employees for the Board. Upon request, an inspector general of the Department of State may provide assistance to the Board.

(3) EMPLOYEES, EXPERTS AND CONSULTANTS.—The Board may appoint and fix the pay of such other employees and may employ and compensate experts and consultants in accordance with section 3109 of title 5 of the United States Code, who shall be responsible solely to the Board, as the Board considers necessary to carry out its functions.

SEC. 203. PROCEDURES.

(a) EVIDENCE.—The Board is authorized to administer oaths and affirmations and require that depositions be given and interrogatories answered. The Board may issue or authorize the issuance of a subpoena for the attendance and testimony of witnesses, who are not employees of Federal agencies, and the production of documentary or other evidence from any person, who is not an employee of a Federal agency, or entity in such instances where the Board finds that such a subpoena is necessary in the interests of justice for the development of relevant, admissible evidence. In the case of contumacy or refusal to obey a subpoena issued under this section a court of the United States within the jurisdiction of which a person is directed to appear or produce information, or within the jurisdiction of which the person is found, resides, or transacts business, may upon application of the Attorney General, issue to such person an order requiring such person to appear before the Board to give testimony or produce information as required by the subpoena. Supoenaed witnesses shall be paid the same fee and mileage allowances which are paid supoenaed witnesses in the courts of the United States. Nothing contained herein shall be construed to require that the Attorney General release any information to the Board unless the Attorney General determines that such release will not seriously impair any pending criminal investigation or prosecution.

(b) CONFIDENTIALITY.—The Board shall adopt for administrative proceedings under this title such procedures with respect to confidentiality as may be deemed necessary, including procedures relating to the conduct of closed proceedings or the submission and use of evidence *in camera*, to ensure in particular the protection of classified information relating to national defense, foreign policy or intelligence matters. The Director of Central Intelligence shall establish the level of protection required for intelligence information and for information relating to intelligence personnel, including standards for secure storage.

(c) RECORDS.—Records pertaining to administrative proceedings under this title shall be separated from all other records of the Department of State, and shall be maintained under appropriate safeguards to preserve confidentiality and classification of information. Such records shall be prohibited from disclosure to the public until such time as the Board completes its work and is dismissed. The Department of State shall turn over to the Director of Central Intelligence intelligence information and information relating to intelligence personnel which shall then become records of the Central Intelligence Agency. After that time, only such exemptions as apply to other records of the Department of State under said section 552(b) shall be available for the remaining records of the Board.

(d) STATUS OF BOARD.—The provisions of sections 1-14 of title 5 Appendix of the United States Code and section 552b of title 5 of the United States Code shall not apply to an Accountability Review Board.

SEC. 204. FINDINGS.

The Board convened in any case shall make written findings determining—

(1) whether there are reasonable grounds to believe that the injury, loss of life or destruction of property with respect to which the Board was convened was security-related; and

(2) whether there is reasonable cause to believe that a breach of duty by a United States Government employee contributed to such injury, loss of life or destruction of property.

In making its findings, the Board shall take into account such standards of conduct, statutes, rules, regulations, instructions and other sources as may have been pertinent to the performance of work and official duties.

SEC. 205. PROGRAM RECOMMENDATIONS.

The Board shall make recommendations as appropriate to improve the efficiency, economy, suitability or security of any program or operation subject to this Act which the Board has reviewed. In particular, the Board shall make recommendations as appropriate to promote security awareness and individual accountability for security programs.

SEC. 206. DISCIPLINARY PROCEEDINGS.

(a) NOTICE.—In any case in which the Board makes an affirmative finding of reasonable cause under section 204, it shall promptly notify the employee concerned. The Board at the same time shall notify the head of the employing agency or the military service involved and recommend that an appropriate investigatory or disciplinary proceeding be initiated.

(b) RECORD.—The Board shall transmit to the Secretary, head of other employing agency or head of military service as the case may be a certified copy of the record of the proceeding, which shall be part of the official record for all purposes of any disciplinary action against the employee concerned.

SEC. 207. CERTAIN AGENCY ACTIONS.

(a) ADMINISTRATIVE LEAVE.—Following notification to an employee of an affirmative finding of reasonable cause under section 204, that employee may be placed on administrative leave for such period or periods as the Secretary of State, the head of the employing agency if other than the Department of State, or head of military service determines to be consistent with the interests of the United States.

(b) DISCIPLINARY ACTION.—Not later than 30 days after a disciplinary recommendation is made by the Board pursuant to section 206, the Secretary of State, the head of the employing agency if other than the Department of State, or head of military service shall initiate or take such action as is

deemed appropriate and shall report to the Board on such action.

SEC. 208. TRANSMISSION OF REPORTS.

The Board shall promptly transmit to the Secretary of State all findings, decisions and recommendations made pursuant to sections 204 through 206 and reports received under section 207(b). The Secretary of State shall promptly report to the appropriate committees of the Congress on all recommendations of the Board, as well as on any action taken with respect to such recommendations.

SEC. 209. RELATION TO OTHER PROCEEDINGS.

(a) FOREIGN SERVICE GRIEVANCES.—Notwithstanding any other provision of law, no action taken with respect to a member of the Foreign Service in accordance with this title shall be considered grounds for a grievance action under chapter 11 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4131-4140).

(b) REVIEW ABILITY.—Nothing in this Act shall be construed to create administrative or judicial review remedies or rights of action. Determinations by the Secretary of State under section 201 of this Act shall not be reviewable in any court.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. AUTHORIZATION.

(a) SECURITY ENHANCEMENT PROGRAM.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to the Department of State for "Administration of Foreign Affairs" for the purposes of this Act such sums as may be necessary for fiscal year 1986, and for fiscal year 1987. Within the scope of total funds available for security, the Department of State shall ensure that equitable funding levels are provided and that, where appropriate, specific amounts are identified for the overseas security of other foreign affairs agencies on an annual basis.

(b) COUNTERTERRORISM RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the Department of State for antiterrorism research and development such sums as may be necessary for fiscal year 1986.

SEC. 302. FOREIGN BUILDINGS PROGRAM.

In the implementation of any foreign buildings program funded from amounts authorized by section 301, the Foreign Buildings Office of the Department of State shall utilize, to the maximum extent possible, American contractors from the private sector.

SECTION-BY-SECTION ANALYSIS

(An act to provide for the security of U.S. diplomatic personnel, facilities and operations, and for other purposes)

SECTION 1—SHORT TITLE

The Act may be cited as the "Diplomatic Security Act."

SECTION 2—FINDINGS AND PURPOSE

The Diplomatic Security Act is a response to the new and profoundly difficult security-related challenges confronting United States Government employees and missions abroad, as well as foreign officials and missions within the United States. The Act is based on the recommendations of the Advisory Panel on Overseas Security formed by the Secretary of State in July 1984. The Panel consisted of Admiral Bobby R. Inman (Chairman), Senator Warren B. Rudman, Congressman Daniel A. Mica, Ambassador Lawrence S. Eagleburger, Ambassador Anne L. Armstrong, Lieutenant General D'Wayne Gray and Messrs. Robert J. McGuire and Victor H. Dikeos (Executive Secretary).

The Act creates a comprehensive new framework for the enhanced security of official personnel and facilities. The framework consists of three complementary facets. The Act sets forth the responsibility of the Secretary of State with respect to the security of diplomatic operations at home and abroad, and additionally sets forth certain provisions relating to the Bureau of Diplomatic Security and the Diplomatic Security Service of the Department of State; it provides for the convening of boards of inquiry to examine issues of accountability in cases involving terrorist or security-related attacks against United States Government personnel or facilities abroad; and it provides authorization of appropriations necessary for the Department of State to carry out its responsibilities in the area of security and counterterrorism, and in particular to finance the acquisition of new missions overseas as recommended by the Advisory Panel on Overseas Security.

TITLE I—DIPLOMATIC SECURITY

SECTION 101—RESPONSIBILITY OF THE SECRETARY OF STATE

Subsection (a) of section 101 requires the Secretary of State to develop and implement, within the scope of resources made available, policies and programs, including funding levels and standards, to provide for the security of United States Government operations overseas of a diplomatic nature and foreign government operations of a diplomatic nature in the United States. The subsection provides specific content to the formulation "operations of a diplomatic nature" by listing certain overseas and domestic security functions which are encompassed by the Secretary's responsibility.

With respect to overseas security, under paragraph (1) of this subsection the responsibility of the Secretary of State extends to the protection of all United States Government employees who are overseas on official duty (and their accompanying dependents), other than those under the command of a United States area military commander. The formulation used to describe the persons covered derives generally from section 207 of the Foreign Service Act of 1980, as amended (22 U.S.C. 3927), which specifies the persons who are under the direction and supervision of a United States chief of mission. Similarly, under paragraph (2) the Secretary's responsibility extends to the establishment and operation of security functions at all United States Government missions abroad, other than facilities or installations subject to the control of a United States area military commander.

On the domestic side, under paragraph (3) the responsibility of the Secretary of State embraces the establishment and operation of security functions at all Department of State facilities in the United States. It also extends, under paragraph (4), to the protection of foreign missions, international organizations and foreign officials and certain other foreign persons in the United States. As the phrase "as authorized by law" in paragraph (4) makes clear, the precise scope of the latter function is defined by other provisions of law on the subject, in particular section 37 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709), which was recently enacted by section 125 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93).

Section 101 also contains certain other provisions which are closely related to the matters described in subsection (a). Subsection (b) imposes an obligation on other Federal agencies through agreements to cooperate to the maximum extent possible with the Department of State to facilitate fulfillment of its security responsibilities. It also provides that for these purposes such agencies through agreements may render assistance, with or without reimbursement, to the Department of State. It is expressly provided that such agencies may perform security inspections, provide logistic support, and perform other overseas security functions as authorized by the Secretary of State. Assistance of this kind would be appropriate in circumstances, for example, involving the facilities of other agencies abroad and provision is made for delegation of operational control, subject to the Secretary's overall responsibility. Subsection (b) also provides that the Department of State may furnish training assistance and related equipment, upon request and with or without reimbursement to host government personnel assigned to provide security for United States Government employees and missions abroad. Such assistance would be independent of existing programs for antiterrorism assistance under chapter 8 of Part II of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2349aa *et seq.*).

Subsection (c) makes clear that this Act does not limit on impair the authority or responsibility of a chief mission as set forth in section 207 of the Foreign Service Act of 1980, as amended (22 U.S.C. 3927). Similarly, subsection (d) makes clear that this Act does not limit or impair the authority or responsibility of any other Federal, State or local agency with respect to law enforcement or domestic security operations as confirmed by Sections 125 and 126 of P.L. 99-93, or with respect to intelligence activities (as defined by Executive Order), intelligence personnel and associated information. This language protects, for example, CIA's existing security responsibilities for CIA personnel, information and activities so that it may effectively carry out its assigned responsibilities and mission, and excludes from the Act CIA facilities not colocated with missions of a diplomatic nature. The language also protects the provision of protective services by the Secret Service pursuant to 3 U.S.C. Section 202 and 18 U.S.C. Section 3056.

The specific approval contained in subsection (e) for a lease of up to 250,000 square feet in this country by the Administrator of General Services serves to expedite the process of accommodating the personnel needed by the Department of State to carry out its security-related responsibilities. The Public Buildings Amendments of 1972 require the Administrator to charge commercially comparable rates for space and services.

SECTION 102—BUREAU OF DIPLOMATIC SECURITY

Subsection (a) of section 102 provides for the Bureau of Diplomatic Security of the Department of State to be headed by an Assistant Secretary of State. The appointment of the Assistant Secretary for Diplomatic Security would be made by the President with the advice and consent of the Senate, as is the case with the other Assistant Secretaries of State. Subsections (b) and (c) provide for technical conforming changes in the law made necessary by the increase in the number of Assistant Secretaries at the Department of State.

SECTION 103—DIPLOMATIC SECURITY SERVICE

Under subsection (a) of section 103, the Diplomatic Security Service of the Department of State is to be headed by a Director who shall: 1) be chosen by the Secretary of State, 2) be a member of the Senior Foreign Service or the Senior Executive Service, 3) have qualifications appropriate for the position, and 4) act under the supervision and direction of an Assistant Secretary of State.

Subsection (b) makes clear that the Diplomatic Security Service is to be staffed by drawing upon the existing Foreign Service and Civil Service personnel systems. Qualifications required for assignment or appointment to positions in the Diplomatic Security Service are to be prescribed by the Secretary of State. In the case of "Special Agents," the position qualifications may include minimum and maximum entry age limitations (*e.g.*, 21 years minimum and 35 years maximum). Such limitations are commonly found in organizations having security-related responsibilities. In addition, the position qualifications for Special Agents must incorporate the standards required by law in order to carry out security functions and to exercise the law enforcement authorities available to such Special Agents. Section 37 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709) provides for the Secretary to issue regulations governing activities of the Special Agents. In view of the fact that Special Agents perform a unique function—they are directly involved in protecting lives and carry firearms in certain situations—subsection (b) authorizes the Secretary to include in such regulations provisions for special disciplinary procedures to apply to Special Agents. Such procedures might, for example, pertain to the use of administrative leave (a common element of practice among organizations having security-related responsibilities).

Subsection (c) provides that the Diplomatic Security Service shall perform such functions as the Secretary of State may assign to it.

TITLE II—PERFORMANCE AND ACCOUNTABILITY

SECTION 201—ACCOUNTABILITY REVIEW

Section 201 instructs the Secretary of State to convene a board of inquiry, referred to as an Accountability Review Board (the "Board"), in any case involving serious injury, loss of life or significant destruction of property at or related to a United States Government mission abroad covered by the provisions of the Act (other than a facility or installation subject to the control of a United States area military commander). The requirement does not, however, pertain to cases which the Secretary of State determines to clearly involve only natural or other causes not related to security. It also does not pertain to cases in which the Secretary determines that there was clearly no breach of duty by a United States Government employee that contributed to such injury, loss of life or destruction of property.

SECTION 202—ACCOUNTABILITY REVIEW BOARD

Under subsection (a) of section 202, a Board shall consist of three to five members designated by the Secretary of State, who also chooses the Chairperson of the Board. The Director of CIA is authorized to designate a member, and, in cases involving intelligence sources and methods, jointly with the Secretary of State designate all members of the Board. Board members appointed from outside the Government would be special Government employees for conflict of interest purposes. Travel expenses authorized under this Section shall be paid in accordance with 5 U.S.C. subchapter 57, or other applicable law (i.e. the Foreign Service Act).

Subsection (b) deals with the issue of support services for the Board. The Board is to obtain all necessary facilities, services and supplies through the Department of State. The Board's expenses are also to be paid by the Department. In addition, the Board may retain the services of employees, experts and consultants who shall be responsible to the Board, may request that employees of other agencies be detailed to the Board, and may request assistance from an inspector general of the Department of State.

SECTION 203—PROCEDURES

Section 203 empowers the Board to make use of certain authorities of a procedural nature. In particular, under subsection (a) of this section, the Board may issue or authorize the issuance of a subpoena to obtain the testimony of witnesses (who are not employees of executive agencies of the Federal Government) and the production of documentary or other evidence from any such person or from an entity other than a Federal executive agency. In the event of refusal to obey such a subpoena, the Board may apply to the Attorney General to request enforcement by an appropriate United States court. The Attorney General may withhold information if disclosure would prejudice a criminal investigation or prosecution.

Under subsection (b), the Board shall adopt for administrative proceedings under this title such procedures with respect to confidentiality as it deems necessary, to ensure in particular the protection of classified information relating to national defense, foreign policy or intelligence. Those procedures may pertain to the conduct of closed proceedings, for example, or to the submission and use of evidence *in camera*. The Director of CIA prescribes the level of safeguards for intelligence information, including secure storage requirements.

Subsection (c) provides that the records relating to administrative proceedings under this title (including any hearing under section 206) must be maintained separately from all other records of the Department of State and that they must be adequately protected. This subsection creates a (b)(3) exemption under the Freedom of Information Act. Affected employees, however, would have such access to records concerning them as is authorized under the Privacy Act (5 U.S.C. 552a). Upon completion of a Board's work intelligence records would be turned over to CIA and other records to State. Only those Freedom of Information Act exemptions applicable to Department records generally would be available for records in its custody. Subsection (d) exempts Accountability Review Boards from the Government in the Sunshine Act and Federal Advisory Act.

SECTION 204—FINDINGS

Section 204 requires the Board inquiring into an incident to make written findings of two kinds. First, the Board must determine whether there are reasonable grounds to believe that the injury, loss of life or destruction of property with respect to which the Board was convened was security-related. Second, the Board must determine whether there is reasonable cause to believe that a breach of duty by an individual employee of the United States Government contributed to such injury, loss of life or destruction of property. The section specifies that in making its findings the Board is to consult and take into account all sources (such as statutes, regulations and instructions) relevant to the issue of work performance and official duty.

It should be noted that not all inquiries would present a Board with complicated factual circumstances or difficult judgments to make. In a case involving relatively few or relatively easy issues, the Board can—and it is fully expected that it would—move with correspondingly greater speed to complete the inquiry called for by this title.

SECTION 205—PROGRAM RECOMMENDATIONS

When an Accountability Review Board is convened to investigate an incident involving injury, loss of life or destruction of property at a United States Government mission overseas, a principal purpose of its inquiry must be to enable the Department of State to take corrective action to avoid any such incident in the future. Accordingly, section 205 contemplates that the Board shall draw the necessary conclusions from its investigation and make appropriate recommendations to improve security and promote security awareness of missions and personnel subject to this Act.

SECTION 206—DISCIPLINARY PROCEEDINGS

There may be many cases in which a Board finds no probable cause to believe that any breach of duty by an employee contributed to the injury, loss of life or destruction of property involved in an incident. In such cases, the Board's inquiry ends with its written findings and program recommendations under the preceding two sections. However, in any case in which the Board makes an affirmative reasonable cause finding with respect to an individual employee, the Board's inquiry leads to a second phase, which is the subject of this section.

Under subsection (a) of section 206, the Board must promptly notify any employee with respect to whom it has made an affirmative reasonable cause finding. The Board also must notify the head of the employing agency or military service concerned with a recommedation that an appropriate investigatory or disciplinary proceeding be initiated.

Subsection (b) requires the Board to draw conclusions from its decision in the case and recommend to the Secretary of State or other agency head concerned disciplinary action as appropriate. In connection with its recommendation, the Board must also transmit a certified copy of the record of the proceeding. That record becomes part of the official record for purposes of any subsequent disciplinary action.

SECTION 207—CERTAIN AGENCY ACTIONS

Under subsection (a) of section 207, an employee who receives notification of an affirmative reasonable cause finding may be placed on administrative leave for such period or periods as is determined by the head of employing agency or head of military service concerned to be consistent with the national interest. Such leave could be granted, for example, in a case in which the employee's continuing presence on the job was considered to constitute a risk to security. Subsection (b) provides that within thirty days after a disciplinary recommendation is made by the Board, the Secretary or agency head must initiate or take action as deemed appropriate and inform the Board of such action. It should be noted that nothing in this title would preclude an

agency from taking action with respect to an employee (*e.g*, a reassignment or suspension without pay) under authorities other than this Act.

SECTION 208—TRANSMISSION OF REPORTS

Section 208 requires the Board to transmit promptly to the Secretary of State all of its findings, decisions and recommendations. The section also requires the Secretary to report promptly to the appropriate committees of Congress on all recommendations of the Board and on any action taken with respect to those recommendations, including reports received under Section 207(b).

SECTION 209—RELATION TO OTHER PROCEEDINGS

Section 209(a) makes clear that a member of the Foreign Service with respect to whom action is taken in accordance with this title may not utilize Foreign Service grievance procedures, to challenge such action.

Section 209(b) makes clear that this Act creates no administrative or judicial review remedies or rights of action. No findings, decisions, or recommendations made under this title may be used in civil actions as *res judicata* or otherwise. Of particular concern are attempts to hold personally liable those who participate as members or witnesses under Sections 201 through 205 of the Act. Determinations by the Secretary of State not to convene a Board under Section 201 are not subject to judicial review.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

SECTION 301—AUTHORIZATION

Security enhancement

The additional amounts authorized to be appropriated by section 301(a) will be used by the Department of State to carry out the purposes of this Act. The Department is required to assure that, within amounts actually made available, equitable funding levels are provided and specific amounts identified for security needs of other foreign affairs agencies.

Counter-terrorism research and development

Subsection (b) authorizes appropriation of such sums as maybe necessary in Fiscal Year 1986 for counter-terrorism research and development.

SECTION 302—FOREIGN BUILDINGS PROGRAM

Section 302 requires the Foreign Buildings Office of the Department of State, in its implementation of the Act, to make maximum possible use of American contractors from the private sector to carry out the multiyear foreign buildings program to be funded from amounts authorized by section 301. The services to be provided by such contractors could include, for example, project management and control to ensure that individual projects are completed on schedule and within budget, as well as construction management inspection, testing and review.●

By Mr. DIXON:

S. 2016. A bill to provide for public financing of Federal elections for the U.S. Senate, and for other purposes; to the Committee on Rules and Administration.

SENATE GENERAL ELECTION REFORM ACT

Mr. DIXON. Mr. President, I have on several occasions discussed the matter of campaign finance and the escalating costs of elections during our deliberations in this Chamber.

My concern has been that a scandal relating to campaign finance is just waiting to happen. We don't know when or where, but we can predict that one of these days a major catastrophe is going to be upon us. Our reaction, unfortunately, will not be rational or reasonable. We will rush into some kind of quick fix that may well turn out to be a mistake, because it will be overly restrictive, punitive and altogether unwise.

In order to avoid such an eventuality, I have advocated public financing for Senate campaigns. This approach to financing elections is something that will ultimately come to pass. We should take this step in an orderly, deliberate fashion, rather than wait until a scandal is upon us, forcing us to react in the heat of the moment.

As a means of forestalling such an eventuality, I introduced S. 85 in the last Congress. This bill was the subject of oversight hearings by the Rules Committee. Today I again offer this bill for consideration by my colleagues since we intend to embark upon a thorough review of campaign finance.

Although this is a complex matter, there are several basic concerns confronting us in relation to how we finance election campaigns.

First and foremost, the costs of campaigns have gotten out of hand. My proposed legislation copes with this problem by placing a limit on spending for Senate campaigns based on a formula related to the voting age population in each State.

A second disturbing development is the decline in small contributions to Federal election campaigns. My response to this alarming situation is to provide matching funds from the Presidential checkoff fund to encourage small contributors to return to the election process. My plan envisions Federal matching of contributions from individuals up to $100. It is absolutely essential to take steps to restore the confidence of small contributors in our Federal elections, so that they will once again contribute to the candidates of their choice.

If we can limit campaign spending in Senate races, and if we can successfully encourage small contributors to return to the Federal election process, we will have solved the bulk of the difficulties now facing us in each succeeding election cycle.

A third element which contributes greatly toward deterring campaign financing abuse is public disclosure. This requirement for campaign contributions is already on the law books, and the public and all interested parties can pore over these records to determine the sources and amounts of campaign contributions. I have always supported full disclosure of campaign contributions. As a matter of fact, I was the first Democratic statewide official in Illinois to make available not only all of my campaign contributions, but also my net worth statement. This complete public record allows anyone to determine the sources of my campaign contributions and my personal income. I emphasize, Mr. President, my strong support of full disclosure.

I am pleased that the Senate plans to focus its attention on the problem of campaign finance. The financing of elections must be looked at in its totality. Public financing and limits on campaign spending must be key elements in whatever solution and whatever plan we adopt. A comprehensive approach, not a piecemeal step, is what is required.

I urge my colleagues to consider the importance of campaign spending limits and the return of the small contributor to Federal election races as the essential keys to the dilemma of massive campaign spending in our Nation.

Mr. President, I ask that the text of my bill be included at this point in the RECORD.

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Senate General Election Reform Act of 1986".

SEC. 2. The Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—PUBLIC FINANCING OF SENATE GENERAL ELECTION CAMPAIGNS

"DEFINITIONS

"SEC. 501. For purposes of this subchapter—

"(1) the definitions set forth in section 301 of this Act apply to this subchapter;

"(2) 'general election' means any regularly scheduled or special election held for the purpose of electing a candidate to the United States Senate;

"(3) 'eligible candidate' means a candidate who is eligible, under section 502, for payments under this subchapter;

"(4) 'account' means the Senate General Election Campaign Account maintained by the Secretary of the Treasury in the Presidential Election Campaign Fund established by section 9006(a) of the Internal Revenue Code of 1954; and

"(5) 'authorized committee' means, with respect to any candidate for election to the United States Senate, any political committee which is authorized in writing by such candidate to accept contributions or to make expenditures on behalf of such candidate to further the election of such candidate.

"ELIGIBILITY FOR PAYMENTS

"SEC. 502. (a) To be eligible to receive payments under this subchapter, a candidate shall agree—

"(1) to obtain and to furnish to the Commission any evidence it may request about the campaign expenditures and contributions of such candidate;

"(2) to keep and to furnish to the Commission any records, books, and other information it may request; and

"(3) to an audit and examination by the Commission under section 507 and to pay any amounts required under such section.

"(b) To be eligible to receive payments under this subchapter, a candidate shall certify to the Commission that—

"(1) the candidate and the authorized committees of such candidate will not make campaign expenditures greater than the limitations set forth in section 315(j) of this Act;

"(2) no contributions will be accepted by the candidate or the authorized committees of such candidate in violation of section 315(a) of this Act;

"(3) the candidate is seeking election to the United States Senate, and such candidate and the authorized committees of such candidate have received contributions for that campaign in a total amount of not less than the smaller of—

"(A) 20 per centum of the amount of expenditures the candidate may make in connection with the campaign under section 315(j) of this Act, or

"(B) $200,000; and

"(4) at least two candidates have qualified for the election ballot for election to the same seat in the United States Senate under the law of the State involved.

"(c) Agreements, certifications, and declarations under this section shall be filed with the Commission at the time required by the Commission.

"ENTITLEMENT TO PAYMENTS

"SEC. 503. (a) Every candidate who meets the eligibility requirements in section 502 is entitled to payments for use in such candidate's general election campaign in an amount equal to the amount of contributions such candidate and the authorized committees of such candidate receive for that campaign.

"(b) A candidate entitled to payments under subsection (a) shall be entitled to—

"(1) an initial payment in an amount equal to the contributions certified under section 502(b)(3); and

"(2) additional payments to be paid in—

"(A) multiples of $10,000 under section 506, if, with respect to each such payment, the eligible candidate and the authorized committees of such candidate have received contributions aggregating $10,000; and

"(B) a final payment under section 506 (designated as such by the candidate involved) of the balance of the entitlement of the candidate under this section.

"(c) In determining the amount of contributions received by a candidate and the authorized committees of such candidate for the purposes of subsection (a) of this section and section 502(b)(3)—

"(1) no contribution received by the candidate or any of the authorized committees of such candidate as a subscription, loan, advance, deposit, or as a contribution of products or services, shall be taken into account;

"(2) no contribution received from a political committee or any other organization shall be taken into account;

"(3) no contribution received from any individual shall be taken into account to the extent that such contribution exceeds $100 when added to the amount of all other contributions made by that individual to or for the benefit of such candidate in connection with the general election campaign of such candidate;

"(4) no contribution received from any individual who resides in a State other than the State in which the election is held shall be taken into account to the extent that such contribution when added to all other contributions received from such individuals exceeds 20 per centum of the aggregate of contributions otherwise taken into account;

"(5) no contribution (A) which is received before September 1 of the year immediately preceding the year in which any general election is held and (B) which is not maintained in a separate account until the date on which such candidate qualifies under the law of the appropriate State for election, shall be taken into account;

"(6) no contribution maintained in such a separate account shall be used to make any expenditure until the date on which the candidate qualifies under the law of the appropriate State for election to the Senate; and

"(7) no contribution received after the date on which the election is held shall be taken into account.

"(d) Notwithstanding the provisions of subsection (a), no candidate is entitled to the payment of any amount under this section which, when added to the total amount of contributions received by such candidate and the authorized committees of such candidate and any other payments made to the candidate under this subchapter for such candidate's general election campaign, exceeds the amount of the expenditures limitation applicable to such candidate for that campaign under section 315(j)(1) of this Act.

"WAIVER OF OVERALL EXPENDITURE LIMITATION; ADDITIONAL PUBLIC FINANCING FOR CERTAIN CANDIDATES

"SEC. 504. (a)(1) Not later than the date on which a candidate qualifies under the law of the appropriate State for election to the Senate of the United States, or ninety days before the date of any general election, whichever is earlier, each candidate for election to the Senate of the United States shall file with the Commission a declaration of whether such candidate intends to make expenditures in excess of the limitations on expenditures under section 315(j) of this Act.

"(2) Not later than sixty days before the date of such general election, each candidate who has reason to believe that he may make expenditures in excess of such limitations shall notify the Commission to that effect, unless such candidate filed with the Commission a timely declaration that he intended to exceed such limitations, as provided in paragraph (1).

"(3) Each candidate for election to the Senate of the United States shall notify the Commission and each other candidate for the same election within forty-eight hours after such candidate, or any of the authorized committees of such candidate—

"(A) makes any expenditure, or incurs any obligation to make an expenditure, in excess of the limitation on expenditures contained in section 315(j) of this Act; or

"(B) receives any contribution which, when added to the total amount of contributions received by such candidate and the authorized committees of such candidate, exceeds the amount of the limitation on expenditures contained in section 315(j)(1) of this Act.

"(4) The Commission is authorized to determine, upon its own initiative or upon the request of any candidate for election to the Senate of the United States, whether any candidate has made expenditures or incurred obligations to make expenditures in excess of the limitations contained in section 315(j) of the Act, or has received contributions in excess of the limitation contained in section 315(j)(1) of this Act.

"(b) The limitation on expenditures contained in section 315(j)(1) of this Act shall not apply to any candidate for election to the Senate of the United States if any other candidate in the same election—

"(1) fails to file with the Commission a timely declaration as provided in paragraph (1) of subsection (a); or

"(2) files with the Commission a notice as provided in paragraph (2) of subsection (a); or

"(3) is required to notify the Commission in connection with the making of expenditures or the receipt of contributions as provided in paragraph (3) of subsection (a).

"(c)(1) Any person who makes independent expenditures, as defined in section 301(17) of this Act, or incurs costs of communication, required to be reported under section 301(9)(B)(iii) of this Act, shall notify the Commission not later than forty-eight hours after such person first makes such independent expenditures or incurs such costs of communication aggregating more than $5,000, and thereafter shall so notify the Commission each time such person makes any additional independent expenditure, or incurs any such additional costs of communication, aggregating $5,000 or more.

"(2) If, with respect to an election, independent expenditures, as defined in section 301(17) of this Act, are made, or costs of communication, required to be reported under section 301(9)(B)(iii) of this Act, are incurred, aggregating more than one-third of the limitation on expenditures in section 315(j)(1) of this Act, the Commission shall, with respect to such election, suspend the limitation on expenditures established in such section 315(j)(1) at the request of any candidate in such election who is eligible to receive payments under section 502, and who has received the benefit of no more than one-third of such independent expenditures or costs of communication.

"(d)(1) The provisions of section 503(d) shall not apply to a candidate who elects to receive payments under this subchapter if the expenditure limitation contained in section 315(j)(1) of this Act is made inapplicable to such candidate under subsection (a), (b), or (c) of this section.

"(2) The additional amount to which a candidate is entitled under this subsection shall be based only upon the amount of contributions received after the date on which such expenditure limitation is made inapplicable, except that any contribution which is received from an individual after the date on which the limitation on expenditures is made inapplicable shall be considered as a contribution from an individual who has not previously made a contribution to such candidate.

"(3) The additional amount to which a candidate is entitled under this subsection shall not exceed 50 per centum of the amount of the expenditure limitation under section 315(j)(1) of this Act which would otherwise apply to such candidate.

"CERTIFICATIONS BY COMMISSION

"SEC. 505. (a) No later than forty-eight hours after a candidate files a request with the Commission to receive payments under section 506, the Commission shall certify the eligibility of such candidate to the Secretary of the Treasury for payment in full of the amount to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(1) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(2) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this subchapter.

"(b) Initial certifications by the Commission under subsection (a), and all determinations made by it under this subchapter, shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 511.

"(c) Any candidate who knowingly and willfully submits false information to the Commission under this section shall be punished as provided in section 512.

"PAYMENTS TO ELIGIBLE CANDIDATES

"SEC. 506. (a) The Secretary of the Treasury shall maintain in the Presidential Election Campaign Fund established by section 9006(a) of the Internal Revenue Code of 1954, in addition to any other accounts he maintains under such section, a separate account to be known as the Senate General Election Campaign Account. The Secretary shall deposit into the account, for use by candidates eligible for payments under this subchapter, the amount available after the Secretary determines that amounts in the fund necessary for payments under subtitle H of the Internal Revenue Code of 1954 are adequate. The moneys in the account shall remain available without fiscal year limitation.

"(b) Upon receipt of a certification from the Commission under section 505, the Secretary of the Treasury shall pay the amount certified by such Commission out of the account to the candidate to whom the certification relates.

"(c) Payments received under this section shall be used only to defray election campaign expenses incurred with respect to the period beginning on the day after the date on which the candidate qualifies for the election ballot under the law of the State involved, and ending on the date of the election, or the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election, whichever occurs first. Such payments shall not be used (1) to repay any loan to any person, or (2) to make any payments, directly or indirectly, to such candidate or to any member of the immediate family (as defined in section 315(j)) of such candidate.

"(d)(1) If the Secretary of the Treasury determines that the moneys in the account are not, or may not be, sufficient to pay the full amount of entitlement to all candidates eligible to receive payments, he shall reduce the amount to which each candidate is entitled under section 503 by a percentage equal to the percentage obtained by dividing (A) the amount of money remaining in the account at the time of such determination by (B) the total amount which all candidates eligible to receive payments are entitled to receive under section 503. If additional candidates become eligible under section 502 after the Secretary determines there are insufficient moneys in the account, he shall make any further reductions in the amounts payable to all eligible candidates necessary to carry out the purposes of this subsection. The Secretary shall, by registered mail, notify the Commission and each eligible candidate of the reduction in the amount to which that candidate is entitled under section 503.

"(2) If, as a result of such reduction, payments have been made under this section in excess of the amount to which such candidate is entitled, that candidate is liable for repayment to the account of the excess pursuant to procedures the Commission shall prescribe by regulation.

"EXAMINATION AND AUDITS; REPAYMENTS

"SEC. 507. (a) After each Federal election, the Commission shall conduct a thorough examination and audit of the campaign expenditures of all candidates for Federal office who received payments under this subchapter for use in campaigns relating to that election.

"(b)(1) If the Commission determines that any payment made to an eligible candidate under section 506 was in excess of the aggregate amount of the payments to which such candidate was entitled, the Commission shall notify such candidate, and such candidate shall pay to the Secretary of the Treasury an amount equal to the excess amount. If the Commission determines that any portion of the payments made to a candidate under section 506 to be used in such candidate's general election campaign was not used to make expenditures in connection with such campaign, the Commission shall notify the candidate of such determination and such candidate shall pay to the Secretary an amount equal to the amount of the unexpended portion. In making its determination under the preceding sentence, the Commission shall consider all amounts received as contributions to have been expended before any amounts received under this subchapter are expended.

"(2) If the Commission determines that any amount of any payment made to a candidate under section 506 was used for any purpose other than to defray campaign expenditures, it shall notify the candidate of the amount so used, and the candidate shall pay to the Secretary of the Treasury an amount equal to such amount.

"(3) No payment shall be required from a candidate under this subsection in excess of the total amount of all payments received by the candidate under section 506 in connection with the campaign with respect to which the event occurred which caused the candidate to have to make a payment under this subsection.

"(c) No notification shall be made by the Commission under subsection (b) with respect to a campaign more than 18 months after the day of the election to which the campaign related.

"(d) All payments received by the Secretary under subsection (b) shall be deposited by him in the account.

"OTHER POWERS AND DUTIES OF THE COMMISSION

"SEC. 508. (a) The Commission is authorized to conduct examinations and audits, in addition to the examinations and audits under sections 505 and 507, to conduct investigations, and to require the keeping and submission of any books, records, or other information necessary to carry out the functions and duties imposed on it by this subchapter.

"(b) The Commission shall consult from time to time with the Secretary of the Senate, the Clerk of the House of Representatives, the Federal Communications Commission, and other Federal officers charged with the administration of laws relating to Federal elections, in order to develop as much consistency and coordination with the administration of those other laws as the provisions of this subchapter permit. The Commission shall use the same or comparable data as that used in the administration of such other election laws whenever possible.

"REPORTS TO CONGRESS

"SEC. 509. (a) The Commission shall, as soon as practicable after the close of each calendar year, submit a full report to the Senate setting forth—

"(1) the expenditures incurred by each candidate, and the authorized committees of such candidate, who received any payment under section 506 in connection with an election;

"(2) the amounts certified by it under section 505 for payment to that candidate; and

"(3) the amount of payments, if any, required from that candidate under section 507, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) The Commission shall submit, not later than March 1 of each year immediately following a year in which any Federal election is held, a special report to the Senate setting forth—

"(1) the amounts certified by it under section 505 of this subchapter and sections 9005, 9008, and 9036 of the Internal Revenue Code of 1954 for payments from the Presidential Election Campaign Fund;

"(2) the amount of money remaining in the fund at the end of the calendar year in which any Federal election is held;

"(3) an estimate of the amount of money which will be transferred to such fund during each of the four calendar years immediately following the year in which any Federal election is held; and

"(4) an estimate, to the extent practicable, of the amount of money necessary to make all payments to which eligible candidates and the national committees of each political party will be entitled with respect to the next two Federal elections to be held.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"SEC. 510. (a) The Commission is authorized to appear in and defend against any action filed under section 511, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title V, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) The Commission is authorized to appear, through attorneys and counsel described in subsection (a), in the district courts and other appropriate courts of the United States to seek recovery of any amounts determined to be payable to the Secretary of the Treasury as a result of any examination and audit made pursuant to section 507.

"(c) The Commission is authorized to petition the courts of the United States for declaratory or injunctive relief concerning any civil matter arising under this subchapter, through attorneys and counsel described in subsection (a). Upon application of the Commission, an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal from the determination of such court shall lie to the Supreme Court of the United States. Judges designated to hear the case shall assign the case for hearing at the earliest practicable date, participate in the hear-

ing and determination thereof, and cause the case to be in every way expedited.

"(d) The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court of the United States for certiorari to review judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"JUDICIAL REVIEW

"SEC. 511. (a) Any certification, determination, or other action by the Commission made or taken pursuant to the provisions of this subchapter shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after such certification, determination, or other action by the Commission.

"(b)(1) The Commission, the national committee of any political party, and any individual eligible to vote for a candidate for the office of Senator of the United States are authorized to institute an action under this section, including an action for declaratory judgment or injunctive relief, as may be appropriate to implement or construe any provision of this subchapter.

"(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise such jurisdiction without regard to whether a person asserting rights under the provisions of this subsection shall have exhausted administrative or other remedies provided at law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court of the United States. Judges designated to hear the case shall assign the case for hearing at the earliest practicable date, participate in the hearing and determination thereof, and cause the case to be in every way expedited.

"PENALTY FOR VIOLATIONS

"SEC. 512. Violation of any provision of this subchapter is punishable by a fine of not more than $10,000, or imprisonment for not more than five years, or both.".

LIMITATIONS ON EXPENDITURES IN SENATE GENERAL ELECTION CAMPAIGNS

SEC. 3. (a) Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following:

"(i) For purposes of this section expenditures made on behalf of any candidate (as determined under section 315(b)(2)(B)) for the office of Senator of the United States shall be considered to be expenditures made by such candidate.

"(j)(1) Except as otherwise provided in section 504 of this Act, a candidate who receives payments for use in his general election campaign for the office of Senator of the United States, pursuant to section 506 of this Act may not make expenditures in such campaign in excess of $250,000, plus 15 cents multiplied by the voting age population, as certified under subsection (e), of the State in which the election is held.

"(2) For purposes of the limitation on expenditures contained in paragraph (1), only that percentage of an expenditure by a candidate or the authorized political committees of such candidate for broadcasting time which represents the cost to such candidate or committees of transmitting the material broadcast to the State in which such candidate is seeking election shall be taken into account.

"(3) A candidate who receives payments under section 506 of this Act for use in his general election campaign for the office of Senator of the United States may not make expenditures in such campaign from his personal funds or from the personal funds of his immediate family in excess of $35,000. For the purposes of this subsection, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) Section 315(c)(1) is amended by striking out "subsection (b) of this section and subsection (d) of this section" and inserting in lieu thereof "subsections (b), (d) and (j) of this section".

(c) Section 315(c)(2)(B) of such Act (2 U.S.C. 441a(c)(2)(B)) is amended by inserting before the period a comma and "except that with respect to the limitation established by subsection (j) the term 'base period' means the calendar year of 1982".

EFFECTIVE DATE

SEC. 4. The amendments made by this Act shall become effective on January 1, 1987, and shall apply to campaigns for election to the United States Senate after such date.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There is authorized to be appropriated to the Federal Election Commission the sum of $900,000 for purposes of carrying out the provisions of this Act during the fiscal year 1987.

By Mr. CHILES:

S. 2017. A bill to amend title V, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employee Health Benefits Fund; to the Committee on Governmental Affairs.

REFUNDS FROM CONTINGENCY RESERVES ON EMPLOYEE HEALTH BENEFITS FUND TO ANNUITANTS

● Mr. CHILES. Mr. President, I am introducing today what I believe should be a noncontroversial piece of legislation.

The bill calls for a simple amendment to present law to allow rebates to employees, annuitants, and the Federal Government caused by overpayments to contingency reserves in the Federal Employees Health Benefit Fund. A ruling last year, from the Attorney General, asserting that retirees were not eligible for these rebates, has made this legislation necessary.

I do not believe Congress intended annuitants to be excluded when it passed the original legislation. The Attorney General ruled the word "employees" did not include annuitants that were enrolled in the affected Federal health plans. The word "enrollees" is needed as a substitute for "employees" to resolve the issue.

This bill accomplishes that simple substitution.

This language was contained in legislation passed by both Houses last December 12. President Reagan saw fit to veto that bill. The amount of delay resulting from action not taken to allow refunds identified many months ago is an outrage. It also sends a signal that our Federal employees and retirees are not treated with much regard or given much priority. In a time of crucial budget debate, the President's veto of legislation containing language permitting refunds for all enrollees contributes to an impasse where the Federal Treasury is not receiving a refund of some $800 million. In the face of new budget sequestration procedures, the portion of these funds which was overpayment by the Federal Government on behalf of its employees could go toward reducing the deficit.

Moreover, the estimate of refunds due the enrollees in the affected plans is in the neighborhood of $400 million. These are dollars which belong to our constituents which were paid in individually by them and which should be returned without further delay.

Some have mentioned the possibility of overriding the Presidential veto.

Others have voiced the hope that a new bill, with many of the same provisions contained in the vetoed bill, could go forward quickly.

This bill is not intended to get in the way of either of those courses of action, if that is the Senate's will. But the action in this bill in all fairness, is way, way overdue. Therefore, I am introducing this bill so we might proceed without further delay to permit rebates to all enrollees in the Federal Employees Health Benefit Plan.●

By Mr. TRIBLE:

S. 2019. A bill to bar construction of new prison facilities at the Lorton prison in Fairfax County, VA, to accelerate the completion of new prison facilities within the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

PROHIBITING CONSTRUCTION OF DISTRICT OF COLUMBIA PRISON FACILITIES IN LORTON, VA

Mr. TRIBLE. Mr. President, I am introducing legislation today addressing one of the most important public safety needs of the Washington Metropolitan area—the urgent need for construction of a new, permanent prison facility within the District of Columbia.

This measure will help to ensure that a prison is constructed in the city as promptly as possible. It will also bar any attempt by District officials to construct new prison facilities at the Lorton complex in northern Virginia. And, it will require that the U.S. Attorney General extend temporarily the use of the Federal prison system to house those convicted of crimes within Washington, DC.

For many years now, rather than face the need for a new prison, District officials have shipped the problem to northern Virginia. As a result, the citizens of Fairfax County have been beset by fear and unease. For

these Virginians have been subject to escapes, riots, and disturbances in a prison over which they have no control.

The District officials responsible for Lorton are not answerable to the residents of northern Virginia. And despite frequent expressions of concern by northern Virginians and their local officials, DC officials have looked first to Fairfax County to solve their prison problems. Instead of confronting the overwhelming need for prison facilities in the District, city officials would attempt to expand the Lorton complex.

The past several weeks have seen a recurrence of this scenario. Two weeks ago, the U.S. Department of Justice announced it was considering severing an agreement with the District that had permitted those convicted in District of Columbia to be incarcerated in the Federal prison system. Once again, the government of the District looked first at Fairfax County. Shortly thereafter, city officials announced that they had entered into a secret plan with the courts of the District to construct a "temporary" 400-bed facility at the Lorton prison in northern Virginia.

To make matters worse, district officials said they would fund this new construction with part of the funds allocated by Congress last year for construction of a permanent prison within the city. City officials said they would use $9 million—of the $30 million appropriated by Congress to build a new prison within the city—to build temporary facilities at Lorton.

Mr. President, these escapades by the District must come to an end. It is time for the city to stop postponding a resolution of its prison population crisis. It is time for the city to act responsibility, and it is time that the city stopped counting on the Lorton prison to handle the overflow that has resulted from the District's own refusal to press ahead with a new prison within the District.

To that end, the legislation I am sponsoring today will accomplish several important and overdue goals. First and foremost, this bill will prohibit the District Government from constructing any new prison facilities—be they temporary or permanent—at the Lorton complex. This measure will require the District to look instead to its own property, within its own limits, for solutions to prison crises.

Next, this bill will establish strict timetables for action that should have been taken by District corrections officials long ago. The Mayor of the District has promised that he will construct a new, permanent prison within the city. On this crucial issue, I take the Mayor at his word.

Yet, the city has been notoriously slow in taking the necessary first steps toward prison construction, especially in choosing a site or sites for the new facility. Accordingly, this legislation sets forth specific deadlines for the city to inform Congress of both its choice of a temporary site within the city to handle the inmates it had intended to place at Lorton, as well as a site for construction of a permanent facility, also within the city.

Finally, this legislation will require the Attorney General to continue to accept DC prisoners on an interim basis. I am fully aware that this is not a problem of the Attorney General's making. Indeed, the U.S. Department of Justice has been most forthcoming in attempting to help the District deal with its prison problems.

Still, I remain concerned about the possibility that all of the District's future surplus of prisoners will be concentrated at Lorton Prison in northern Virginia. The situation at Lorton is already extremely volatile. The prison has been plagued by escapes, riots, and similar disturbances in recent months. And we should not fuel the fires there by adding additional prisoners. For that reason, I believe it would be far safer for those inmates to be dispersed throughout the Federal system.

Mr. President, this legislation will set the District on a path toward alleviating its prison crisis and thus increasing the public safety in the Washington metropolitan area. Moreover, it will do so without further burdening the citizens of northern Virginia.

I ask unanimous consent that a copy of this legislation be inserted into the RECORD.

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

S. 2019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, the District of Columbia shall not—

(1) construct new prison facilities, either permanent or temporary, at the Lorton prison in Fairfax County, Virginia; or

(2) incarcerate prisoners at the Lorton prison beyond the rated capacity or court-orderd capacity of the Lorton prison.

SEC. 2. (a) Not later than 10 days after the date of enactment of this Act, the Mayor of the District of Columbia shall submit to Congress his choice of a site or sites within the District of Columbia for construction of temporary prison facilities for the confinement of District of Columbia Code violators.

(b) not later than 30 days after the date of enactment of this Act, the Mayor of the Distict of Columbia shall submit to Congress his choice of a site or sites within the Distict of Columbia for construction of permanent prison facilities for the confinement of District of Columbia Code violators.

SEC. 3. (a) For a period of one year from the date of enactment of this Act, the Attorney General shall, subject to the provisions of subsection (b), designate Federal prisons as the place of confinement of District of Columbia Code violators when the District has reached its prison capacity at the Lorton prison and the District of Columbia Jail, unless prior to or during that period, the District has established temporary or permanent facilities within the District of Columbia for confinement of those prisoners.

(b) The requirement that the Attorney General designate Federal prisons as the place of confinement of District of Columbia Code violators provided in subsection (a) shall be void in the event that the District of Columbia fails to comply with the provisons of section 2.

SEC. 4. The District of Columbia shall not engage in early release or early parole of violent offenders as a means of alleviating problems of prison overcrowding.

By Mr. RIEGLE (for himself, Mr. ROTH, Mr. PROXMIRE, Mr. EXON, Mr. INOUYE, Mr. QUAYLE, Mr. DECONCINI, Mr. LUGAR, Mr. GRASSLEY, Mr. PELL, Mr. KENNEDY, Mr. MURKOWSKI, Mr. DOMENICI, Mr. PRESSLER, Mr. LEVIN, Mr. ROCKEFELLER, Mr. PRYOR, Mr. SIMON, Mr. GORE, Mr. KERRY, Mr. BUMPERS, Mr. BRADLEY, Mr. HEINZ, Mr. DIXON, Mr. DOLE, and Mr. BURDICK):

S.J. Res. 258. Joint resolution designating "Baltic Freedom Day"; to the Committee on the Judiciary.

BALTIC FREEDOM DAY

Mr. RIEGLE. Mr. President, today, along with the bipartisan support of 26 cosponsors, I am introducing a joint resolution calling for the declaration of June 14, 1986, as Baltic Freedom Day. A companion bill is being introduced in the House of Representatives by Congressman CARNEY of New York.

With this resolution, the Congress focuses the attention of the world on the plight of the Baltic people and demonstrates solidarity with them in their continuing struggle for freedom.

This year, June 14 will mark the 46th year of Soviet subjugation of the Baltic States. Despite the steady erosion of the national identities of the people of Latvia, Lithuania and Estonia over the past four and a half decades, their determination to regain their lost freedoms has not been weakened.

The people of these captive nations know what it means to be free. During their short period of independence—1918-40—their nations flourished both culturally and economically.

Through hard work and raw determination, the Baltic people ushered in an energetic period of reawakening. In Latvia, education blossomed, and Estonia became the first nation in the world to grant cultural autonomy to all of its minority citizens through Government-supported ethnic schools, theaters, and libraries. In Lithuania, Government-supported cultural programs unfolded and Lithuanians achieved a legacy of being the most culturally sophisticated minority in the Soviet Union. Literature and art based on a rich folk tradition thrived,

making this a very proud and memorable era. The energies and talents of the Baltic people extended beyond their own borders, and they made significant contributions to the welfare and culture of Europe.

Before their presence could truly be felt, however, the tiny nations of Latvia, Lithuania, and Estonia were absorbed by the Soviet Union, and their citizens stripped of their most basic human rights.

Today, the brutal Soviet policy of russification, which seeks to eliminate every vestige of the unique cultures and religious traditions of the Baltic peoples, stands in sharp contrast to the cultural blossoming which occurred during independence. Despite the ongoing persecution of those who demonstrate their abhorrence of this policy, the Baltic people continue to defy the efforts of their Soviet occupiers to control them.

It is the memory of independence and prosperity once enjoyed, and the desire to transform the dream of freedom into reality that inspires these brave Baltic people to continue their fight. The past 46 years have shown that all the military strength of the Soviet Union can never succeed in crushing the spirit and the drive for freedom of the Baltic people.

American support for the return of freedom to the Baltic nations is an important demonstration of our belief in the right of self-determination for all people in all nations of the world. Just as the South African policy of apartheid, which denies basic rights to a majority of its citizens, is unacceptable, so too is the continuing Soviet occupation of Latvia, Lithuania, and Estonia. We must not permit the past 46 years of Soviet repression in those nations to dull our sensitivity to the injustices imposed upon the Baltic people.

Expressions of support for the aspirations of the citizens of the captive nations from the free world give hope to those still fighting to secure their fundamental human rights. Prompt Senate approval of this resolution will demonstrate the solidarity of the American people with the Baltic people in their continuing struggle for freedom.

ADDITIONAL COSPONSORS

S. 318

At the request of Mr. HEINZ, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 318, a bill to extend the revenue-sharing program for local governments through fiscal year 1991.

S. 1093

At the request of Mr. MATHIAS, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 1093, a bill to amend the patent law to restore the term of the patent grant in the case of certain products for the time of the regulatory review period preventing the marketing of the product claimed in a patent.

S. 1543

At the request of Mr. MATHIAS, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 1543, a bill to protect patent owners from importation into the United States of goods made overseas by use of a U.S.-patented process.

S. 1586

At the request of Mr. WALLOP, the name of the Senator from Indiana [Mr. QUAYLE] was added as a cosponsor of S. 1586, a bill entitled the "Action Act Against Violations of Human Rights."

S. 1766

At the request of Mr. MATHIAS, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Utah [Mr. GARN], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Arizona [Mr. GOLDWATER] were added as cosponsors of S. 1766, a bill to designate the Cumberland terminus of the Chesapeake and Ohio Canal National Historical Park in honor of J. Glenn Beall, Sr.

S. 1917

At the request of Mr. BRADLEY, the names of the Senator from Vermont [Mr. LEAHY], the Senator from New York [Mr. MOYNIHAN], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes.

S. 1923

At the request of Mr. THURMOND, the name of the Senator from Florida [Mr. CHILES] was added as a cosponsor of S. 1923, a bill to provide for additional bankruptcy judges.

SENATE JOINT RESOLUTION 239

At the request of Mr. DURENBERGER, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from South Carolina [Mr. THURMOND], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Joint Resolution 239, a joint resolution designating the week beginning on June 1, 1986, as "National Maternal and Child Health Week."

SENATE CONCURRENT RESOLUTION 72

At the request of Mr. SIMON, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Concurrent Resolution 72, a concurrent resolution expressing the sense of Congress concerning human rights in Poland.

AMENDMENTS SUBMITTED

SALE OF CONSOLIDATED RAIL CORPORATION

DECONCINI AMENDMENT NO. 1436

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to the bill (S. 638) to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and for other purposes; as follows:

At the end of the bill, add the following:

SEC. (a) The Senate finds that—

(1) The government and people of the United States have a longstanding friendship with the Philippines based on democratic principles and institutions;

(2) The United States has a strategic interest in the preservation of two military bases in the Philippines for the security of the Pacific region;

(3) The current unrest in the Philippines threatens to undermine the continuation of a stable, democratic government in that nation;

(4) Congress has stated that restoration of democratic institutions in the Philippines is the most effective means of defeating the proliferating communist insurgency;

(5) President Marcos has announced his intention that presidential elections be held within the Philippines to end speculation by foreign nations as to his popular support;

(6) Officials of the Government of the Philippines as well as leaders of the opposition have indicated their willingness to cooperate with a delegation of international observers whose purpose would be to verify the openness and fairness of the election;

(7) President Marcos has stated that it would be impossible "in a free society" to control or keep out observers and there would be no attempt to prevent any such group from entering the Philippines to monitor the election;

(8) A decision to limit access to polling places by international observers would seriously impair the ability of observer teams to verify the fairness and validity of the elections and could jeopardize continued United States economic assistance to that nation; and

(9) It has been the experience that international observers to the elections of 1982 and 1984 in El Salvador and more recently, Guatemala, were not limited access to polling places and greatly increased the fairness and credibility of those elections.

(b) The Senate hereby—

(1) Reaffirms its support for genuine, free, and fair elections in the Philippines scheduled for February 7, 1986;

(2) Stresses the importance of the presence of international observers at such elections;

(3) Urges the Philippine Government to permit clear access to the polling places for such international observers; and

(4) Intends to consider the manner in which Philippine elections are conducted in determining future aid requests.

DANFORTH AMENDMENT NO. 1437

Mr. DANFORTH proposed an amendment to the bill S. 638, supra; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Conrail Sale Amendments Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Northeast Rail Service Act of 1981 (45 U.S.C. 1101 et seq.) provided for an orderly return of Conrail freight service to the private sector;

(2) the provisions of the Northeast Rail Service Act of 1981 were successful in removing Conrail's obligations beyond railroad freight service and in otherwise preparing Conrail for an orderly return to the private sector;

(3) acting under section 403 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), the Board of Directors of the United States Railway Association twice found Conrail to be a profitable corporation;

(4) acting under section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761), the Secretary engaged an investment banker and arranged, through open competitive bidding and negotiation, to sell the interest of the United States in the common stock of Conrail;

(5) the Secretary's Plan for the sale of Conrail provides for sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation;

(6) the Secretary found that sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation best meets the sale criteria of (A) leaving Conrail in the strongest financial position after the sale, (B) preserving patterns of service to shippers and communities in the region Conrail serves, and (C) maximizing return to the Federal Government consistent with the criteria specified in clauses (A) and (B);

(7) amendments to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and related laws are needed to permit the sale of the interest of the United States in the common stock of Conrail to Norfolk Southern Corporation and to permit cancellation of the interest of the United States in Conrail debt and preferred stock; and

(8) the Secretary's Plan satisfies the requirements of the Northeast Rail Service Act of 1981, including the intent, goals, and objectives relating to the sale of the interest of the United States in the common stock of Conrail and the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)).

PURPOSE

SEC. 3. It is therefore declared to be the purpose of the Congress in this Act to return Conrail to the private sector by directing and facilitating implementation of the Secretary's Plan for the sale of the interest of the United States in the common stock of Conrail.

DEFINITIONS

SEC. 4. (a) In this Act, unless the context otherwise requires, the term—

(1) "Conrail" means the Consolidated Rail Corporation;

(2) "Definitive Agreements" means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (4)(A);

(3) "Secretary" means the Secretary of Transportation; and

(4) "Secretary's Plan" means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E.

(b) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended—

(1) by redesignating paragraphs (6) through (18) as paragraphs (7) through (19), and paragraphs (19) through (21) as paragraphs (21) through (23), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (20)(A);"; and

(3) by inserting after paragraph (19), as so redesignated, the following paragraph:

"(20) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

(c) Section 1135(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (10), respectively;

(2) by inserting after paragraph (5) the following paragraph:

"(6) 'Definitive Agreements' means any and all agreements existing or to be developed between the United States and Norfolk Southern Corporation, including all representations and warranties made therein, to implement the Memorandum of Intent described in paragraph (9)(A);"; and

(3) by inserting after paragraph (8), as so redesignated, the following paragraph:

"(9) 'Secretary's Plan' means (A) the Memorandum of Intent between the United States and Norfolk Southern Corporation signed February 8, 1985, and (B) the divestitures by the Norfolk Southern Corporation of certain rail tracks, rights, and facilities, and any transactions or agreements related or incidental to such divestitures, in connection with the implementation of attachment A to the letter from the Department of Justice attached to the Memorandum of Intent as exhibit E;".

TITLE I—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 AND THE NORTHEAST RAIL SERVICE ACT OF 1981

Subtitle A—Regional Rail Reorganization Act of 1973 Amendments

LIMIT ON AUTHORITY TO PURCHASE STOCK

SEC. 101. Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation under this section shall terminate upon the consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Secretary's Plan.".

RESPONSIBILITY OF CONRAIL DIRECTORS

SEC. 102. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by inserting immediately after "required by law" the following: ", taken to implement the Secretary's Plan,".

APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE

SEC. 103. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors after consummation of the sale of the interest of the United States in the common stock of the Corporation under the terms of the Conrail Sale Amendments Act of 1985, other than with regard to—

"(1) section 102 of this Act;

"(2) section 201(d) of this Act;

"(3) section 203 of this Act, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 216(f)(8) of this Act, but only as such authority applies to activities related to the employee stock ownership plan and related trusts prior to or in connection with consummation of the sale of the interest of the United States in the common stock of the Corporation, including activities related to the sale, exchange, valuation, or disposition of the assets of the employee stock ownership plan and related trusts, or of Conrail Equity Corporation, in connection with the Secretary's Plan;

"(5) sections 216(f)(11) and 216(f)(12) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(6) section 217(e) of this Act;

"(7) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation prior to consummation or in connection with implementation of the sale of the interest of the United States in the common stock of the Corporation;

"(8) section 305 of this Act, but only as to the effect, and continuing administration, of supplemental transactions consummated prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(9) section 308 of this Act, but only in abandonment actions when such authority has been relied on to file a notice or notices of insufficent revenues prior to consummation of the sale of the interest of the United States in the common stock of the Corporation;

"(10) section 401(a) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(11) section 402 of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(12) section 408(c) of this Act, as amended by the Conrail Sale Amendments Act of 1985;

"(13) section 701 of this Act, but only as may be necessary to identify employees eligible for benefits under agreements entered into under such section;

"(14) section 702(e) of this Act;

"(15) section 704(b) of this Act;

"(16) section 709 of this Act;

"(17) section 710(b)(1) of this Act;

"(18) section 711 of this Act;

"(19) section 714 of this Act, but only with regard to disputes or controversies specified in such section that arose prior to consummation of the sale of the interest of the United States in the common stock of the Corporation; and

"(20) section 715 of this Act, as amended by the Conrail Sale Amendments Act of 1985.".

IMPLEMENTATION OF THE SECRETARY'S PLAN

SEC. 104. (a) Section 401(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)(3)) is amended to read as follows:

"(3) The Secretary is authorized and directed to implement the Secretary's Plan, in accordance with paragraph (4) of this subsection. Such implementation of the Secretary's Plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates as a single rail system is deemed approved by the Commission under chapter 113 of title 49, United States Code.".

(b) Section 401(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(a)) is amended by adding at the end thereof the following paragraphs:

"(4) The Secretary shall implement the Secretary's Plan by negotiating, executing, delivering, and performing the Definitive Agreements, which shall conform to the Memorandum of Intent described in section 102(20)(A) of this Act. The Secretary shall, 45 calendar days before the date on which the Secretary anticipates that the interest of the United States in the common stock of the Corporation will be sold to Norfolk Southern Corporation, transmit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a notification of any alteration from the Memorandum of Intent described in section 102(20)(A) of this Act which will be made in the Definitive Agreements. After the date of such sale, the Secretary shall transmit to such Committees notification of any intent to waive compliance with any substantive covenant, agreement or obligation contained in the Definitive Agreements, and the Secretary may not waive such compliance until a period of 45 calendar days has expired after the date of such transmittal.

"(5) The Secretary shall not transfer the interest of the United States in the common stock of the Corporation except concurrently with a divestiture by Norfolk Southern Corporation of rail assets and rights approved by the Attorney General.

"(6) The sale of the interest of the United States in the common stock of the Corporation shall be deemed to be consummated at the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.".

RAILROAD PURCHASERS AND OFFER FOR SALE OF SHARES TO EMPLOYEES

SEC. 105. Subsections (d) and (e) of section 401 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(d) and (e)) are repealed.

CANCELLATION OF DEBT AND PREFERRED STOCK

SEC. 106. Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) RECAPITALIZATION.—In connection with the sale of the interest of the United States in the common stock of the Corporation under section 401 of this Act, and consistent with the Secretary's Plan, the Secretary may take all action necessary to cause the Corporation to be recapitalized such that the interest of the United States, or any agent or instrumentality thereof, and all other commitments or obligations of the Corporation to the United States or any agent or instrumentality thereof arising out of such interest, in any debt (including accrued interest and contingent interest thereon) and preferred stock (including accrued and unpaid dividends thereon) of the Corporation shall be cancelled or retired, and contributed to the capital of the Corporation. The Secretary shall cause the recapitalization authorized by this section to be effective as of the consummation of the sale of the interest of the United States in the common stock of the Corporation.

"(b) BREACH OF REPRESENTATIONS.—(1) Norfolk Southern Corporation or any successor corporation thereto may bring suit for any breach of representations contained in paragraph 6(e) of the Memorandum of Intent described in section 102(20)(A) of this Act (hereinafter referred to as the 'Representations') in the United States Claims Court or a district court of the United States. If such an action is brought, the Claims Court or district court shall determine the amount by which the United States income tax (including interest and penalties whether or not such penalties are assessed as a tax under the Internal Revenue Code of 1954) assessable against the Corporation or against Norfolk Southern Corporation for any year exceeds the amount of such tax which would have been assessable for such year had such Representations not been breached (hereinafter referred to as the 'Offset Amount').

"(2) The Representations shall be considered breached and Norfolk Southern Corporation shall be entitled to bring suit upon the first occurrence of any of the following that is inconsistent with the Representations: (A) the issuance by the Internal Revenue Service of a statutory notice of deficiency (90-day letter), (B) the assessment of the United States income tax, or (C) any claim by the United States in a suit or other judicial proceeding against Norfolk Southern Corporation or the Corporation.

"(3) The right to bring suit pursuant to this section shall not be subject to any waiting period applicable to tax proceedings or to any requirements for payment of any tax as a condition to instituting any suit based on a breach of the Representations.

"(4) Any judgment for money damages relating to breach of the Representations shall only be awarded as an offset in any court or administrative proceeding against the tax liability of Norfolk Southern Corporation or the Corporation, or both, to which such breach relates; except that if any such tax liability resulting from such breach has been paid, the judgment shall to that extent be an offset against any United States income tax liability of the Norfolk Southern Corporation or the Corporation, or both. If any portion of the tax resulting from a breach of the Representations has been paid, then the Offset Amount shall include interest on such payment from the date paid at the rate from time to time specified in the Internal Revenue Code of 1954 for interest payable on refund claims.

"(5) It shall not be a defense to an action brought under this section that Norfolk Southern Corporation knew, or should have known, of the falsity of the Representations or that there exists no carryover basis procedure as contemplated by the last sentence of the Representations.

"(6) For purposes of this section, tax liability of Norfolk Southern Corporation shall include the tax liability of Norfolk Southern Corporation and its affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954.".

APPLICABILITY OF CERTAIN LAWS TO SALE OF CONRAIL

SEC. 107. Section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768) is amended—

(1) by repealing subsection (b);

(2) by amending subsection (c) by striking "No transfer" and all that follows through "subject to" and inserting in lieu thereof "Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the Secretary's Plan and the Definitive Agreements and their negotiation, execution, and implementation shall not be subject to administrative or"; and

(3) by adding at the end of subsection (c) the following sentence: "The issuance in private placement of notes or other securities in accordance with exhibit B to the Memorandum of Intent (described in section 102(20)(A) of this Act) in the Secretary's Plan shall not be subject to the provisions of subtitle IV of title 49, United States Code.".

LABOR PROTECTION

SEC. 108. (a) Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended by striking "the last day of the eighteen-month period beginning on".

(b)(1) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by adding at the end thereof the following section:

"PROTECTION AFTER SALE

"SEC. 715. After consummation of the sale of the interest of the United States in the common stock of the Corporation pursuant to the Secretary's Plan, any employee of Norfolk Southern Corporation, the Corporation, any rail affiliate of either company, and any transferee of the rail tracks, rights, and facilities divested in accordance with the Secretary's Plan, who is adversely affected in his employment by the implementation of the Secretary's Plan shall receive from his employer protection under the labor protective conditions set forth in New York Dock Railway—Control—Brooklyn Eastern District Terminal (354 ICC 399 (1978), modified upon further consideration, 360 ICC 60 (1979)). The arbitration provisions of section 4 of New York Dock shall apply to the formation of any implementing agreements that may be necessary in connection with the implementation of the Sec-

retary's Plan, including any resulting coordinations.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 714 the following item:

"Sec. 715. Protection after sale.".

PREFERENTIAL HIRING

SEC. 109. Section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following subsection:

"(b) IMPLEMENTATION OF SECRETARY'S PLAN.—Any employee of any railroad who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for a vacancy for which he is qualified on any Norfolk Southern Corporation rail subsidiary, except where such vacancy is covered by (1) an affirmative action plan, or a hiring plan designated to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this subsection, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

CROSS CRAFT EMPLOYMENT

SEC. 110. (a) Title VII of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797 et seq.) is amended by inserting immediately after section 703 the following section:

"CROSS CRAFT EMPLOYMENT

"SEC. 703A. Any employee of Norfolk and Western Railway Company, Southern Railway Company, or the Corporation who is deprived of employment as a result of the implementation of the Secretary's Plan shall have the first right of hire for any vacancy for which such employee is qualified at the entry level of any Norfolk Southern Corporation rail subsidiary, without regard to craft or class or the provisions of section 703 of this Act. Such employee shall retain his seniority rights to return to his original craft or class whenever a vacancy occurs. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 703 the following item:

"Sec. 703A. Cross craft employment.".

Subtitle B—Northeast Rail Service Act of 1981 Amendments

SPECIAL COURT JURISDICTION

SEC. 121. (a) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(1) by inserting "or the Conrail Sale Amendments Act of 1985" immediately after "subtitle" wherever it appears;

(2) in subsection (a), by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following paragraphs:

"(5) brought by the United States or any agency or instrumentality thereof seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(6) brought by Norfolk Southern Corporation seeking to enforce the Secretary's Plan or the Definitive Agreements;

"(7) brought by a party who filed a complaint with the Secretary under subsection (e) of this section, and who is aggrieved by (A) a determination of the Secretary under paragraph (1) of such subsection that the party has not suffered direct economic injury, or (B) a decision of the Secretary under paragraph (2) of such subsection that a covenant has not been violated;

"(8) brought by a party which is a signatory to an ancillary agreement entered into in accordance with the Secretary's Plan or the Definitive Agreements and which is seeking to enforce such ancillary agreement; or

"(9) brought to determine the value of the interest of the employee stock ownership plan and related trusts, or of the beneficiaries thereof, in the preferred stock of the Conrail Equity Corporation.

For purposes of any action brought under paragraph (5) of this subsection, a violation of any covenant contained in the Secretary's Plan or the Definitive Agreements shall be deemed to constitute immediate and irreparable harm for purposes of awarding injunctive relief to the United States.".

(b) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by adding at the end thereof the following subsection:

"(e)(1) Any party who suffers direct economic injury as a result of an alleged violation of a covenant contained in the Definitive Agreements may file a complaint with the Secretary seeking enforcement of such covenant. If the Secretary determines that the complainant has demonstrated to the Secretary that it has suffered direct economic injury, the Secretary shall investigate the complaint.

"(2) If the Secretary decides to investigate a complaint under paragraph (1) of this subsection, the Secretary shall give reasonable notice of such decision to investigate to the alleged violator of such covenant and the complainant, and shall make a final decision on such complaint within 60 days after the date on which it was filed.

"(3) If the Secretary finds that (A) the covenant in question has been violated, and (B) the complainant suffered direct economic injury as a result of such violation, the Secretary shall enter an order directing the violator of such covenant to comply with such covenant.

"(4) On appeal, any decision by the Secretary under this subsection shall be upheld, unless such decision is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

APPLICABILITY OF OTHER LAWS

SEC. 122. Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by striking "service transfers" and inserting in lieu thereof "sale of the interest of the United States in the common stock of Conrail or transfer of the rail properties and freight service responsibilities of Conrail".

Subtitle C—Employee Stock Ownership Plan

RESPONSIBILITY OF EMPLOYEE STOCK OWNERSHIP PLAN FIDUCIARIES

SEC. 131. (a) Section 216(f)(8)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

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

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

"(iv) for or in connection with any action taken to implement the Secretary's Plan, including any sale, exchange, valuation, or disposition of the plan and related trust assets, or the assets of Conrail Equity Corporation, in connection with implementation of the Secretary's Plan and any determination of the terms on which any such sale, exchange, valuation, or disposition is effected.".

QUALIFICATION, REVIEW, AND VALUATION OF EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 132. Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is amended by adding at the end thereof the following paragraphs:

"(11) The employee stock ownership plans of the Corporation and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall be deemed to meet the qualification requirements of sections 401 and 501, respectively, of the Internal Revenue Code of 1954, notwithstanding (A) that such plans may not meet the requirements of section 415 of the Internal Revenue Code of 1954, or (B) that participants in such plans may be entitled to withdraw a portion of the shares allocated to their accounts prior to the expiration of the period generally imposed by the Internal Revenue Service for qualified plans. Such qualification shall relate only to the contributions, allocations, and withdrawals of shares provided for in the Secretary's Plan with respect to the plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan. Such contributions and allocations shall in no event be treated as having exceeded the maximum annual addition permitted under section 415 of the Internal Revenue Code of 1954 (but not for purposes of applying section 404(j) of the Internal Revenue Code of 1954) for purposes of calculating any limitation under section 415 with respect to contributions and allocations not described in the Secretary's Plan, including contributions and allocations to plans and related trusts of the Corporation and any affiliated corporation. The continued qualification of such plans with respect to all other contributions, allocations, and withdrawals shall be subject to all provisions of existing law, as amended from time to time. No inference shall be drawn from this paragraph as to whether an amount is a contribution deductible under section 404 of the Internal Revenue Code of 1954 rather than a non-deductible capital expenditure.

"(12) Except as provided in section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105), the issuance and sale or contribution of securities by Norfolk Southern Corporation to fulfill arrangements with the Corporation's employees in implementing the Secretary's Plan and the distribution of shares from the Corporation's employee stock ownership plans and related trusts maintained, amended, or adopted in implementing the Secretary's Plan shall not be subject to the registration and prospectus delivery requirements of the Securities Act of 1933, any approval requirement under subtitle IV of title 49, United States Code, or the laws of any State with respect to the issuance and sale of securities.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS

REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS AND REPEALS

SEC. 201. The following provisions of the Regional Rail Reorganization Act of 1973 are repealed or amended as specified:

(1) Subsections (a) and (b) of section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a) and (b)) are repealed, and such section 214 is amended by striking "(c) Association.—".

(2) Subsection (f) of section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is repealed, without prejudice to the continued availability of funds appropriated prior to the date of enactment of this Act pursuant to section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)(1)(C)).

(3) Section 404 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 764), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Section 405 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 765), and the item relating to such section in the table of contents of such Act, are repealed.

(5) Section 406 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 766), and the item relating to such section in the table of contents of such Act, are repealed.

(6) Section 407 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 767), and the item relating to such section in the table of contents of such Act, are repealed.

(7) Subsections (a) and (d) of section 408 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 768 (a) and (d)) are repealed.

(8) Section 409 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769), and the item relating to such section in the table of contents of such Act, are repealed.

(9) Section 410 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769a), and the item relating to such section in the table of contents of such Act, are repealed.

(10) Section 411 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769b), and the item relating to such section in the table of contents of such Act, are repealed.

(11) Section 412 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 769c), and the item relating to such section in the table of contents of such Act, are repealed.

(12) Section 713 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797l), and the item relating to such section in the table of contents of such Act, are repealed.

AMENDMENTS AND REPEALS OF OTHER RAIL LAWS

SEC. 202. The following provisions of law are repealed or amended as specified:

(1) Section 1154 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1107), and the item relating to such section in the table of contents of such Act, are repealed.

(2) Section 1161 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1110), and the item relating to such section in the table of contents of such Act, are repealed.

(3) Section 1166 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1114), and the item relating to such section in the table of contents of such Act, are repealed.

(4) Subsection (c) of section 1167 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1115(c)) is repealed.

(5) Subsection (b) of section 1168 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(b)) is repealed.

(6) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended—

(A) by striking "(A)";

(B) by striking "(i)" and inserting in lieu thereof "(A)", and by striking "(ii)" and inserting in lieu thereof "(B)"; and

(C) by striking all after "utilization;".

(7) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking all after "railroad" through 1981)"; and

(B) in subsection (b)(2)(C), by striking all after "costs" the second time it appears through "subsidy".

(8) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) is repealed.

(9) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended by striking "(1)", and by striking all after "time" and inserting in lieu thereof a period.

(10) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(11) Section 1005(b)(1) of the Rail Passenger Service Act (45 U.S.C. 655(b)(1)) is amended by striking "the Consolidated Rail Corporation,".

(12) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking "by the Consolidated Rail Corporation or".

(13) Section 332(d) of title 49, United States Code, is amended by striking ", the Consolidated Rail Corporation,".

TITLE III—MISCELLANEOUS PROVISIONS

COMMON CARRIER STATUS OF CONRAIL AFTER SALE

SEC. 301. (a) Conrail's status as a common carrier by railroad under section 10102(4) of title 49, United States Code, shall not be affected by virtue of sale of the interest of the United States in Conrail's common stock. Purchase of Conrail stock shall not alone be the basis of a determination that the acquiring entity has become a common carrier by railroad under section 10102(4) of title 49, United States Code.

(b) The Definitive Agreements shall contain a binding commitment by Norfolk Southern Corporation to continue to operate Conrail in full compliance with the provisions of section 10731(e) of title 49, United States Code.

CONSUMMATION OF SALE

SEC. 302. The sale of the interest of the United States in the common stock of Conrail shall be deemed to be consummated on the date title to the common stock passes to Norfolk Southern Corporation and the United States receives the cash purchase price.

CONTRACTS

SEC. 303. (a) Except as provided in subsection (b) of this section, nothing in this Act shall affect—

(1) Conrail's obligation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sale agreements, in accordance with their terms; and

(2) the obligation of any transferee of divested assets to carry out transportation contracts and equipment leases, equipment trusts, and conditional sale agreements to which such assets are subject, in accordance with their terms.

(b) If a divestiture carried out pursuant to the Secretary's Plan precludes Conrail from providing a transportation service for which it has contracted without a right of termination that may be exercised in the event of the sale of the interest of the United States in the common stock of Conrail and the divestiture will result in a change or modification in the movement of the traffic involved, the transferee of the divested rights and properties and Conrail shall provide the contracted-for service on terms and conditions which, to the maximum extent possible, conform to the terms and conditions in the contract.

CONGRESSIONAL OVERSIGHT OF COMPLIANCE

SEC. 304. The Secretary shall, no later than January 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report setting forth each certificate which Norfolk Southern Corporation and Conrail provided to the Secretary, during the preceding year, certifying compliance with the covenants contained in the Definitive Agreements.

SEPARABILITY

SEC. 305. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 306. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Sections 108(a), 201 and 202 of this Act shall take effect on the date of consummation of the sale of the interest of the United States in the common stock of Conrail.

(c) Any provision of this Act which, pursuant to Article I, Section 7 of the Constitution, provides for raising revenue shall only be effective upon the enactment into law of a bill which has originated in the House of Representatives enacting such provision.

SENATE CONCURRENT RESOLUTION 103 — COMMENDING BISHOP DESMOND TUTU FOR HIS WORK IN SOUTH AFRICA

Mr. HART (for himself and Mr. MATHIAS) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 103

Whereas Desmond Tutu has committed himself to nonviolent change in South Africa;

Whereas Desmond Tutu has advocated direct dialogue between blacks and whites and as the central need for the future of South Africa;

Whereas Desmond Tutu has personally rescued victims of mob violence from certain injury or death at great risk to himself;

Whereas Desmond Tutu has advocated economic sanctions against South Africa as a means to peacefully encourage Pretoria to dismantle the apartheid system of racial separation;

Whereas Desmond Tutu has repeatedly turned to the United States for assistance in his quest for peaceful change in his native country, and

Whereas Desmond Tutu received the 1984 Nobel Peace Prize for his moral leadership in South Africa, Now, therefore, be it

Resloved by the Senate (the House of Representatives concurring), That Congress commends Bishop Desmond Tutu for his

courageous work for peace and freedom in South Africa, and that Congress encourages all South Africans to heed Bishop Tutu's call for a peaceful end to apartheid.

SENATE RESOLUTION 297—CALLING FOR AN INTERNATIONAL CONGRESS ON TERRORISM

Mr. DIXON submitted the following resolution; which was referred to the Committee on Foreign Relations.

S. RES. 297

Whereas, in recent years, numerous civilized nations and their citizens have increasingly suffered needless death and destruction at the hands of terrorists; and

Whereas, individual nations and citizens have largely been unable to combat and defend against these reckless, wanton acts of terrorism on land, at sea and in the air; and

Whereas, efforts to develop a firm, effective allied response to the growing threat of terrorism have met with failure, inaction and disagreement; and

Whereas, cooperative, organized, global efforts have in the past succeeded in addressing and resolving problems of common concern to the international community; and

Whereas, it is imperative that civilized nations come together to reach agreement on international arrangements for dealing with terrorism in a civilized way: Now, therefore, be it

Resolved, That it is the sense of the Senate of the United States of America to urge that the President of the United States, in cooperation with other concerned nations of the world, take immediate steps to convene an International Congress on Terrorism with the objective of finding the ways and means for nations to act in concert responsibly and effectively to bring an end to terrorism once and for all.

Mr. DIXON. Mr. President, I rise today to submit a resolution expressing the sense of the Senate that the President of the United States take immediate steps to convene an International Congress on Terrorism.

Over the past several years, the international community has witnessed a dramatic rise in terrorist activity. Much has been said about how nations should respond to these acts. Unfortunately, Mr. President, a great deal of discussion has left the civilized world with little in terms of an organized, effective means of bringing a halt to random violence against innocent people. I believe the creation of an appropriate forum for the orderly examination of various proposals for dealing with terrorism has real merit.

We do not lack for ideas, Mr. President, I know the administration is continuously examining the options in an effort to save lives, apprehend and bring to justice those responsible for terrorism, and create defenses against future incidents. I wholeheartedly support these efforts. Other nations have come up with ideas as well. On Tuesday of this week the Austrian Government announced visa restrictions on Arab diplomatic passports, which are often issued to terrorist organizations. British Prime Minister Thatcher has, on several occasions, stressed the need for greater international cooperation if international terrorism is to be combated effectively.

An International Congress on Terrorism would allow the ideas of every participating nation to be considered by the community as a whole. We need action, Mr. President. We have learned through several painful episodes that we cannot successfully put a stop to terrorism by acting alone. As long as civilized nations pursue random, disorganized policies against terrorism, policies that sometimes create discord among countries that should be united with a common purpose and common goal, innocent people will suffer, and terrrorists will become more daring and more destructive.

The world desperately needs a coordinated antiterrorism effort, Mr. President. It's impossible to coordinate an effective defense when nations respond to assassinations, bombings, kidnapings, and hijackings on an incident-by-incident basis. The bombings in Rome and Vienna have left Western allies arguing about the value of economic sanctions. If nothing changes in our anti-terrorism policies, the next incident will usher in more arguments and more confusion. Most of all, however, it may usher in another round of inaction.

To gain the upper hand against terrorism, our defenses must be in place before the violence occurs. Policies must be more than simply reactions to an incident, each reaction is different depending on the country. Policy needs to be made cooperatively. Ideas need to be discussed and shared. I cannot believe that the common ground does not exist for the successful development of a sound, cooperative antiterrorism policy. We simply must put in place an international arrangement that will allow concerned nations to deal with terrorism in a civilized, responsible and effective way.

A consortium of nations, deliberating together, can, it seems to me, provide the world with a rational, cooperative means of coping with terrorism. Working together, we can identify terrorists, locate them, and bring them to justice in an appropriate way in the appropriate place of jurisdiction. We can determine how and whether we should retaliate in specific ways. We could consider the effectiveness of rewards. We could develop joint treaties of extradition aimed directly at terrorists.

I'm not saying I have all the answers. What I am saying is that an International Congress on Terrorism might just give us a solution that the international community can accept and implement. It is becoming more obvious every day that international discussions on terrorism need higher priority and higher visibility. The common threat of terrorism deserves mutual consideration at the highest governmental levels. I urge my colleagues to join me in sponsoring this resolution.

SENATE RESOLUTION 298—COMMEMORATING THE ACCOMPLISHMENTS OF THE U.S. DISABLED SKI TEAM

Mr. WEICKER (for himself, Mr. HATCH, Mr. KENNEDY, Mr. STAFFORD, Mr. NICKLES, Mr. KERRY, Mr. THURMOND, and Mr. SIMON) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation.

S. RES. 298

Whereas the United States Disabled Ski Team is a very special group of fine athletes who have displayed the courage, dedication, and perseverance needed to qualify for competition on a national and international level;

Whereas the commitment and determination exhibited by these superior athletes is an inspiration to all people;

Whereas the United States Disabled Ski Team will travel to Salen, Sweden, to represent the United States in international competition;

Whereas the United States Disabled Ski Team has exhibited outstanding performance and has promoted full participation of disabled persons in athletic competition; and

Whereas the United States Disabled Ski Team has been instrumental in changing perceptions of society about persons with disabilities: Now, therefore, be it

Resolved, That the Senate—

(1) commends the achievements of the United States Disabled Ski Team; and

(2) encourages and supports the United States Disabled Ski Team in the competition at the 1986 World Disabled Ski Championships to be held in Salen, Sweden, on April 6 through April 17, 1986.

● Mr. WEICKER. Mr. President, our Nation's 36 million disabled Americans frequently face attitudinal barriers which impede their full participation in society. Yet these individuals continue to make significant efforts to enhance public awareness of their abilities, and to excel in spite of the various obstacles which confront them. A notable example of this is the U.S. Disabled Ski Team, comprised on 60 A team and 13 B team members who have qualified both at regional and national levels. The courage, strength and determination exhibited by these fine athletes is an inspiration to us all.

Too often, emphasis is placed on the limitations of disabled persons and it is high time we recognized outstanding performances such as those displayed by this fine group of athletes.

This year, on April 6-17, the U.S. Disabled Ski Team will be competing at the World Disabled Ski Championships in Salen, Sweden. Among the participants in this event will be my nephew, Mark Godfrey, who won first place in the 1985 Handicapped Nation-

als competition. The demands and rigors of competing in this championship are testimony to his and every participant's extraordinary achievements. These individuals have displayed the courage, dedication, and perseverance needed to qualify for this elite competition. The resolution I am introducing today recognizes the outstanding accomplishments of the following athletes:

TEAM A

Paul Dibello, Jack Benedick, Blaine Albertson, Chuck Weed, Bill Hovanic, Dave Keifer, Mark Godfrey, Dan Ashbaugh, Jim Tulberg, and Greg Manino.

Don Garcia, Tom Gall, Matt Kut, Reed Robinson, Bud Hillman, Bill Henry, Rick Riley, Roanne Kuenzler, Jill Skidmore, and Rick Isom.

Larry Gebhart, Peter Axelson, Kirk Parkhurst, Rick Ruscio, Patti Werner, Martha Hill, Diana Golden, Lana Jo Chapin, Kathy Poohachoff, and Rod Hernley.

Bill Latimer, David Jamison, Dan Pufpaff, Brad Hudiberg, Mary Lee Atkins, Carmela Cantisani, Jim Chlalsant, Barbara Cutler, Cara Dunne, and Greg Evangelatos.

Petra Gibbons, Maria Hansen, Sheila Holzworth, Brian Hubbard, Shelly Keck, Barbara Lewis, Ray Marshall, Pat McCluen, Cristine Montgomery, and John Novotny.

Laura Oftedahl, Joe Raineri, Ron Roe, Brian Santos, Allan Schlank, Billie Ruth Schlank, Joe Walsh, Sandra Wilmot, Steve Young, and John Bates.

TEAM B

Nancy Meyer, Bob Emerson, Ted Kennedy, Jr., Anita Kocab, Michael Anthony, Cathy Gentile, Brent Neddo, Ken Larsen, John Calhoon, Sarah Doherty, Julie Steadman, Andy Gerster, and Chuck Johnson.

These hardworking young people deserve commendation for their unique contribution to the United States and the world. All of these athletes are winners and serve as role models for all Americans seeking to participate in athletics.

The National Handicapped Sports & Recreation Association as well as the United States Association of Blind Athletes should indeed be commended for organizing and supporting our U.S. Disabled Ski Team. Their efforts to provide and promote sports and recreation for our handicapped citizens enrich the lives of thousands of individuals with disabilities each year.

I hope my colleagues will join me in offering support and congratulations to all of the members of the 1986 U.S. Disabled Ski Team for their past and present extraordinary performance. Mr. President, I am pleased to submit this resolution expressing the Senate's support of the 73 members of this elite team.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that a public hearing has been scheduled before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources on Thursday, January 30, 1986, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Testimony will be received on the following bills:

S.J. Res. 221 and House companion H.J. Res. 382, to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project.

H.R. 3851, to amend section 901 of the Alaska National Interest Lands Conservation Act.

Those wishing to testify should contact the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources, room SD-308, Dirksen Senate Office Building, Washington, DC 20510. Oral testimony may be limited to 5 minutes per witness. Written statements may be longer. Witnesses may be placed in panels, and are requested to submit 25 copies of their testimony 24 hours in advance of the hearing, and 50 copies on the day of the hearing. For further information, please contact Patty Kennedy of the subcommittee staff at (202) 224-0613.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs, be authorized to meet during the session of the Senate on Thursday, January 23, 1986, in order to conduct a hearing on the nominations of Wayne D. Angell, and Manuel H. Johnson, to be members of the Board of Governors of the Federal Reserve System.

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

ADDITIONAL STATEMENTS

THE GHOSTS OF DEFICIT FOREVER

Mr. COHEN. Mr. President, my friend and colleague, the chairman of the Senate Budget Committee [Mr. DOMENICI] recently authored a timely and insightful "tale" concerning Federal budget deficit, past, present, and future. His writing recounts missed opportunities in the past and warns of the dangers of missing whatever opportunities remain to us in the critical days soon to come.

Senator DOMENICI's narrative does hold out some hope for a happy ending to his Dickensian story—but only if there is a long-overdue change of heart in the Congress and the administration. It behooves us all to heed his grave warning, lest we bring upon ourselves the tragedy we otherwise invite.

I ask that Senator DOMENICI's article, as it appeared in the Washington Post of January 21, 1986, be printed in the RECORD.

The article follows:

[From the Washington Post, Jan. 21, 1986]

THE GHOSTS OF DEFICIT FOREVER

In less than three weeks the automatic spending cuts of Gramm-Rudman-Hollings will be triggered unless a court challenge to the new law succeeds. The papers will be filled with the confusion of federal agencies trying to fulfill the law and the outrage of those program beneficiaries who see their activities threatened. Before the coming public panic consumes us, we should review where we are, how we got here, and where we are likely to end up in our struggle with the deficit.

As a prelude, I should note that I am extremely optimistic about the nation's economic potential. We have solved problems of the highest order. We have created millions of job for "Baby Boom" workers. We have embarked on a new era of entrepreneurship and rising per-capita incomes. A leanness and quickness characterizes the private sector.

The only cloud on the horizon, and a cloud of mammoth proportions in my view, is the inability of the government to control deficits. The extraordinary deficits we now face symbolize this impotence and also hold the substantive prospect of plunging the nation into an unprecedented economic recession—ironically, one that could well be avoided. The deficit, simply put, remains the foremost policy and political problem confronting the nation. If I may borrow from Dickens, I will call upon three ghosts to lead us on our budget odyssey: the ghosts of budget past, present and yet to come.

1. BUDGETS PAST

Our Ghost of Budgets Past conjures up a scene of candidate Ronald Reagan speaking in Chicago in September 1980. He explains in some detail his four-part plan for the economy and the federal budget: (1) a 10 percent across-the-board tax cut for individuals in each of the next three years to increase take-home pay and the dismal national savings rate; (2) major changes in the corporate tax code aimed at reviving the staggering American economy; (3) an all-out attack on waste, fraud and abuse in government spending, coupled with a permanent shrinking of the government's programs, directed at saving tens of billions of dollars a year; and (4) a major increase in defense spending.

The president-to-be calmly explains that the increase in defense spending will be "affordable," because his other policies will yield a combination of new revenues to the government (from economic growth) and less domestic spending (from a shrinking of federal domestic programs).

Our ghost next takes us to March 10, 1981. The president releases the details of his 1982 budget, which replaces the budget of former president Jimmy Carter. The budget is truly revolutionary. It calls for domestic spending cuts in fiscal year 1982 alone of $67 billion. Between FY 1981 and FY 1986, the domestic cuts would total $475 billion.

On top of unprecedented domestic spending restraint, the president fulfills his second major campaign promise by requesting the largest single defense increase in the nation's history. For FY 1982, this increase would reach nearly $29 billion and would push defense spending from the FY 1980 level of $146 billion to $226 billion in just two years—an increase of 55 percent.

The budget also keeps the president's promise on taxes. It requests individual and corporate tax cuts of $54 billion in FY 1982 and $718 billion through FY 1986.

Above all, our ghost points to the line in the president's budget that shows that if all his policies were fully implemented, the federal budget would be balanced by FY 1984 and would be running a $28 billion surplus by 1986.

Two major points overlooked by many in that first, fateful budget will come back to haunt the nation. First, almost $75 billion in domestic cuts necessary for achieving a balanced budget in 1984 are not itemized and "will be identified later." Second, the economic projections underlying the budget assume real growth in the economy almost double the historical average for the past 12 years (4.6 percent projected compared to 2.5 percent actual for the 1972-84 time frame).

Finally, our Ghost of Budgets Past takes us to the private conference room of the Senate majority leader, Howard Baker, in early spring of 1981. In the room for an extraordinary meeting is the president, who has left the White House and journeyed to the Hill. The president leans across the table and tells the 12 Republican members of the Senate Budget Committee that he will not support a bipartisan attempt in that committee to freeze cost-of-living adjustments for Social Security recipients as part of a deficit-reduction plan. He asks them to join his opposing effort. In front of the senators is a sheet showing savings from a one-year freeze on the COLAs—$88 billion over five years, and more than $24 billion in the year 1986 alone.

The senators relent. They go back to committee and vote against the move to freeze COLAs. Social Security, although larger than all domestic non-entitlement spending programs put together, is protected in future budget battles; it comprises almost 25 percent of the non-interest spending in the federal budget.

2. BUDGETS PRESENT

Our Ghost of Budgets Present arrives, looking weary and battered. He has watched three years of congressional deadlock; the deficits for the first four years of the Reagan administration have amounted to more than all the deficits accumulated by all other presidents in the nation's lifetime. America is amassing debt—corporate, individual and governmental—at a record pace.

Yet, no perceptible crisis is at hand. Unemployment has subsided below the 7 percent mark; inflation and interest rates are down and dropping further; the economy is perking along at about the historical average growth; 2.5 to 3 percent annually. Everyone thinks the deficit may be a problem, but the political will to tackle it head-on is fading. The short-term pain of policies that would really cut deficits overwhelms the short-term gain of voting to retain Congress' favorite programs.

Our Ghost of Budgets Present reveals an internal congressional staff memo showing that despite public displays of budget-cutting enthusiasm, Congress has allowed large spending increases since FY 1980: an increase of $132 billion (99 percent) in national defense; $169 billion in new spending for domestic entitlement programs (an increase of 60 percent), driven by new Social Security increases; and an additional $26 billion in domestic, discretionary spending (a 17 percent hike).

It turns out that many of the "cuts" were measured from baselines that assumed growth, so even with a cut there was frequently an actual increase in dollars. The memo also shows that revenues have dropped off from those original FY 1982 presidential projections by about $150 billion in FY 1986. Moreover, the gross national product forecast that FY 1982 budget fell short of reality by $2.4 trillion for FY 1982-86! Almost nothing is "affordable" anymore, in the sense that word was used way back in September 1980.

Even worse, the restraint in spending that has occurred has spared programs that stress present consumption (pensions are a prime example) and hampered programs that stress investment in the future (research in nondefense scientific areas, basic physical infrastructure, education).

Interest payments on this debt are $200 billion annually and are the fastest growing element of federal spending. This means that America cannot make the basic commitment to the future that needs to be made in order to ensure the unparalleled prosperity to which all other indicators point.

We now move to February 1985. The president has emerged from his reelection campaign with one of the most overwhelming victories in America's history. Undeterred deficit-fighters in the administration and in Congress conspire to make one last fight to get deficits under control.

The president's budget asks once again for large domestic spending cuts, $180 billion over three years, with the elimination of more than a dozen major domestic programs as the centerpiece of the plan. The budget also asks for a $30 billion increase in defense spending for FY 1986 alone, and rejects tax increases. It projects a deficit of $144 billion in FY 1988, twice as high as any deficit in the non-Reagan era, but a substantial move toward what economists are now calling "structural budget balance."

The ghost now takes us to a dramatic moment. It is May 9, well past midnight. The Senate has concluded debate on an unprecedented deficit reduction package, incorporating Social Security COLA freezes and eliminating several programs. It not only will meet the president's deficit reduction goal in FY 1986, it will yield substantially lower deficit by FY 1988.

The vote stands at 49-48 against the proposal. Sen. Pete Wilson of California arrives from a hospital, where he underwent emergency appendectomy surgery earlier. Against doctors' recommendations, he has come to the Senate in a wheechair, an intravenous tube in his arm, to vote. He votes for the proposal. With the vote 49-49, Vice President George Bush, in his capacity as president of the Senate, votes for it. It passes, 50-49.

Although only a few suspect it at the time, that moment in the Senate chamber will be the high point for deficit cutting for the year. Our Ghost of Budgets Present speeds over a troubled summer. The budget finally hammered out between House and Senate falls far short of the Senate-passed version, in large part because the president finally opposes any change in Social Security COLAs. His decision dooms any significant congressional action.

Congress finds it impossible to pass almost any significant bills. Appropriations bills fail to move. Approaching is an autumn vote to extend the federal debt the government has run up. Sens. Gramm, Rudman and Hollings conceive a new deficit-cutting mechanism and attach it to the debt limit bill.

Our ghost now takes us to December 1985. Congress sends the president a farm bill that costs an estimated $50 billion during the next three years, about double what the president requested in his FY 1986 budget of nine months earlier. Congress finds it difficult to comply with even the watered-down budget it passed just four months earlier. Congress staggers through a chaos of short-term continuing appropriations and short-term debt extensions, all of which threaten to shut down the government.

Finally, Congress passes more spending bills, postpones action on a multibillion-dollar deficit reduction measure that the administration threatens to veto, and heads home. The president signs the farm bill into law. He signs all of the spending bills, even though they contain in the aggregate about $40 billion more in domestic spending than he wanted and about $30 billion less for defense. He signs the Gramm-Rudman-Hollings bill.

Within a fortnight, the Justice Department announces that it will join in attacking the constitutionality of Gramm-Rudman-Hollings. The president asks for $4 billion more spending for the Commodity Credit Corporation, sending up his formal request Dec. 23. A year that began with high hopes for deficit reduction fizzles into the winter rain of utter failure. Our Ghost of Budgets Present decides to become a consultant to corporations on the impact of Gramm-Rudman-Hollings.

3. BUDGETS YET TO COME

Our Ghost of Budgets Yet to Come offers us a choice. First he takes us to February 1986. The president and Congress have been given the size of the automatic cut order (called a sequester order) mandated by the Gramm-Rudman-Hollings bill for FY 1986. It will take a toal of $11.7 billion from federal outlays, equally split between defense and nondefense programs.

This leaves defense spending in March 1986 about $40 billion less than the president's original request for the year. Nondefense programs will be cut in some cases below last year's level. Senators up for reelection later in the year are besieged by interest groups hit by the sequester.

Yet, this tiny cut pales in comparison to what may be necessary later in the year. Our ghost reveals internal staff documents that show deficits of more than $205 billion in FY 1987, a full $60 billion over the Gramm-Rudman-Hollings target of $144 billion. The president presents his budget in early February. It contains a request for $20 billion more in defense spending. It terminates scores of federal programs through direct cuts and privatization ideas. It rejects new taxes. It is kept alive by Congress mostly as a vehicle for repudiation.

Here our ghost presents two scenarios. Sadly, one is more likely than the other. The first scenario is the hope of many of us who voted for Gramm-Rudman-Hollings—a comprehensive compromise on the deficit. It goes like this:

(1) Late March 1986: The president and Congress, unable to come up with a budget for the 1987 year, agree to a "Grand Summit" on the budget. Tax reform plans

in the Senate are temporarily laid aside in order to focus on deficit reduction.

(2) April 1986: After weeks of negotiations, Congress and the president agree on a historic deficit-cutting package, including fundamental reforms and reductions in domestic spending, a slowing of the defense buildup, and new revenues.

(3) May and June 1986: Congress passes new laws implementing the "summit" agreement and appropriations bills that are consistent with it.

(4) August 1986: the Congressional Budget Office and the Office of Management and Budget compare their spending updates and conclude that because of presidential and congressional action, the deficit targets of Gramm-Rudman-Hollings will indeed be met.

(5) The stock market surges, interest rates drop, and the economy takes off. America soars into the future.

But that scenario may be unlikely for many reasons, so our ghost provides a second scenario, feared by many of us who are familiar with the realities of both the budget and of the politics of 1986:

(1) Late March 1986: The president's budget has been rejected in all quarters. Congress tries to devise its own budget and fails. The president vigorously pursues his tax reform plan in the Senate, opposing any tax increase within the plan.

(2) April and May 1986: the Senate, with 30 members watching primary results that will select their opponents in the November elections, is stymied. Tax reform is stalled, the budget cannot move, and appropriations bills await some resolution of the deadlock. The House puts off action, claiming it cannot act until some initiative is taken by either the president or the Senate.

(3) June 1986: The Supreme Court rules Gramm-Rudman-Hollings constitutional.

(4) Summer 1986: As the stock and bond market and most of the rest of the world watch, America's government is nearly paralyzed. The size of the amounts needed to meet the $144 billion deficit target prohibit action: $30 billion from defense and from nondefense spending translate into as much as $75 billion in budget authority from defense spending (or almost one-fourth of all new spending authority for defense) and about $45 billion from nondefense programs (or about one-third of all new budget authority in the appropriated, discretionary accounts).

(5) September 1986: Gramm-Rudman-Hollings in the amount of a $60 billion sequester goes into effect, causing grave concern among America's Western allies. Most Senate campaigns are now in the post-Labor Day "hot" period. Groups that participate in federal domestic programs, especially teachers and health professionals, descend on Washington in huge numbers. Many state governments begin to lay off large numbers of employees to try to compensate for cuts in state and local aid.

(6) October 1986: One month before the 1986 federal elections, the president decides that his position as commander-in-chief compels him not to sign the final sequester order because it would violate his oath of office to defend the nation's security. Already more than 100 lawsuits have been filed against the Gramm-Rudman-Hollings cuts by potential program beneficiaries.

(7) Mid-October 1986: Congress, faced with an unprecedented uproar, coupled with a plummeting stock and bond market, tries to devise a way to cope with the new crisis. Everyone attempts to find a way to get out from under the new law. Someone suggests that we need a budget forecast that shows a recession sometime in the next four quarters. The person who makes the suggestion is widely applauded as a genius, and soon the Gramm-Rudman-Hollings bill is suspended.

(8) November 1986: Huge numbers of incumbent senators and representatives of both parties are defeated at the polls, saddled with explaining their position on Gramm-Rudman-Hollings. Our Ghost of Budgets Yet to Come concludes his gloomy scenario by revealing an internal staff memo that shows deficits will be $200 billion or more as far as the eye can see.

I conclude this little budget journey through time by saying that the concept behind the second scenario is a real possibility if both the president and Congress refuse to compromise on major deficit-reduction options. The amount of deficit reduction needed to meet the Gramm-Rudman-Hollings targets, or to make any real dent in deficits regardless of any law, is very large.

If the nation's leadership fails to agree by late spring, especially in a year charged with important elections, the mechanism of Gramm-Rudman-Hollings will take effect. To allow that to happen would be a national, and even international, tragedy.●

BONES SEIVERS, AN EXTRAORDINARY CITY ADMINISTRATOR

● Mr. SASSER. Mr. President, the Tennessee Town & City, an official publication of the Tennessee Municipal League, recently included an article and interview with Charles G. Seivers, known as Bones Seivers to his friends, city administrator of Clinton, TN.

The example that Bones Seivers has set in Clinton, TN, is an envy to all city managers. It is especially noteworthy at this time when municipalities are being threatened with staggering Federal budget cuts and their own growing city deficits.

Bones Seivers knows the people of his town and works for their needs. In this interview, he discusses the problems facing municipalities today as well as some of his methods of solution.

Mr. President, I ask that the article and interview by Gael Stahl be printed in the CONGRESSIONAL RECORD.

The article follows:

[From the Tennessee Town & City, Dec. 9, 1985]

TML OFFICER: ANY TOWN CAN DO ANYTHING IT WANTS, IF UNITED

(By Gael Stahl)

Charles G. (Bones) Seivers was born in Clinton, TN, and except for three years as a platoon sergeant in the mid-fifties at a Massachusetts NIKE missile site, has always lived there. His father served for 14 years on the board of mayor and aldermen in the fifties.

Seivers' entire family, father, mother, two brothers and their families, two sons and a daughter have stayed around Clinton. His 84 year-old mother and her twin sister have a family restaurant on Market St. They still go in at 3 am six days a week to make the biscuits. His father, Mack (81) and his Dad's sister Willie (75) still play the Hawaiian & steel guitar, fiddle and piano for the Novelty Hawaiians, the original Tennessee Ramblers and have played with Roy Acuff and Archie Campbell. Mack is an active professional sign painter.

A taunt dynamo, Bones (what else could they call a 100-pound six footer?), returned home from the army to go into the insurance business for three years and then to Union Carbide for ten years as a process supervisor in Oak Ridge. In 1962, he ran for alderman and served four two-year terms as alderman and as mayor for one two-year term.

During Seiver's mayoral term Clinton formed a committee of citizens and former mayors, and the part-time mayor and aldermen to see if they needed someone full time. Not suspecting he'd ever fill the position himself. Mayor Seivers recommended that instead of going to a city manager type government which meant changing the town charter, Clinton go with a city administrator (which can be done by ordinance) "because the administrator must report to the mayor and aldermen who are ultimately responsible anyway, and the administrator is actually a manager."

After applicants were interviewed, Seivers was asked to give up his job at Union Carbide. Thus it was that 13 years ago he became Clinton's first and best city administrator, the only one so far. He was hired "for as long as he does a good job."

Last month a grateful board of mayor and aldermen voted to name the new by-pass around Clinton which they struggled 30 years to get, "the Charles G. Seivers Boulevard. (Locals will no doubt call it "Bones Boulevard.")

Seivers is in his third term as a TML board member, served on the committees that formed the TML insurance pool and bond fund and is first Chairman of the latter.

Clinton's claim to fame in the past several years has been in obtaining federal and other monies for streets, water, sewers, community centers, recreation, and housing, for which Clinton, received the TML award for Superior City Achievement last June.

GS: I once overhead someone describe you as one who gets his teeth in something, finds out who can get it done, flies to Washington and perches on the front steps until they give in if only to get rid of you. Is that how you got so much federal and state money for a small town like Clinton?

CS: I've been told I've been . . . persistent.

GS: You been both an elected and an appointed city leader. What's the major differences between them?

CBS: The difference for the administrator, of course, is that he's not responsible for policy decisions. He's making a living at it, not doing it for nothing as a volunteer mayor or alderman.

The mayor and alderman set the policy as to what they want done, pass ordinances and give the administrator the responsibility to carry those policies out. Any town needs to have a full-time administrator or manager and I can assure you he'll more than pay his way if he's doing his job.

GS: So many town boards are split down the middle on such issues as firing their city manager (Hendersonville) and their police force (Ashland City), and putting in a new sewer system (Mt. Juliet). How does Clinton get on so much better and faster?

CBS: Clinton has been lucky. Next week three aldermen are unopposed for re-elect on which is typical. Last year the mayor and

three aldermen were unopposed. The staff, the school, utility, planning, recreation, senior citizens, all the various boards, work together to make it a better place.

GS: Surely Clinton is more than "lucky"? Do you know some managerial technique that works better?

CGB: Well, we welcome and encourage public opinion on whatever we're doing and as soon as differences of opinion develop we invite everybody in to serve on various committees to help us narrow down the problems so that by the time we get to the ballgame we're all behind the project rather than haggling and being mad at each other and getting nothing done.

The committees are phenomenal at uniting community support. For example, when we needed a library in the seventies the committee raised $80,000 on the streets.

GS: How did you raise funds for Clinton's many, many capital improvements without raising the property tax in 23 years?

CBS: Instead of going to the property tax we go to the people to tell them what we want to do and what it will cost, and suggest a quarter of a cent increase in the sales tax and hold a referendum. We go to the clubs, direct mail, one on one, and on several occasions they've voted overwhelmingly for it. The Board of mayor and aldermen and all the commissions go out and sell it.

GS: How did you get all the federal money when others couldn't?

CBS: We've worked at it constantly. I may be the front person calling on people but you need total support back home for the 50/50 or 80/20 share. When I get back home I know they will support that project. Our first lady mayor, Cathy Brown, who was an alderwoman for six years prior, is doing a tremendous job. Most of our board have served for over ten years. It takes them to make it work.

And above all, with all the traveling I do, I need a staff second to none from the department heads on down to all our 85 fulltime employees. They work so closely together and help each other when necessary to get the job done. They're generalists, not specialists.

GS: I'm still intrigued that the community pulls so well together. One-on-one talks and direct mailings are too infrequent. What are your media relations like?

CBS: The owner, publisher and editor of the Clinton newspaper for the last 50 years attends every meeting. We never fail to notify him and ask his advice. He's genuinely interested in the community and helps my job because he keeps the public informed. I look to him for guidance and advice.

GS: Is the Sunshine Law a problem for small towns?

CBS: It's a very good thing. Some things can't be discussed openly such as lawsuits, but the law provides for them.

GS: Bones, you're known for spending a lot of time outside Clinton, on boards and committees of a broader influence. In 23 years you've served repeatedly on all the major TML boards and committees and on the National League of Cities Small Cities Advisory Council and Steering Committee. Why? They don't involve your city straight out.

CBS: Let me give you a good example. I chair the Tennessee Municipal Bond Fund. Clinton is going to borrow six million dollars for the water and sewer department and a new school. If through the bond fund we can borrow for 2 or 2.25 points less than we can on the open the market, that means we'll save Clinton at least $100,000 a year over a ten or fifteen year period. That's the effect that this fund will have on all the towns. So for me to play a part in making that work is indeed for Clinton.

GS: Does the town suffer while you are away? Can you afford so much time out of the office?

CBS: The town gives total support. I feel very comfortable about leaving two or three days to work on grants, or the boards I work on, but I also know I have a staff there operating just like I were standing there with them. It's not like having a bunch of fires to put out every time I get back to town.

GS: How has your work with TML benefitted Clinton?

CBS: For one, the legislative process. You know how tiring that is and of course you have Joe Sweat, Ed Young, and Joan Pickens working for cities. You know, people don't realize what the TML label means in lobbying for and looking after the bills of interest to local government. A lot of us don't have any earthly idea what they've talking about and how a bill will affect our towns. The state lobbying effort is vital.

GS: Can you give an example?

CBS: If TML is successful with its bills to raise the cap on the sales tax, Clinton alone gets $180,000 a year. That will replace the loss of general revenue sharing. Things of this nature. When you're talking about smaller towns with a three to four million dollar budget a couple hundred thousand dollars is a lot of money.

GS: Can you explain why there are still a few small towns that are not members of TML?

CBS: They just don't realize. You know, I think that probably the best money that a town can spend is its TML dues. I can't understand anyone at all not belonging and actively participating in it because the costs aren't that great for the benefits they derive from it.

I very much believe that and I've served on all the committees from nominating to finance, and I think all the people on the staff, not only Joe and Ed, but the girls in the office, are very pleasant. They take care of the officials when they travel, and when they come here to Nashville, provide us a facility which is worth an awful lot to all of us. It is to me particularly because as you know I'm not too bashful about calling on you and asking for help—and very seldom do I come to Nashville and not ask for help—and I can honestly say I never fail to get it.●

OBSERVATION OF REFORM

● Mr. GOLDWATER. Mr. President, I inserted into the RECORD an article from the Air University Review from the September-October 1985 issue, which dealt almost entirely with the subject of military reform.

I intend to continue to insert these various articles because of the coming legislation that the Armed Services Committee is preparing, to accomplish some of the reforms discussed by Senator SAM NUNN and me on the floor last year.

Today, I have removed from that publication an editorial entitled, "Individuals, Institutions, and the Impulse for Reform." This rather short editorial pretty well summarizes the need—constant need—for the observation of reform.

I ask that it appear at this point in my remarks.

The article follows:

[From Air University Review, September-October 1985]

INDIVIDUALS, INSTITUTIONS, AND THE IMPULSE FOR REFORM

Like individuals, institutions ossify with age. Goals and objectives become part of the warp and woof of corporate personality, enforcing conformity and demanding unity of purpose from those who are part of the institution. When service to institutionalized goals becomes an objective unto itself, a bureaucratic rigidity develops that stifles initiative and, ultimately, causes atrophy and impotence. That is when the invigoration of reform is needed.

Only the strongest establishments can reform themselves. Those that seek to foster change from within must, in most instances, be prepared for the lot of martyrs. On the other hand reform from without can be unduly abrasive, destroying rather than improving. The successful reformation usually results when insiders work with interested outside parties to bring about constructive changes.

The Protestant Reformation and the Catholic Counter-Reformation provide good examples of successful reorientation and reconstitution. In 1520, the Papal Bull *Exsurge* demanded that the monk Martin Luther either recant his position on reforming the Church or be branded a heretic. Luther became an unenthusiastic revolutionary.

Martin Luther loved the Church. He did not seek to destroy it, but he was a determined advocate for redirection and reform, particularly in the area of finances. When Luther criticized the sale of indulgences, he did more than probe at a lucrative practice that was vital to financing Europe's Most lavish court: he ultimately raised questions about doctrines basic to the Church's existence, including that of papal infallibility. However limited Luther's impulse for reform was initially, the consequences were dramatic.

The Air Force, like the medieval church, is subject to the vicissitudes of institutional life. As the Air Force matured, particularly after it attained its independent status in 1947, goals and objectives were incorporated, and air doctrine was defined and developed. Such processes are proper and common for any military service. However, if doctrine has become dogma, reformation may be needed. Like Martin Luther, today's military reformer seeks to correct rather than to destroy. In Luther's day, it was the Infidel Turk that actually sought to destroy Christiandom. Today, it is the Soviets who wish to obliviate the American way of life, with all of our institutions. Military reformers are neither infidel to our military ideals nor Communist, and it would behoove us not to use the terms *heretic* or *adversary* too freely.

Even the most facile study of history teaches that the impulse for reform is virtually irresistible to all but the very entrenched. If accommodated, reform can improve the institution, strengthening it through evolutionary rather than revolutionary development. The United States government is an example of an institution in a continuous state of reformation. Imperial Russia's tsarist autocracy, on the other

hand, could not accommodate much-needed reforms advocated by socialists, democrats, and Mensheviks. The resulting Bolshevik revolution swept away autocrat and democrat alike. The Roman Catholic Church, in contrast, though shaken by Luther and subsequent reformers, undertook its own reformation to survive today as the largest and single most powerful religious institution in Christendom.

Martin Luther's impulse for reform was, at its essence, a personal thing. It began with his own passionate commitment to understanding what he was all about as a Christian and a cleric. His road to reform began with a search of the Scriptures as he sought to better understand his own relationships with God and with the Church of his time. For Luther, the Reformation began with himself.

Whether we consider ourselves reformers or defenders of the faith, we would do well to reexamine our own commitment. Officership, involving service and sometimes self-sacrifice for the good of the greater society and the lot of humanity, may be as much priesthood as profession. Just as the clergy faces the awesome responsibility of dealing in questions relevant to temporal values and eternal existence, so too military officers must master their own set of awe-inspiring imperatives, dealing as they do, ultimately, with life, death, and defense of the nation. That kind of charge demands the stuff of total dedication that transcends institutionalized interests. If self-preservation and promotion within the institution have become our goals, reform might best begin with a rigid examination of what we ourselves are all about. A rereading of both our commissions and the oath of office might be helpful. We could find ourselves paraphrasing Shakespeare's Cassius in the play *Julius Caesar*, "the fault . . . is not in our stars but in ourselves as underlings."—E.H.T.●

FINANCING SENATE CAMPAIGNS

● Mr. SIMON. Mr. President, every Member of the Senate will admit, at least to himself or herself, that the present system of financing campaigns is a disaster.

Senator MATHIAS and I have introduced a bill calling for Senate financing identical to the Presidential financing, with a voluntary checkoff on income tax paying for it.

Our colleague from Maryland had an item in the New York Times recently telling in some detail why the change is needed.

I ask that the article be printed in the RECORD at this point, and I urge my colleagues to read it.

The article follows:

[From the New York Times, Nov. 22, 1985]

FEDERAL FINANCING OF SENATE CAMPAIGNS

(By Charles McC. Mathias)

WASHINGTON.—A year from now, Americans will elect the 100th Congress. While no one can know the identity of the victors, we can be sure they all will take office under a shadow—the long shadow cast on the political process by the powerful, growing influence of private campaign contributions. And in every subsequent decision they make, they will be affected by the size and the sources of the bankroll that helped bring them to office, and by the need to plan for an even larger purse to keep them there.

Congress must act to clean up the system of campaign financing. Senate legislation recently introduced would do just that, by providing public funding of Senate general election campaigns—an approach that has worked well in Presidential elections since 1976.

The legislation would relieve senatorial candidates of the burden of raising millions of dollars, freeing them to pursue the primary purpose of a campaign: getting their message across to the voters. By banning all private contributions in the general election, it would remove not only the reality but the appearance of special-interest influence and in so doing help the public perceive the Senate as serving the public interest, not the interests of the wealthy and powerful.

Public financing is a way to limit overall campaign outlays. The Supreme Court in 1976 ruled that limits that Congress had set on campaign expenditures in Congressional campaigns were unconstitutional, but held that spending limits can be imposed on candidates who accept public funding. Thus, the measure before the Senate permits the Congress constitutionally to place a ceiling on the soaring costs of Senate campaigns.

The need for such limits is obvious. One of the most striking features of elections is the flood of campaign dollars unleashed in successive election cycles. Each passing year records new highs in spending: Since 1980, the cost of every election has surpassed the billion dollar mark, if state and local campaigns are included. In 1984, it cost an average of $3 million to win a Senate race—a fivefold increase over 1976.

What has been the effect of these record torrents of cash? Old familiar landmarks have been washed away, while the rising tide of campaign dollars has reshaped the contours of politics. Small contributors and grassroots volunteerism no longer are important parts of costly media campaigns. And high spending hasn't translated into voter interest. The rate of vote turnout remains dismally low compared to that of other democracies.

Television, while enormously expensive, conveys simplistic and image-based political messages: 30-second spots are unable to portray the complexities of policy choices.

In addition, high costs keep too many good people out of the system—talented men and women who won't enter the political arena because they can't or won't raise the hundreds of thousands, even millions, of dollars necessary to run a campaign.

Let us not overlook the toll on office-holders either. Something is wrong with a system in which Senators now spend half of their six-year terms raising campaign funds. Not only are they distracted from their duties but also the public has the impression that wealthy contributors have privileged access and influence as a result of their campaign contributions.

Hubert H. Humphrey described political fund-raising as demeaning: The politician would stand in the front room greeting potential contributors, acting as if he were not aware of the collecting going on in the back. He was right. It is demeaning to the politician, to the contributor and, ultimately, to our system of government.

In its first serious effort to comprehensively regulate financing, in 1971 Congress passed the Federal Election Campaign Act, which provided for public disclosure of campaign contributions and expenditures. That act and its later amendments represent a good start, but more remains to be done. Congress can act now, or it can wait until it faces a greater crisis of confidence in the system. Some say that in an era of record Federal deficits, we cannot afford to publicly finance campaigns. I would reply that we cannot afford not to.●

ENOCH PRATT FREE LIBRARY

● Mr. MATHIAS. Mr. President, this month, the Enoch Pratt Free Library in Baltimore marks its 100th year of service to the people of Maryland. It is a centennial that celebrates both the role of the public library in American society and the dream of the founder, Enoch Pratt, who envisioned a system of libraries "accessible to the people, who, I hope, will avail of the advantages it is my wish to offer them, they being for all, rich and poor without distinction of race or color * * *"

Our libraries are precious national resources, cataloging our hopes and realities and satisfying our thirst for self-knowledge. As custodians of our intellectual values, libraries illuminate what we were, reflect what we are, and hint at what we aspire to be. The success and longevity of a library such as the Pratt invigorates our commitment to support our libraries in facing the challenges of these difficult times. Our support is a solid investment, for be it 1886, 1986, or 2086, and beyond, libraries are essential to the Nation, fulfilling the need to know and the quest to understand.

Mr. President, I ask that an editorial from Baltimore's Sun newspaper of January 11, 1986, be printed in the RECORD at this point.

The editorial follows:

[From the Baltimore Sun, Jan. 11, 1986]

THE PRATT'S NEXT CENTURY

When it comes to urban libraries, the Enoch Pratt, which celebrates its 100th anniversary this month, is still regarded as a model in the profession. But for public libraries in the larger, older cities today, these are not the best of times. Detroit's public library almost went down the drain, and New York's has experienced very hard going. The Pratt, through heroic efforts, has avoided that—but the cost of books, other materials and staff is on an upward curve while the growth line of public funds lags far behind. It is sad but true that the Pratt begins its second century with less optimism about its future than it began its first.

That is especially unfortunate at this time because information, which is one of the most important services a public library offers its patrons, is becoming more and more important in society. Ours is an information age. It is also the age of mass media. What but a public library can offer to the individual the specific mix of facts, ideas, images and dreams that fits his or her specific needs and desires? Even the most comprehensive newspapers, magazines and broadcast companies fall far short of providing the variety that a good library offers.

Today there are video and audio cassettes, compact discs and other technological marvels unimagined when Enoch Pratt's first library opened. Some people wonder about

the future of books, hence of libraries. But libraries like the Pratt are not unaware of the new technology. Much of their scarce resources go to on-book items. But without taking anything away from the marvels of the VCR, etc., we believe the heart of a good library like the Pratt will always be its book collection. As long as human beings have imagination, there will be no frigate like a book to take its reader on a voyage of discovery, inspiration, amusement and understanding.

There are several good library systems in Maryland. Baltimore County's is one of the busiest and best in the nation. But there is only one Pratt. No other system has the variety of titles and resources it offers—not just to Baltimoreans but to the whole state. The state government supports the Pratt because of this responsibility, but no one familiar with the library's role and needs would contend that the level of support has been high enough. Nor has the city's support been as high as needs be in recent years. Both should do better. And so, of course, should private individuals and groups. Private generosity is important to libraries. Large gifts, like the H.J. Mencken estate, including his unpublished works, and small ones, like the $10 and $25 gifts grateful users make, all help and should be encouraged.●

DAN LAMBERT

● Mr. MITCHELL. Mr. President, the January 8 issue of 55 Plus, a weekly newspaper covering issues and subjects important to Maine residents age 55 and over, included an excellent article on Dan Lambert, the adjutant of the Maine American Legion.

The article centers on Dan's well-known ability as a public speaker, especially on the subjects of Americanism, patriotism, and love of country. I have shared the podium with Dan at numerous functions across Maine since coming to the U.S. Senate. While other speakers might become stale after a time, Dan Lambert remains fresh, engaging and lively for every occasion.

Dan Lambert is a strong and impassioned voice for many things, especially the interests of Maine's veterans. He is a long-time leader of Maine's veterans community. He is a good friend. He is an outstanding citizen of the State of Maine.

I ask that the full text of the article be printed at this point in the RECORD.

The article follows:

"BIG DAN" LAMBERT: HIS SPELLBINDING SPEECHES SUPPORT AMERICAN IDEALS

There's never any danger of boredom whenever "Big Dan" Lambert gets up to speak.

And there's no need for a microphone as he appears in an auditorium jampacked with listeners.

A prepared text? That would only be in his way.

That's because Dan Lambert becomes a spellbinder, an orator of superb talent, as he rises to address audiences at veterans' gatherings, in Grange halls, at service club luncheons, at school assemblies.

In a booming baritone voice, Lambert hammers home the basic message:

Love your country * * * be proud to be an American * * * preserve the rich traditions that have been handed down to you by men of greatness."

He does this between 200 and 250 times a year.

As department adjutant of The American Legion in Maine, Lambert travels some 65,000 miles a year to preach the gospel of Americanism, patriotism, love of country.

Not bad at all for a 62-year-old decorated veteran of World War II who maintains a rugged schedule that would challenge a man half his age. He describes himself as "completely recovered" from a heart attack suffered in 1983.

Since 1975, the state adjutant has been looking after the interests of 26,000 Legionnaires in Maine from state headquarters located in the Legion building of Bourque-Lanigan Post in Waterville.

"I'm the luckiest man in the world * * * I shouldn't be here today," smiles the oft-decorated Irishman who was wounded four times in Europe while fighting with the famed Darby's Rangers unit.

He's a writer and lecturer who serves as editor-publisher of The Maine Legionnaire, the official newspaper of The American Legion of Maine. He also serves as chairman of the Maine Veterans Coordinating Committee. He has been cited many times for his service to children and youth, as well as for his efforts to assist the aged and the handicapped.

But, despite Lambert's many other talents, his strength lies in his ability to stand on his feet and hold an audience spellbound.

On four separate occasions he was presented the George Washington Gold Medal Award from the Freedom Foundation at Valley Forge for his outstanding public addresses.

"I enjoy speaking," Lambert says simply.

That he does it well is an understatement. He's in constant demand. It's not unusual for him to speak at a communion breakfast in the morning, at a service club luncheon at noon, and at a Legion meeting in the evening.

Lambert is a deeply religious man (as a youth he studied for the Roman Catholic priesthood) who terms his speaking ability "a God-given talent," and he means it.

Plaques, awards, citations are prominent on the walls of Lambert's office, testimonials to his service as department adjutant since 1975, as department commander in 1968, and to years of achievement in behalf of others.

Lambert is an outspoken individual who has strong views. He admits that he is disturbed by many events that are taking place on the American scene.

Here are a few comments:

"During the war, I had a kid die on me. I held him in my arms. He was badly wounded. His last words were: 'Who is going to take care of my mother?' I decided to do something.

"What I'm doing now is exactly what I wanted to do in life. My life is complete in that I am able to do something for people, to help people.

"I'm convinced that there are some people in this country who are trying to rewrite history. I've been in every military cemetery in the world. There men fought together and died together and they lie together under the Stars and Stripes.

"I was an aide to Gen. George Patton. I pick up junk written about George Patton that never took place. He was an intellectual. He had a sense of history. As a soldier, he was the greatest military man in World War II.

"A few years ago I was in Washington and I met Mother Teresa of Calcutta. She's so small, like a little speck of dust. Yet she told me: 'Please tell the American people never to close their charity. This is the nation with the biggest heart.' I decided to give up one meal a week and send the money to charity. I lost 25 pounds.

"I'm astounded that we can't do more for the people of Lebanon. I've been through the midwest and for miles all you can see is storage bins and warehouses full of food.

"I believe that no matter who is president or who is governor, we have grown into a very cynical society. There are so many people picking at you that your effectiveness is lost.

"I'm bothered about haters on the left and haters on the right.

"Once I heard a Jesuit priest give a sermon. I never forgot it. He quoted the words of Christ. 'Ye shall be witnesses * * *.' I try to witness for my faith, my country, what I believe in. I tend to be unyielding in my opposition to forces who are attempting to overthrow the nation.

"America has lost its sense of self-discipline. There is an apathy in our people. Many Americans don't seem to care any more. They seem to say, 'It's OK, as long as I get mine.'

"I'm very proud of what I did in the service and I'm very proud of what I'm doing today."

Resting on a table in Lambert's office is a beautifully engraved plaque. It is the Humanitarian Award, given to Lambert at the American Legion state convention of 1982.

From my vantage across from him I can read the words:

"For outstanding self-sacrifice and devotion to the cause of the less fortunate and the underprivileged."

Somehow, those words seem to say it all.●

INTERNATIONAL MONETARY CONFERENCE

● Mr. ARMSTRONG. Mr. President, Newsweek magazine summed up the issue so well . . .

Washington may be agog over the Prince and Princess of Wales, but a less glittery group of visitors this week could create a more lasting stir. Nearly 100 of the world's most influential financial experts will congregate in the nation's capital to consider overhauling the international monetary system. Billed as the Congressional Summit on Exchange Rates and the Dollar, the conference is sponsored by odd bedfellows—conservative Republican Rep. Jack Kemp of New York and liberal Democratic Senator Bill Bradley of New Jersey—and attendees will include everyone from central bankers to gold bugs. Though the participants will disagree on many points, most will concur on one: "Monetary reform," says Kemp, "is an idea whose time has come."

I rise today to commend Representative KEMP and Senator BILL BRADLEY for their initiative in convening the first Congressional Summit on Exchange Rates and the Dollar. I joined as a cosponsor of the event because I too am convinced that monetary reform is an idea whose time has come.

The world is at an economic crossroads in the considered opinion of nearly all of the 350 leading policymakers who attended the monetary conference. And there was virtually unanimous expert opinion that the current international floating exchange rate system is a failure, and needs overhaul.

America has an enormous stake in the international monetary system, and it is time we protect our interests while promoting economic growth abroad. According to the U.S. Commerce Department, some 70 percent of American businesses are affected by international monetary exchange rates either through the price of goods purchased or sold, or terms of credit extended. The U.S. Treasury Department attributes 50 percent of the current U.S. trade deficit to problems stemming from the current international monetary system.

The United States has just become a net debtor nation for the first time since World War I. This means the United States will owe more to foreign nations than the value of its own investments abroad. This decline in the U.S. trading position marks a dramatic reversal. From 1982-85, not only has the United States become a debtor nation, it has reversed, totally, the buildup in international investment that has accumulated over the past 65 years.

The main cause of this is clearly the massive overvaluation and dramatically fluctuating exchange rates.

The twin problems of overvaluation and wild currency fluctuations are at least partially the result of the 1973 decision when the West's major nations abandoned the 44-year-old fixed exchange system—in which currency was backed either by gold or U.S. dollars—to settle international payments. The major nations converted instead to a floating system in which governments allowed their currencies to "float on global money markets."

It was surprising to me to learn from the conference that nearly all of the international monetary experts agreed that this new system has created more problems than it was intended to solve. Just one example, typically each day in international exchanges there is as much as 2 percent change in currency rates. This causes a huge problems for American businessmen who are never sure what price to charge, or what price they will receive for their overseas sales.

This need to solve this problem is what triggered the congressional summit on international monetary policy. This conference has received glowing praise in the financial press for focusing on this problem, and identifying solutions. Mr. President, this is a subject my colleagues will be hearing more and more about in the future. To enhance the Senate's understanding of this issue and the importance of the monetary conference just held, I ask that a series of articles and editorials about the conference be inserted in the RECORD following my remarks.

Mr. President, I sincerely praise Representative JACK KEMP and Senator BRADLEY for convening this monetary conference. This conference surely marks one of the year's most important public policy meetings. I also want to pay tribute to the organizers of this event—Dave Smick and Richard Medley of the Global Monetary Project—for their yeoman behind-the-scenes work in making the conference so successful.

I ask the articles in connection with this matter be printed in the RECORD.

The articles follow:

A NEW MONEY GAME?

Washington may be agog over the Prince and Princess of Wales, but a less glittery group of visitors this week could create a more lasting stir. Nearly 100 of the world's most influential financial experts will congregate in the Nation's Capital to consider overhauling the international monetary system. Billed as the Congressional Summit on Exchange Rates and the Dollar, the conference is sponsored by odd bedfellows—conservative Republican Rep. Jack Kemp of New York and liberal Democratic Sen. Bill Bradley of New Jersey—and attendees will include everyone from central bankers to gold bugs. Though the participants will disagree on many points, most will concur on one: "Monetary reform," says Kemp, "is an idea whose time has come."

It's a view that events have rendered undeniable. The flexible exchange rates adopted in the early 1970's haven't worked as planned: designed to adjust automatically to changes in countries' relative purchasing power, they have instead been overwhelmed by capital flows and other economic forces. The volatile behavior of foreign-exchange markets, meanwhile, has helped yield a drastically overvalued U.S. dollar and other currency distortions—worsening everything from trade imbalances to the Third World debt crisis. The recent decision by the five largest industrial countries to intervene in the markets to drive down the dollar represents a tacit admission that the era of pure floating exchange rates is over. Now, led by the Reagan administration, a move is under way toward a managed system of exchange rates—and greater coordination of global economic policies to shore them up.

Newsweek has learned that the U.S. Treasury Department is drafting a rough plan of action to create a system of "target zones" for exchange rates—possibly modeled after the European Monetary System, which bands the German mark, French franc and six other currencies together in a fluctuating arrangement known as "the snake." Under such a system, countries would meet regularly to discuss their internal fiscal and monetary policies, and a mechanism would be created to press for changes in those policies when necessary to keep currencies fluctuating within broad bands. A move to target zones would represent a major turnaround in the world economy, and prolonged consultations would be needed before a new road map could be devised. But for now the Treasury is acting "within an intellectual framework" to bring about monetary reform, one senior administration official says.

Group of Two: The first step was the intervention agreement crafted by the Treasury and unveiled two months ago by the so-called Group of Five industrial nations. The plan has mainly been carried out by a smaller Group of Two: through a combination of dollar sales and jawboning of large Japanese investors, the U.S. Federal Reserve and the Bank of Japan have succeeded in driving the dollar down 16 percent against the yen. The effort has had the desired effect of cooling protectionist fires in Congress and could begin to make a dent in the U.S. trade deficit next year. Last week Satoshi Sumita, governor of the Bank of Japan, suggested that the bank would continue intervening when necessary to keep the yen at about its current level of 207 to the dollar. Meanwhile, keeping more yen at home, Japanese interest rates have risen—and Tokyo has announced modest measures to stimulate domestic demand through increased public-works spending and tax incentives to encourage new housing construction.

The Kemp-Bradley conference will explore other ways to reform the system. Stanford University economics Prof. Ronald McKinnon will argue that the drastic cycles of inflation and deflation in recent years were in large part attributable to flexible exchange rates—and may repeat his call for a system linking monetary policies in Germany, Japan and the United States. Meanwhile, David Hale, chief economist of Kemper Financial Services, will contend that individual countries' microeconomic policies skew exchange rates as well. He argues that American tax-law changes accelerating depreciation on capital equipment raised the rate of return on real assets and forced returns on financial assets upward—boosting U.S. interest rates and the dollar.

Bradley and Sen. Daniel Patrick Moynihan, among others, may plump for bills they have sponsored that would require the Fed to intervene in currency markets and to boost the money supply whenever the dollar was overvalued or the U.S. trade deficit soared. For his part Kemp, who once advocated a return to the gold standard, now favors a plan that would force the Fed to manage the money supply so as to hold prices level for a "basket" of commodities including gold, other metals and foodstuffs.

Evolutionary Approach? Whether the Treasury will hear much support for target zones remains to be seen, but a consensus for changes is clearly developing. "We are sailing very close to the wind as far as the risks we're running in the financial system," says investment banker and conference participant Felix Rohatyn. The session may lead to further discussions among the industrial nations on how to revamp the current system—"an evolutionary approach, not sitting down and writing [a new] Constitution," says conference participant Charles Kindleberger, professor emeritus of economics at the Massachusetts Institute of Technology. But given the pressures facing the global economy, an intercontinental congress to adopt monetary-reform measures could still be in the industrialized world's future.

[From the New York Times, Oct. 30, 1985]

THE DRIVE TO TAME CURRENCIES

(By Peter T. Kilborn)

WASHINGTON, October 28.—Worldwide concern over the ups and downs of the Ameri-

can dollar and its impact on the livelihood of all countries has set in motion a multinational effort to reimpose some form of government control over currencies, according to international economists.

The catalyst for change could well be a monetary conference here next month to be attended by many of the world's top economic policymakers, leading international economists and senior members of the Reagan Administration. From that meeting will come a report for the seven-nation economic summit conference to be held late next spring in Tokyo. That, in turn, could lead to the first international conference devoted to currency revisions since Bretton Woods in 1944.

What is happening is that governments, and in particular the United States Government, now see political opportunity in regulating exchange rates. The Reagan Administration, once an intractable foe of government intrusion in currency markets, has come to recognize the value of at least occasional intervention to deal with the effects of its $200 billion budget deficits and other pressing economic issues such as the protectionist attitudes in Congress and the developing world's debts to Western banks.

Other industrial nations have been disenchanted for several years with the current system in which currencies are left to vie for themselves in an often volatile marketplace. The change in American attitude is encouraging these nations to step up their efforts for change.

The prospect of revising the currency system has captivated some Congressmen as well. Two men who are often mentioned as possible presidential candidates. Representative Jack Kemp, Republican of Buffalo, and Senator Bill Bradley, Democrat of New Jersey, have joined in sponsoring next month's monetary conference.

"We hope to focus attention on the problem of exchange rates," Senator Bradley said. "The present system isn't working as it was supposed to work, or we wouldn't have $120 billion trade deficits."

Some economists and political leaders in the United States and abroad are calling for a return to the system of tight supervision of currency exchange rates that was established 41 years ago at the conference in Bretton Woods, N.H.

That system, in which the dollar's value was pegged to gold and then the other currencies were tied to the dollar, crumbled with rising world inflation at the start of the 1970's. Most of those now advocating change want a less rigid system, but a system, nevertheless, to curb the volatility of an unsupervised marketplace.

"A broad spectrum of international and financial thinking says we ought to get together and talk it out and see if we can get a little better understanding of financial markets and financial institutions," said Henry Kaufman, chief economist at Salomon Brothers Inc.

A senior Reagan Administration official, who declined to be named, said, "My personal opinion is that we have to reform the system."

Governments are vitally concerned with the values of their currencies because they affect virtually every facet of an economy—the prices of imports and exports, the investments that countries make outside their borders, their inflation and employment rates.

THE DOLLAR SITUATION

In the case of the United States, the relatively expensive dollar has been an important factor in the loss of jobs to foreign competition, to the recession in agriculture and to the boom in American travel abroad. At the same time, the high prices that debtor nations have to pay for dollars to make payments on their loans to American banks is responsible in part for their difficulties in making those payments.

But managing currency exchange rates is a matter of considerable ideological debate. For years, President François Mitterrand of France, a Socialist, has argued for close Government regulation of the international marketplace, including exchange rates, just as he promotes such regulation over domestic policies. At the other extreme, the Reagan Administration has argued for free and open markets at home and—until now—in the international economy.

Managing currencies is also an imperfect art. For centuries, nations have sought to settle upon a method of keeping their currencies in line with one another to avoid the shocks occurring when they rise or fall. But they have yet to devise a system that has satisfied everyone for more than a couple of decades.

During the Bretton Woods era of "fixed" exchange rates, countries complained that the rates often undermined their economies, particularly when the levels of inflation varied from country to country. Yet, few countries are happy with the nonsystem that they settled upon in the early 1970's. They then decided to let currencies "float" in the market, permitting bankers, business executives, governments, international travelers and speculators to determine exchange rates through buying and selling of currencies. The United States endorsed this policy of "benign neglect."

A LOSS OF FAITH

But the Reagan Administration has lost faith in the policy, in part because of the strength of the dollars, which in the last four years has risen more than 40 percent above the average of other currencies.

"There wasn't much objection to floating rates until three or four years ago," said Robert Solomon, economist at the Brookings Institution and for many years the chief international economist at the Federal Reserve Board. "But then we found that the exchange rate can move beyond where you like to see it go, and it interferes with your domestic objectives."

To some extent, multinational reregulation of the currency markets has already begun. Six years ago, Western Europe developed a regional solution, called the European Monetary System, that some economists say could be expanded to the world economy. Eight countries agreed to limit their currencies' rise or fall to 2¼ percent. The system withstood a severe test during a sharp devaluation of the French franc in 1983. "I'd call it a great success," said John Williamson, a British economist at the Institute of International Economics here.

THE U.S. FACTOR

But it is the United States that can make or break any worldwide move towards currency revision. The first hint of a change here came last April when Treasury Secretary James A. Baker 3d told finance ministers from the industrial nations that the United States would "consider the possibility" of holding a monetary conference.

Last month, on Sept. 22, with the trade deficit fueling protectionist moves in Congress, Mr. Baker took a major step toward a more managed currency market by agreeing with four other major industrial powers—Japan, Germany, France and Britain—that the dollar was too high. The officials said that they "stand ready" to force the American currency down and since then the dollar has fallen 6 percent against an average of 15 major currencies.

It is possible that the Administration may go no further than its Sept. 22 commitment. Some critics of the "benign neglect" policy say that a simple endorsement of joint intervention when a currency falls out of line is sufficient to handle the problem.

"We've got a major change already under way," said Robert V. Roosa, a former Under Secretary of the Treasury and a partner at Brown Brothers Harriman in New York, a private bank. Rather than attempt to construct a more elaborate system of currency control, Mr. Roosa said, the Government should now deal with the domestic economic issue that he and many economists see as the source of much of the dollar's rise—the $200 billion annual Federal deficits. Inaction on that, he said, could send the dollar climbing again.

But others endorse a system similar to the Bretton Woods formula, with the dollar or all currencies tied to gold again or to a "basket" of commodities. Proponents of such a system say it would stabilize prices of major commodities, which in turn would stabilize world economies.

"I personally believe in stable, fixed exchange rates and possibly a gold-backed role for the dollar." Representative Kemp said.

But given the failings of the Bretton Woods system, most international economists doubt that a new system would be that extensive. "I think what we need is a synthesis of fixed rates and the excessive volatility that we have now," said C. Fred Bergsten, a former Treasury official and now director of the Institute for International Economics, a research organization here.

"The key," he said, "is to have guidelines, presumptions and even rules that countries could take into account when formulating their economic policies."

[From the New York Times, Nov. 15, 1985]

THE BUCK (POUND, FRANC) STOPS HERE

There's little dispute that the dollar is too high and other currencies are too low, and it's common to blame the current system of free-floating exchange rates for allowing that. But nobody agrees on what, if anything, might work better. A conference in Washington this week has helped put things into focus. Perfection may be out of reach but there are ways to improve the system.

The conference dealt in monetary abstractions, but its roots were profoundly political. Currency values have a direct impact on exports and imports and thus on nations' growth. Growth is how political leaders stay in office. And they are not good at retarding it for some larger common interest. The conference was convened by Senator Bill Bradley, Democrat of New Jersey, and Representative Jack Kemp, Republican of New York. They come at the problem from different directions but agree there's a problem. The Administration didn't until lately, but Treasury Secretary James Baker shows a welcome new openness.

The clearest evidence of trouble is America's immense trade deficit and the huge increase in foreign investment here. With American goods now priced high and foreign goods low, imports have surged and exports lagged. This has cut economic growth at home, inflamed pressure for trade bar-

riers and put America deeply in debt to foreigners. On the positive side the boom in imports stimulates other countries' economies, and foreign investment helps finance the budget deficit.

It is widely assumed that this situation won't last. Countries cannot run large trade deficits indefinitely; one day, foreigners will decide they don't want so many dollars. When they reduce their holdings the dollar's value will drop. If it drops too far or too fast, the world faces a whole new set of distortions. Everyone wants to avoid that; hence the exploration for a more disciplined system.

Until 12 years ago all currencies had a fixed relationship to the dollar, and the dollar was pegged to a fixed price for gold. Fixed rates presume that governments will adjust fiscal and monetary policies if their currencies get out of line. This system was finally overwhelmed by the growth of international trade and capital flows. In 1973 currencies were freed to float.

Mr. Kemp wants to return to some form of rate fixing. Mr Bradley leans toward more flexible controls. There's increased talk of setting "target zones," in which there would be an agreement on exchange rates from which currencies would be allowed to vary by no more than, say, 10 percent.

The big five Western nations agreed in September to seek better alignment of their currencies. But they didn't declare any targets nor reveal any commitments to correct domestic policies. The most notable distortion of currency values comes from the American budget deficits, but other countries' policies are faulty too.

No sovereign government willingly alters domestic policy under foreign pressure. A perfectly harmonious currency system is thus blocked by the political pressures felt by leaders of individual countries. But even sovereigns can recognize a common good. The September accord and this week's brainstorming move in the right direction. Harmony need not be perfect to avert a plunge.

[From the Washington Post, Nov. 13, 1985]

REFORMING THE EXCHANGE RATES

Don't blame imports, or the people who buy them, for the gigantic American trade deficits. The trouble lies in the currency exchange rates, and it's more useful to ask why the exchange markets have been behaving so strangely in the past several years. This week a congressional conference on exchange rates, convened at the initiative of Rep. Jack Kemp and Sen. Bill Bradley, is at work on that question. Most of Congress has now acknowledged, publicly or otherwise, that protectionism—the attempt to hold down imports by law—is dangerous and costly in its effects. But if protectionism won't work, the politicians anxiously ask, what will?

The kind of reform that's needed has less to do with changing the exchange system than with changing the attitudes and political preconceptions that surround it. From World War II until the 1970's, Americans lived in a world in which exchange rates were something for other countries to worry about. The rest of the world made little difference to the hugely powerful economy of this country, most Americans thought, and they were right—for a while. But beginning in the early 1970's this country's foreign trade expanded twice as fast as its economy, and the flows of foreign investment expanded even faster. Although foreign trade and foreign money became major determinants of American prosperity, American views of the world did not adjust immediately to that reality. Until recently the Reagan administration brushed off the foreign connections with the argument that, with steady growth here at home, the international accounts would take care of themselves. That hasn't worked.

As long as the United States runs large budget deficits requiring foreign financing, the dollar exchange rates will continue to be out of line. All of the trading countries draw great advantages from the enormous volumes of trade that now tie their economies together. But because they are tied together their governments enjoy less independence in economic policy than they once did. The Americans in particular are having trouble getting used to these constraints and the obligations to cooperation that they impose.

But the responsibility for poor performance does not lie wholly with the United States. Germany and Japan are still not entirely accustomed to their economic weight, and still behave as though their policies had little effect on anyone but themselves. As long as countries as strong as those two accept so little responsibility for making the system work, it is not likely to work well.

No one country dominates the exchange rates any longer, and managing them successfully is necessarily a joint endeavor. That's the spirit in which the Kemp-Bradley conference is proceeding and that's why it may turn out, in this city of conferences, to be unusually useful.

[From Business Week, Nov. 25, 1985]

KEMP'S MONETARY POWWOW: NOT BAD FOR STARTERS

It was the social event of the year for anyone who matters in international finance. Representative Jack F. Kemp (R-N.Y.) and Senator Bill Bradley (D-N.J.) had called a conference to consider reform of the international monetary system, and 350 leading policymakers, central bankers, and economists flocked to the National Academy of Sciences in Washington for a debate that was downright chic. As it turned out, the conference was a cacophony of diametrically opposed views about how to stabilize the monetary system. But the important thing is that the powwow took place at all.

Treasury Secretary James A. Baker III, who had originally declined an invitation to attend, in the end managed to place himself at the forefront. Supplysider Kemp and his friends had drummed up enough support to make the conference too significant for the secretary to shun.

Baker was the honored guest at the opening party thrown by the organizers in the stately reception rooms of the Federal Reserve. And in an unscheduled interruption of the proceedings the following day, he threw his weight behind the drive to improve the international monetary system. The Sept. 22 agreement between the Group of Five major industrialized countries to stabilize the dollar, the Secretary said. "was not a one-shot effort but one step in a continuing process of enhanced economic cooperation."

World leaders were already alarmed about the monetary system's troubles—and a widespread perception that the G5 agreement was running out of steam only added to the attraction of Kemp's forum. Thanks to sizable intervention in the currency markets by the world's largest central banks, the dollar has come down to its level of early 1984. But the dollar may not stay battened down unless the industrial powers more closely coordinate their economic policies—which could require some painful domestic adjustments.

For that to happen, the world may have to switch to a more managed floating-rate system—a move that may be in the offing. In a significant concession, Deputy Treasury Secretary Richard G. Darman said: "Perhaps there is a middle ground that begins to look like target or reference zones. It seems that that might have some virtue." The French government has backed such a step for some time, and its position was reiterated at the conference by Jacques Attali, chief adviser to President François Mitterrand.

But if Baker was pleased by the support for his more activist approach, he got more than he bargained for. Speaker after speaker criticized the monetary system with a vengeance, struggling to compress their cosmic pronouncements into the five minutes each was allotted. As one organizer put it: "Never before had so many egos been asked to say so much in so little time."

Monetary expert Robert Triffin dismissed the current exchange-rate system as a "world monetary scandal." Professor Robert A. Mundell of Columbia University warned that the world has narrowly escaped total anarchy. He wants to stabilize international monetary reserve around the current price of gold—about $325 per oz. Even such a mainstream economist as Alan Greenspan said that the restoration of something approximating a gold standard would be desirable.

Conspicuously absent. But as Baker warned, improving the international monetary system is "not an overnight task." Although many economists were enthusiastic, there was a noticeable lack of consensus among world leaders on whether major reform is really necessary. Officials of monetarist Britian were conspicuously absent from the conference. Helmut Schlesinger, vice-president of the West German Bundesbank, showed scant interest in reform: "We seem to have forgotten that the fixed-exchange regime had a number of disadvantages as well," he cautioned. And Toyoo Gyohten, a top official at Japan's Finance Ministry, wondered whether the fault lies in the economic policies of the major countries rather than the functioning of the monetary system.

Of course, no one expected the problems of the monetary world to be solved at one meeting. But the talk about reform struck many as refreshing and provocative. If nothing else, said Federal Reserve Vice-Chairman Preston Martin, the conference showed that "it has become socially acceptable" to talk about reforming the international monetary system.

Congressional advocates of reform were equally pleased, and they hope the attention paid to the conference will, as Bradley put it, "accelerate momentum at the official level." That won't be easy. Despite Baker's qualified support for further change, he could run into stiff opposition from Reagan Administration colleagues, including Secretary of State George P. Shultz, who has never been overly fond of currency manipulation. Moreover, as Darman warned the delegates: "Just publishing targets doesn't address the question of policy fundamentals." Put another way, talking about a problem isn't the same thing as fixing it.●

ENCOUNTER ON A MOSCOW SUBWAY

● Mr. SIMON. Mr. President, the November summit between President Reagan and Mikhail Gorbachev is over. Political analysts, Government leaders, and pundits are doing their best to assess the successes and failures of the historic meeting in Geneva. In a weekly column I write for newspapers in my State, I have related an experience that one of my staff members had while visiting the Soviet Union. It illustrates, I believe, the strong yearning peoples of both our countries have for peace. I ask that the article be printed in the RECORD.

The article follows:

ENCOUNTER ON A MOSCOW SUBWAY

(Weekly Column by U.S. Senator Paul Simon of Illinois)

How important was the summit meeting at Geneva?

We will not know with certainty for some time, but there is reason to hope that it was a significant meeting, a time when the U.S. and Soviet leadership came to understand each other better.

President Eisenhower once commented that if the governments of the world stand in the way of peace, the people of the world may push them aside to achieve peace. That is not an exact quote, but it conveys the essence of his remarks.

There is a yearning for peace among all people.

A member of my staff, Art Greles, recently took his first sight-seeing visit to Moscow (not at your expense) and he related this incident:

"It was Friday night, Sept. 6, my birthday—my last night in Moscow. I was returning to the Cosmos Hotel from the Moscow Circus on the subway, and considering how late it was I wanted to make sure that I was on the right train. I saw a Russian man sitting alone—I would say 55 to 60 years of age. I kept saying, 'Cosmos Hotel' and pointed on the map to my destination. He nodded, and said, 'Okay.'

"He then said, in very accented English, 'You American, yes?' I replied, 'Yes.' He then put his hands on my shoulders and forced me down on my knees so I was face to face with him. He then firmly put his hands on the back of my neck and put my head to his chest and patted my shoulders and whispered into my ear, 'Please, no war. No war, please. No war with America—for the children—save children. Russian people do not want war with America. Go home and tell America Russian people do not want war.'

"I replied, 'America does not want war with the Soviet Union. We do not want war, we want peace. I will go home and give your message.' At this point, I was overwhelmed with emotion looking into his eyes. This man was for real—tears almost started coming from my eyes as I felt the adrenalin being released in my system.

"We arrived at my subway stop and I had to get off. He looked at me as I exited, waved and said, with his hand on his heart, 'Please tell them.' I replied, 'I will.'

"This is something I will never forget and was the most moving part of my entire Soviet trip. It showed that they have the same fears and concerns. It also made me wonder exactly what they're being told about the United States."

That is a simple story, but it tells of more than a simple encounter between two people.

The hope and prayer of all of us is that the universal yearning for peace can become a reality. That's what people everywhere want, and we must make sure that governments don't get in their way.●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 which would permit Mr. Robert B. Van Cleve, a member of the staff of Senator JOHN C. DANFORTH, to participate in a program in Israel, sponsored by the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, from January 5 through 16, 1986.

The committee has determined that participation by Mr. Van Cleve in the program, in Israel, at the expense of the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Bruce Heiman, of the staff of Senator DANIEL PATRICK MOYNIHAN, to participate in a program in Taiwan, sponsored by Soochow University, from January 11 through 19, 1986.

The committee has determined that participation by Mr. Heiman in the program, in Taiwan, at the expense of Soochow University, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Greg Chapados, of the staff of Senator TED STEVENS, to participate in a program in Israel, sponsored by the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, from January 6 through 15, 1986.

The committee has determined that participation by Mr. Chapados in the program, in Israel, at the expense of the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Ms. Christina Bolton, of the staff of Senator BOB DOLE, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from January 1 through 10, 1986.

The committee has determined that participation by Ms. Bolton in the program, in Taiwan, at the expense of the Chinese Culture University, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 would would permit Mr. Robert W. Porter, Jr., a member of the staff of Senator WILLIAM S. COHEN, to participate in a program in Taiwan, sponsored by Soochow University, from January 11 through 20, 1986.

The committee has determined that participation by Mr. Porter in the program, in Taiwan, at the expense of Soochow University, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mrs. Mary McGuire of the staff of Senator FRANK H. MURKOWSKI, and Mr. Edward Long of the staff of Senator TOM HARKIN, to participate in a program in Israel, sponsored by the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, from January 5 through 16, 1986.

The committee has determined that participation by Ms. McGuire and Mr. Long in the program, in Israel, at the expense of the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Leon S. Fuerth, a member of the staff of Senator ALBERT GORE, JR., to participate in a program in Israel, sponsored by the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, from January 5 through 16, 1986.

The committee has determined that participation by Mr. Fuerth in the program, in Israel, at the expense of the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, was in the

interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Peter N. Marudas, of the staff of Senator PAUL S. SARBANES, to participate in a symposium in Sussex, England, sponsored by the A.G. Leventis Foundation, Inc., of Paris, France, from January 24 through 26, 1986.

The committee has determined that participation by Mr. Marudas in the symposium in Sussex, England, at the expense of the A.G. Leventis Foundation, Inc., was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Senator PHIL GRAMM to participate in the Davos Symposium, Davos, Switzerland, from January 30 through February 4, 1986, sponsored by the Dallas Chamber, Dallas, TX, and the E-M-F Foundation, Davos, Switzerland.

The committee has determined that participation by Senator GRAMM in the Davos Symposium, in Davos, Switzerland, at the expense of the Dallas Chamber and the E-M-F Foundation, Davos, Switzerland, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Brent Erickson, of the staff of Senator ALAN SIMPSON, to participate in a program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs, and organized by the United States-China Friendship Program, from January 9 through 11, 1986.

The committee has determined that participation by Mr. Erickson in the program in the People's Republic of China, organized by the United States-China Friendship Program, and sponsored by the Chinese People's Institute of Foreign Affairs, was in the interest of the Senate and the United States.●

PROBLEMS OF TEACHERS

● Mr. SIMON. Mr. President, Marguerite Michaels had an article in a recent Parade magazine about the problems teachers are facing.

It is an extremely important article because it speaks to the future of our country.

I occasionally speak to teachers' institutes. If I am speaking to 4 of 500 teachers and I ask, "How many of you would want your sons or daughters to become teachers?" there are usually not more than 10 hands raised.

Even more disconcerting, if you check what is happening at the top 5 percent of the graduating class in any high school in this country, you will find that those top students want to become lawyers, doctors, engineers, architects, journalists, and a variety of other professions, but very few, if any, want to become teachers.

If we want to build the right kind of future for this Nation, we ought to do more to encourage and keep the very finest of our citizens in the teaching profession.

I urge my colleagues to read the Marguerite Michaels story, which I ask to be printed in the RECORD.

The article follows:

A REPORT CARD FROM OUR TEACHERS

(By Marguerite Michaels)

In all the talk about the crisis in education in America in the last few years, one group has been far more talked about than talked to: teachers. Education experts say that intellectual and motivational problems of teachers are the cause of the crisis in education. Even if that it true—if teachers are a large part of the problem—then they must also be a large part of the solution. It seems only logical that what's wrong with our public school system, cannot be fixed without their involvement.

With that thought in mind, Parade asked Mark Clements Research, Inc. to conduct a survey of teachers' attitudes toward their career and the education process itself. At the end of the last school year, 1941 questionnaires were sent out to elementary and secondary school teachers all over the country.

Some of the findings of the survey are:

Almost all teachers feel that schools have been the scapegoats for a lot of society's ills.

87 percent of teachers feel parents are too permissive.

When asked what would help them do their job better, teachers said (1) students with a better attitude toward learning and (2) more parent involvement with their children's education at home. Higher wages came in a surprising seventh.

Only 40 percent of teachers are very satisfied with their jobs, as opposed to 52 percent of the total working public.

40 percent of teachers are more negative about teaching now than when they first started.

One-third of teachers would leave their profession for another job even if the salary were no more than what they are making now.

Parade asked teachers who answered negatively to explain why they felt as they did. A fifth-grade teacher from Florida wrote that "educational values of students and parents have declined." A high school teacher from Ohio said, "I was unprepared for the apathy of students—and parents—and how to deal with it." Teachers cited stress on the job, lack of parental and community support and loss of respect for the profession.

One out of five teachers mentioned problems with school bureaucracy. "Administrators and central office personnel impair my ability to do the job," said a high school teacher from Georgia. "They play partisan politics and do not match teachers to classes for which they are best suited."

While every working person has problems with his or her boss at one time or another, it should be noted that over the last 20 years the number of principals and supervisors in the public school system has increased by 83 percent, compared with a 64 percent increase in classroom teachers. In 1960, there were 40,000 school districts in the U.S. Today there are only 16,000. Consolidation has led to increasing centralization and bureaucracy. Administrators are now getting a much larger portion of the school budget dollar that are the classroom teachers.

More than half of the teachers in Parade's survey said that the mushrooming central school bureaucracy had a negative effect on their work in the classroom.

Most of the continuing controversy about "why Johnny can't read" has focused on poor teaching—and well over a quarter of the teachers surveyed acknowledge that teachers in general are not doing the best job they can. But then say the teachers, neither is Johnny.

It is not a question of discipline, said 78 percent of the teachers. Apathy is a larger problem. Teachers with at least 10 years of classroom experience found their students "less interested in learning" than before, harder to teach" and "not appreciative" of the job teachers are doing.

The Parade/Clements survey asked a series of questions about how the time students spend viewing television has changed their ability to learn. Teachers overwhelmingly said students now expected to be "entertained in the classroom." They thought their students had "shorter attention spans" and found them "more responsive to visual methods to teaching." Parade asked teachers to write in any other effects they thought important, and a sampling of these responses runs from the expected—"study less," "read less," "less physically fit"—to more profound impacts of television. "Poor listening skills," wrote a sixth-grade teacher fom Utah. Many teachers described problems of "passivity," 'lack of imagination," "expectations of easy solutions to problems." "Creates uncertainty about reality," said a high school teacher from Virginia. Most of the teachers surveyed said they had changed their teaching methods in response to television's impact. They use more audiovisual equipment in their classrooms and plan "more compact" lesson presentations. Some even have taken on a "flamboyant acting style," while others have tried to relate classroom work to specific television programs.

While teachers feel that the student is most responsible for his or her own behavior in the classroom, parents came in a close second. Parade's teachers seem both critical of and sympathetic to the parents; 44 percent of the teachers surveyed are parents of students themselves.

Teachers not only found parents too permissive, they also found them often "not at home" to discuss problems teachers might be having with their children or "not creating an environment at home" conducive to learning. Few teachers wanted more parent participation in classroom issues like school curriculum or textbook choices or the hiring policy of teachers. But they clearly want and need parents' help in getting pupils to a point where they are motivated to learn. A grade school teacher from Michigan thought many parents "are not well informed and don't care."

According to Parade's survey, teachers have a fairly low opinion of the impact of some national policy decisions on the classroom:

52 percent of teachers think busing has not helped minorities get a better education.

52 percent of teachers feel the recent spate of reform on the state level—stricter school curricula and higher grade standards—has not improved the education students are receiving.

20 percent of the teachers said that the higher standards have led to a higher student dropout rate in their schools.

Teachers are evenly divided on the question of merit raises and competency tests. They are not divided on what they think it will take to fix things—a new national attitude recognizing the importance of education. Wrote a junior high school teacher from Minnesota: "Even considering the barrage of negatives from the public and political arenas, I still enjoy the job. But education won't improve in this country until Americans truly begin to respect if for its own sake."

The Parade/Clements survey results are based on a total of 1172 questionnaires. The response rate was an extremely high 77.7 percent.

Clearly, teachers would like to be included in the continuing national debate on the quality of education in the United States.

WHY DO WE HAVE SUCH A BAD IMAGE?

The crisis in education, teachers say, is not what is coming out of the classroom, but what is going in. They list unimaginative, overbearing school administrations and competition for students' attention from television and rock music heroes who ridicule education. Most troubling, however, is their increasing suspicion that society does not value teachers.

"The students have such apathy," says Julie Riegel, an elementary school teacher in Ypsilanti, Mich. "That's coming from the parents. We are working so hard. I think we're doing a great job. But we are not important enough to people out there. Why aren't we? Every parent should spend a day with us in the classroom."

David Sutherland teaches elementary school in Scotts Valley, Calif. "If we as a country don't think that the most important thing is to pass down our values and perpetuate the culture, then that culture is threatened." Sutherland—and many of the teachers Parade talked with and polled—felt that parents were "significantly responsible" for the fact that the school system is not allowed to get "the business of teaching done." Sutherland, 36 has been teaching for 13 years. "Before we can get down to reading and writing," he says, "we must teach self-discipline, concentration, honesty, integrity—values that should have been brought from home."

Teachers understand the rising expectations from society, and they accept the challenge to improve, but they feel they are not getting the support they need. "As the level of professionalism increases," says Sutherland, "the level of frustration also increases. The best teachers are looking elsewhere."

"I don't think the public understands how hard we are working," says Betty Williams, who has been teaching elementary school in Kirkland, Wash., for 22 years. "They are always hearing about the strikes. But for my 9 o'clock to 3 o'clock day, I work 7 to 5. There's no break with kids. I'm always working on weekends, and through the summers. You just give so much time and energy. It's intense. Teachers care. Why do we have such a bad image?"

Teachers, say teachers, are as good as ever. What makes a good teacher? Betty Williams says: "You have to love the profession." Brenda Wilson, a third-grade teacher in Syracuse, N.Y., talks about "those indescribable moments when you walk into a classroom and see what progress the kids are making." Julie Riegel agrees: "It is really exciting to watch a child latch onto something." "A good teacher," says Virginia Smit, a high school art teacher, "is a flexible, caring individual." "And a secure individual," adds Jane Cohen, Smit's colleague at Livingston High School in New York City.

Most of all, good teachers believe in their students. "They are a lot brighter than they were 10 years ago," says Diane Landures, who's been teaching for 16 years—at present in Salt Lake City. "You would be stunned by what an 8-year-old or a 9-year-old knows. The children are our future, but when people ask me what I do for a living and I say 'teach'—they say, 'You're kidding!' There is such scorn.

The lack of respect bothers Ed Amaral, a high school math teacher in Hanover, Mass. "I don't want to blame the parents. I'm a parent myself. But society has changed in the 20 years since I started teaching. We grab more things—VCRs, stereos, TVs. We abuse the kids emotionally. What I mean is that we don't demand enough of them. Maybe we have all forgotten the hard work we put into this country after World War II to get where we are today."

Amaral, however, sees much of the recent criticism of education as a positive thing. "I've been in the business long enough to see the pendulum beginning to swing back now to education as the key to a successful future. I think a lot of parents are looking for more quality and are more concerned. They see the competitive world that their children are facing, and they want them prepared as well as possible. That's good news for teachers."●

THE ABORTION ISSUE

● Mr. KERRY. Mr. President, since 1973, when the Supreme Court ruling recognized a woman's right to choose abortion, opponents have attempted to overturn this decision through nearly 500 legislative initiatives. These initiatives seek to restrict abortion from several perspectives ranging from constitutional amendments to prohibiting abortion by statute. As the prochoice advocates recognize this anniversary and the opponents work to reverse the 1973 ruling, one single issue gains significance: That persons of sensitive and informed conscience find themselves on differing sides of the choice issue.

I strongly support the woman's right to terminate a pregnancy, but recognize that such a decision is not made lightly. One may struggle with the circumstances of their own ability to love and care for a coming child and the options a woman must choose from may all seem equally difficult. It is my belief that the prochoice position is weighed with many responsibilities as we all work for greater respect for human life.

There is the responsibility of maintaining broad, accessible family planning to provide maternal and infant health care as well as preventive services. The provisions of family planning services to low- and marginal-income persons can be instrumental in reducing or alleviating poverty and dependency. An especially important part of maternal and infant health is the timing and spacing of births—a key to adequate family planning services. And of course from the beginning, family planning has focused on preventive services to avert the unintended pregnancy. The consequences of pregnancy and childbearing for adolescents is particularly heartrending and family planning services have served to educate teenagers about the obligations or parenting and alternatives for prevention.

There is the responsibility of working for a better quality of life after birth. Our child nutrition programs, assistance for the low income, Headstart, education for the handicapped, and other special programs of benefit to children are all prolife programs. They seek to improve the quality of life for all children regardless of a family's situation, a child's physical handicap, or other special concerns. Recognizing the value of life entails recognizing the malnourished from the nourished, the sick from the healthy, and the poor from the rich.

Coming full circle, though, we return to the value judgment placed on the issue of abortion. The belief in the right to choose abortion is based in philosophical and theological judgments, although no less weighty they cannot be imposed on a multireligious society.

The Supreme Court view in Roe versus Wade stated that there is not a necessary relationship between the definition of legal personhood and a given theory of when life begins. One is the question of law, and the other a question of biology. On the question of law, responsible individuals do and will probably continue to disagree.

The right to a safe and legal abortion is under attack from a specific group of opponents who seem to believe that in their effort to protect fetal life, the sanctity of other lives may be threatened. Women have had their examining rooms invaded, children have come home from elementary school with threatening notes in their schoolbooks, and clinic bombings are seemingly now part of the territory—our own domestic version of terrorism. These incidences represent a trend that all free citizens should fear.

To conclude, I wish to reaffirm my support for programs which improve quality of life, funding for domestic and international family planning services, and legal right to a safe abortion. It is my belief that reproductive freedom is a basic human right, and I shall not deter from my responsibility to protect this right as secured by the Constitution.●

DECLARATION OF FREEDOM

● Mr. CHILES. Mr. President, today the Cuban American community com-

memorates the 20th anniversary of the signing of the Declaration of Freedom. On this date we pay tribute to the 1,500 Cubans who on January 23, 1966, assembled in Key West, FL, and set forth this historic document. More importantly, we pay tribute to the Declaration of Freedom itself. Similar to our own Declaration of Independence, it lays the cornerstone for a free and independent Cuba.

The 20 years which have passed since the signing of the Declaration of Freedom reflect a record of denial of human rights and civil liberties in Cuba. The Cuban people are denied the most basic of freedoms. Fidel Castro has no sympathy for freedom of speech, freedom of the press, or freedom of religion. He has denied his people the right to unhindered emigration and the common exchange of ideas. And he harbors little tolerance for dissenting opinion. Combinado Del Este and Boniato prisons and the atrocities committed within attest to this intolerance.

In Cuba, freedom does not exist. The hardship imposed by the denial of civil liberties is ever present.

The Declaration of Freedom serves as a rallying cry against the crimes committed by a brutal and merciless government; a government which condones cruel and lengthy prison sentences and subjects its prisoners to the harshest forms of physical abuse and mental torture. The Declaration of Freedom is a reaffirmation of the belief in democratic principles and in the dignity of man.

It is proper that we commemorate the 20th anniversary of the signing of the Declaration of Freedom, for it underscores the desire in every Cuban to see his homeland once again free. It embodies a spirit which burns as fervently today as it did 26 years ago when Fidel Castro first came to power and freedom was quickly extinguished in the island nation. This declaration encompasses the yearning of brothers wishing to see brothers set free. It is a statement by free men desiring to break the chains of those who are enslaved. And it stands in defiance of the actions and priorities of a ruthless dictatorship.

Mr. President, I ask that the Declaration of Freedom be printed at this point in the RECORD.

The material follows:

DECLARATION OF FREEDOM

In the city of Key West, Monroe County, State of Florida, United States of America, we, the Cuban exiles in the United States, in the name of God Almighty, and speaking both for ourselves and the oppressed people in Cuba, the Martyr Island, do say:

That on January 1st, 1959, the slavery yoke that came from Europe and was extinguished in Cuba at the end of the 19th century, was resumed.

That those responsible for this high treason to our Fatherland and our People are just a score of traitors who, usurpating the Government of the Country have been acting as mercenary agents for the Sino-Soviet imperialism, and have surrendered to that imperialism our Freedom and our Dignity, also betraying the American Hemisphere.

That as a consequence of this high treason, those who are usurpating the Power in Cuba (as they were never elected by the People), are imposing a regime of bloodshed, terror and hate without any respect or consideration to the dignity of the human being or the most elementary human rights.

That in their hunger for Power, these traitors, following the pattern of totalitarian regimes, are trying, within Cuba, to separate the Family, which is the cornerstone of actual society, and at the same time, are poisoning the minds of the Cuban children and youth, in their hope of extending the length of time for this abominable system.

That the rule of the law has been wiped out in Cuba, and it has been replaced by the evil will of this score of traitors, who are acting under orders from their masters, the Sino Soviet imperialists.

In view of the aforegoing,

WE DECLARE

First: That the actual Cuban regime is guilty of high treason to our Fatherland and to the ideals of the Freedom Revolution which was started on October 10th, 1868.

Second: That this score of traitors who have committed treason against our Fatherland, in case they survive the downfall of their regime, will have to respond, even with their lives before the Ordinary Courts of Justice of Cuba.

Third: That as the Noble Cuban People will not ever surrender, because that Nation was not born to be slaves, we, the Cuban People, hereby make the present

DECLARATION OF FREEDOM

We hereby swear before God Almighty to fight constantly, until death comes to us, to free Cuba from communism.

The fundamentals of this Revolution for Freedom are:

First: God Almighty, above all things, in Whom we believe as the essence of Life.

Second: The Fatherland, with all of its Laws, traditions, customs and history as a spiritual value, only surpassed by the concept of God.

Third: The Family, as the cornerstone of the Human Society.

Fourth: Human Rights, for each and every citizen, regardless of race or creed.

Fifth: The Law, as the foundation for the proper development of the Human Society.

Sixth: Democratic Government, with its three independent branches: Legislative, Executive and Judicial.

Seventh: Representative Democracy, through the exercise of Universal Suffrage, Periodically, Free and Secretive, as the expression of Popular Sovereignty.

Eighth: Freedom of Worship, Freedom of Teaching, Freedom of the Press and Free Enterprise.

Ninth: Private Property and Ownership, as the basic expression of Liberty.

Tenth: The improvement of living conditions for both rural and city working masses, with the just and necessary measures, keeping in mind the legitimate interests of both Labor and Capital.

Eleventh: The derogation and eradication of anything which is opposed to the political and religious fundamentals aforementioned, and specifically, the abolition of Communism and any other form of totalitarian manifestation.

Signed and sealed in Key West, Florida, on the 23rd of January, 1966.●

OUR NATIONS ECONOMY

● Mr. DODD. Mr. President, I would like to bring to the attention of my colleagues an excellent analysis of the myriad of forces affecting the health of our nations economy by the noted economist Lester Thurow which ran in yesterday's edition of the New York Times.

When viewed in context with the news this morning showing last years economic growth at the lowest level since the recession year of 1982 and the upsurge in consumer prices in the last quarter of 1985, we see a confluence of forces which have the potential to threaten our economic choices and opportunities. In raising these highly interrelated economic concerns, it is neither mine nor, I am quite positive, Dr. Thurow's intention to solely act as a harbinger of an economic Armageddon.

The real message here, I believe, is that our economic system is experiencing a variety of strains and that any attempt to deal with the lack of growth in our economy must be in the form of a multifaceted assault on all of these matters by the public and private sectors working in concert. How totally fitting that such a piece should appear on the day of convening for the 2d session of the 99th Congress for the problems which Dr. Thurow outlines should in fact be the overriding priority agenda of this Congress. Let us forget the posturing as to who will blink first in responding to the mandates of Gramm-Rudman-Hollings, and get about the business of putting this Nation's fiscal house in order and restoring confidence in our financial institutions. Professor Thurow describes the disease. It is now up to each one of us to assume at least partial responsibility for the cure.

I ask that this article be printed in the RECORD at this point.

The article follows:

[From the New York Times, Jan. 22, 1986]

THE 20'S AND 30'S CAN HAPPEN AGAIN

(By Lester C. Thurow)

CAMBRIDGE, MASS.—I am often asked whether the financial panics of the 1920's and the Great Depression of the 1930's could happen again. For 20 years, I have answered that what happened then could not happen now. Today, I would not so answer.

The loan portfolios of American banks include more than $500 billion in farm and third-world debt, where default is easily imagined. As oil prices fall, what were good oil loans are rapidly becoming bad ones. Major banks are sinking under the weight of falling real estate values. Mergers and leveraged buyouts lead to firms that can barely meet interest obligations in boom periods and that could not meet them in a recession.

Give any banking system enough nonperforming loans and it will crack: It must pay interest to its depositors but has no income.

Government compounds the problem by refusing to recognize that it has a duty to insure honesty and a safe place to park one's money. Fraud has played a role in many of the banking collapses that have already occurred, and the citizens of Maryland and Ohio know that their money is not safe. Government insurance funds are minuscule in comparison with probable losses. The public thinks it has the full faith and credit of the Federal Government behind it, but legally it doesn't. The net result is a banking system that is surely as fragile today as it was in the 1920's.

Financial markets are filling up with instruments—junk bonds, index futures, bundled mortgages—and the participants understand what they are buying and selling just about as much as they do when they are playing a hand of poker. One can easily imagine a default, say in the junk bond market, that would bring the salability and hence liquidity of these instruments to an abrupt halt. Yet everyone—consumers, businesses, Government—continues to go into debt at record rates.

A nervous stock market booms while the economy sags. Stagnation, farm bankruptcies, financial speculation, nonperforming loans, large potential defaults, falling real estate values (remember the Florida land boom and bust of the 1920's)—the echoes of the Great Depression sound louder and louder.

In the 1980's, international debt and not the stock market is apt to be the hammer that shatters a fragile financial system. This country entered 1986 with $100 billion in international debt, borrowing $150 billion a year to finance its trade deficit and being able to violate the first commandment of a Swiss banker: "Never lend money to someone who must borrow money to pay interest." By 1989, America will owe more than $600 billion to the rest of the world and have to pay more than $60 billion in interest payments—a sum that will require the annual output of 1.5 million workers.

Just as no one could predict when the stock market would crash in the 1920's, so no one can predict when the foreign lending will stop in the 1980's. But stop it will, for no nation can forever borrow ever larger sums. Since the world's wealthiest nation has never been the world's largest debtor, and since the world's reserve currency has never been held by a debtor nation, no one knows the thickness of the financial ice upon which the world is skating, but any unwillingness to continue lending hundreds of billions of dollars, much less an abrupt shift out of dollars, would create an instant liquidity crisis.

Yet as my colleague Charles Kindleberger, an economist, has pointed out, there is today no international lender of last resort. Would conservative governments be willing to instantly lend hundreds of billions (Japan and West Germany to the United States; the United States to its banks) and effectively nationalize the world's financial markets in the event of a run on the dollar? To do so would be to violate the deeply held principle that free markets take care of themselves. But not to do so would be to watch the system collapse.

It is not hard to imagine that governments will do too little too late if what must be done involves massive interventions violating their own principles. Each government marches on as if it could still go it alone. But "every nation for itself" might have been the motto of the late 1920's.

Societies have a tendency to make fundamental mistakes at 60-year intervals, since everyone old enough to remember the previous mistake is by then either dead or senile. Sixty years ago, the world was marching toward financial disaster. To pretend it cannot happen again and that governments do not have to act to protect the integrity of the system is to guarantee that it will happen again.●

THE NEW FEDERAL BUREAUCRACY POWER GRAB

● Mrs. HAWKINS. Mr. President, as the U.S. Congress considers legislation to regulate and govern the activities of this great Nation, there is an underlying belief that is critical to the continuation of our democracy. This belief is that people are basically honest. This Nation's Founding Fathers envisioned a system of liberty, freedom, free enterprise, and individual growth undergirded by a belief that citizens may be trusted. As a matter of fact, this country's foundation is based on the principle that the trust in people will be held higher than the trust in government.

There is legislation now being considered in Congress that runs contrary to this basic belief. The proposed legislation could penalize every citizen of the United States for honest mistakes. When I say penalize, I mean the Federal Government could exact huge assessment from the people beyond actual damages to the Government for anyone making an honest mistake. Two bills, the Program Fraud Civil Penalties Act—S. 1134, and Civil False Claims Act amendments—S. 1562, when taken together, produce an onerous pattern of Federal legislation.

To cite just a few of the provisions contained in the bills:

No proof of intent to defraud is required, and no proof of actual knowledge of falsity. The reduction in this standard opens up the possibility of the Government charging fraud for a simple honest mistake such as not checking a statement carefully enough or omitting some information deemed to be important.

The burden of proof is reduced to a preponderance of evidence—well below that which is required to protect the average citizen from the vagaries of a Federal official which sets out to punish and intimidate people.

The inspectors general of each Federal agency would be empowered to unlimited subpoena rights including unprecedented authority to require personal testimony and interrogation. This power is extremely pernicious and would lead to unmeasured harassment of the people. Further, the agency would not have to tell the person the purpose of the subpoena or identify any transactions. They do not even have to tell the individual whether or not he or she is a target or merely a bystander.

One bill covers any application or statement such as an application for employment, a veteran applying for VA medical care, a farmer on a farm program, the IRS, Social Security applications, or seeking a Federal loan for housing. About the only Government employees not covered are employees of the legislative branch.

An individual can be fined by a Federal agency without any court trial. The amount may be in $10,000 increments but unlimited in total amount. For example, if an individual filled out 10 employment applications and each contained the same misstatement, the person could be fined $100,000. For more complex situations involving grants, loans, contracts, and so forth, the penalties could reach millions.

One bill applies to any false statements, even where no claim is filed and the Government has suffered no loss. It is not aimed solely at people with contracts with the Federal Government, but will cover anyone who makes a statement which proves to be untrue which is related to any program which receives any Federal funds, even if administered by a local government or a private company.

The unfairnesses are many, the previous are just a few.

What is at stake is whether the Government will be granted extraordinary powers to determine and proclaim fraud where there is no fraud as defined for all other institutions and individuals in this country. In short, what is right and wrong for you and I as ordinary citizens is not the same under the Government's standard.

The further question is—should the Government be exempted from the constitutional guarantees laid down by our Founding Fathers? In 1789, the Bill of Rights proclaims that "No person shall be—deprived of life, liberty or property without due process of law." For something as fundamental as individual and civil rights we must be sure a change is absolutely necessary. Before changes of the order and magnitude proposed are made to apply to federally funded programs, and only to them, we should consider carefully why these radical changes are needed, and if so, why no similar changes are needed in the laws applicable to the rest of us. The debate should be broad. In addition to the fundamental issue raised here, Congress should carefully determine the impact of such legislation on Government programs. In addition, we should evaluate the legislation's impact on effectiveness of Government programs.

As we in Congress seek to reduce the size of Government, much turbulence will be created to bring the budget under control. During this difficult time period, the Federal bureaucracy

will tend to point the finger to others to deflect criticism for their inadequacies to manage. The proposed legislation would open up the potential for a level of harassment and intimidation of U.S. citizens unparalleled in our history. The great Founders and past leaders of this Nation have consistently called for external vigilance regarding Government powers. In 1787, John Adams said:

> The way to secure liberty is to give them—the people—power at all times to defend it in the legislature and in the courts of justice.

Supreme Court Justice Louis D. Brandeis some 60 years ago observed that:

> The greatest dangers to liberty lie in the insidious encroachment of men, well meaning but without understanding.

In 1940, the respected judge of the U.S. Second Circuit of Appeals, Judge Learned Hand, recognized the dangers of blaming problems of society upon other individuals. He said "a community is already in its process of dissolution where each man begins to eye his neighbors as a possible enemy."

It is vital that we focus on the insidious encroachment of a growing bureaucracy that threatens our free society.

More recently, John F. Kennedy spoke to this issue when he said:

> Although our civil liberties also serve important private purposes—above all they were considered essential to the republican form of government. Such a government required that the consent of the governed be given freely, thoughtfully and intelligently. Without freedom of speech, freedom of assembly, freedom of religion, freedom of the press, equal protection of the laws, and other unalienable rights, men could not govern themselves intelligently.

It is with this perspective that I share with my colleagues this deep concern about vesting new powers in the Federal bureaucracy which runs contrary to the underpinning of the United States of America and its people.

In summary, S. 1134 and S. 1562 if enacted would vest with the Federal Government special arbitrary powers that are inimical to the interests of this country and its citizens. Over 200 years ago, John Adams gave us a guiding principle concerning Government power when he said, "nip the shoots of arbitrary power in the bud is the only maximum which can ever preserve the liberties of any people." This we must do.●

LEGALIZED ABORTION

● Mr. HUMPHREY. Mr. President, January 22, 1986, marks the 13th anniversary of the disastrous Roe versus Wade decision legalizing abortion on demand throughout the 9 months of a woman's pregnancy. Over these 13 years we have all heard endless justifications for the views of one side or another. But the abortion debate focuses on a clear, concise, undeniable truth that each and every one of us must accept if we approach the issue with any degree of objectivity: The offspring of human beings are human beings. Abortion is the deliberate killing of a human being without regard for the right to life all human beings enjoy, and thus is the greatest civil rights issue we have known or will know.●

RETIREMENT OF ANN CATON

● Mr. KERRY. Mr. President, upon the retirement of Ann Caton, many people who have known Ann in the Senate wish to express their appreciation for her 25 years of service as an employee of the Senate.

Ann Caton at all times has discharged the important duties and responsibilities of her office with great efficiency and diligence.

Her exceptional service and her continuous dedication to duty have earned for her our respect, esteem, and our affection.

On behalf of all of her many friends in this institution, I wish to commend Ann Caton for her lengthy, faithful, and outstanding service to the U.S. Capitol Guide Service Section 2.●

PHILIPPINE ELECTIONS

● Mr. CRANSTON. Mr. President, at this morning's hearings of the Senate Foreign Relations Committee on the Philippine elections, I expressed my serious concerns about how the anticipated results in the Philippines can impact on America's military and economic interests in the Pacific. I wish to share these views with my colleagues.

The article follows:

OPENING STATEMENT OF SENATOR ALAN CRANSTON, SENATE FOREIGN RELATIONS COMMITTEE—HEARING ON PHILIPPINE ELECTIONS

Mr. Chairman, I want to express my appreciation for today's timely hearing on the Philippine elections.

This committee has worked together with an admirable bipartisan spirit as we've addressed the crisis in the Philippines. As ranking member of the Asian Affairs Subcommittee, I have welcomed the intense scrutiny this issue has borne from concerned committee members. We are united—Republicans and Democrats—in our commitment to promote democracy for the Philippine people. And we are united on this committee in our determination to protect America's vital interest in our Philippine bases—an interest which I am convinced can best be secured by a prompt end to the Marcos dictatorship.

I want to take a moment at the outset to give voice to a concern that I know has been on many senators' minds—and on the minds of senior Administration officials who are anxiously monitoring the developments out of Manila.

That concern is that the Philippine elections are looking more and more like a setup, a sham, that they are shaping up to be elections like the kind they have in the Kremlin—"elections" where the oligarchy always wins.

Consider the events of the past few days:

Worried that the eyes of the world might witness the massive fraud tactics used so successfully in the past by the Marcos machine, Marcos lieutenants have barred all foreign government officials—and journalists—from observing the voting.

Anxious that the opposition candidates might be reaching the Philippine people, President Marcos has intimidated news executives throughout the country; as a result, the opposition candidate has only appeared on the state controlled news three times in the past ten days. She is not quoted, and no footage of her enormous crowds are shown. Philippine journalists who continued to cover her campaign have been summarily fired.

Similarly, all five of the nation's TV stations have refused to carry the oppositions' commercials, which have been held up for censorship review by a board responsible for purging sex and violence from TV films.

—The nations' four largest newspapers, all controlled by Marcos cronies, read like campaign newsletters for the dictatorship, blatantly denying equal access.

—Consider that plans for computerized vote counting to reduce cheating have been dropped. Consider that General Ver, implicated by investigators in the assassination of Senator Aquino, still runs the military. Consider that citizen observers trying to establish a poll monitoring system are subject to fingerprinting and mugshots. Consider that none of the Election Commission vacancies have been filled—thereby ensuring that COMELEC is but another tool for the Marcos machine.

What does it add up to?

Well, Mr. Chairman, I know that if this weekend's ballgame in New Orleans were to proceed with one team getting ten downs, and the other but one, with one team allowed twenty players at a time, and the other only a few, with one team starting their drives from the fifty yard line and the other from their own end zone, why then I don't think we'd call it a Super Bowl. I think we would recognize it as a fraud.

It is clear Marcos is not allowing a level playing field, even with all his power, all his millions, even with his most formidable opponent dead from an assassin's bullet. I think we have to accept the fact that the Philippine election is shaping up as a fraud, a systematic attempt to deny the Philippine people their right to a fair election, their right to a democratic future.

Such a fraud would be an enormous boon for the communists and would have a devastating impact on U.S. security interests. In this respect, Ferdinand Marcos remains the best friend Moscow has in the Philippines today. For in the perpetuation of this crony dictatorship lies the swiftest path for an ultimate communist takeover in Manila.

In conclusion, Mr. Chairman, I think we have to be very realistic. It doesn't look like Marcos is going to allow a fair election because he'd lose it. I believe the Reagan Administration must make clear—publicly and promptly—that the U.S. will sharply curtail its relations with the Marcos dictatorship if it continues between now and February 7 to defraud the Philippine people. We must be prepared to halt all military aid to this dictatorship. And we must accelerate the process of developing alternatives to our facilities at Clark and Subic Bay. For if fraud carries the day, the future for Philippine de-

mocracy—and for vital American security interests in that nation—will be terribly bleak.●

ADDRESS BY JOHN HUME, IRISH STATESMAN

● Mr. MOYNIHAN. Mr. President, I wish to draw the attention of the Senate to an event of some considerable importance in the history now unfolding in Ireland, more precisely in Northern Ireland. Today, of course, by-elections are being held in a number of the British parliamentary districts in Northern Ireland, balloting which Members of this body are watching with interest. It happens coincidently that during the congressional recess just concluded the Catholic University of America awarded the degree doctorate of laws, honoris causa, to the Irish statesman, John Hume, M.P., M.E.P.

John Hume is the leader of the principal nationalist party in Northern Ireland, the Social Democratic and Labor Party. He is, in point of fact, a democratic leader of far greater consequence than merely his offices might suggest. A leader in the truest sense of the word; showing his people in word and deed the way forward, through difficult times, toward what may be hoped to be a peaceful, just, and prosperous society. A democrat he is most fundamentally, in a place and at a time where others are not always, where a commitment such as Mr. Hume's entails risks American politicians can only imagine.

Mr. Hume's professional career began in the classroom and so he was perhaps more at home at Catholic University than might otherwise have been expected. He is also a teacher by vocation and inclination.

Upon receiving the honorary degree from the president of the Catholic University, the Rev. William J. Byron, SJ, Mr. Hume was invited to deliver the Brendan Brown Lecture, sponsored by the Columbus School of Law there.

With explicit reference to the anniversary celebrated on that day, January 15, 1986, the birth of the Rev. Martin Luther King, Jr., Mr. Hume entitled his address "A Society Is Richer for Its Diversity." His message was drawn in equal parts from the writings of Dr. King and the experience of the Irish people.

His theme, as Mr. Hume explained to his American audience, was taken from the obverse of the copper penny, "the smallest coin in this country" which bears America's message of greatest value, the cement of your society—E Pluribus Unum—from many, one.

In an age in which the most enduring and vicious of armed conflicts have been revealed to be based not in ideology and geography, but in the diversity of the world's ethnic experience, John Hume's is a message of tolerance and respect for the diversity of mankind's traditions.

It is no less vital a message in the United States than it is in Ireland—or Africa, or the Middle East, or Southeast Asia or Central America.

For the benefit of Senators, and other readers of the CONGRESSIONAL RECORD, who would like to contemplate the words of Juhn Hume—a man whose life's work has won the lasting respect and admiration of so many Members of this body—I ask that the complete text of the Brendan Brown Lecture, delivered here in Washington, DC, on January 15, 1986, be printed in the RECORD.

The lecture follows.

ADDRESS BY JOHN HUME—MEMBER OF PARLIAMENT FOR FOYLE, MEMBER OF THE EUROPEAN PARLIAMENT FOR NORTHERN IRELAND

It is a great honor for me to accept this Honorary Degree from an educational institution of such high standing and prestige as the Catholic University of America. It is also a great pleasure for me to receive this award and to speak to you in an institution which has such a distinguished record of service in a whole range of fields corresponding to my own background and to the causes which I have sought to serve in my political life.

Coming from Ireland, which over 40 million Americans are proud to claim as the land of their birth or ancestry, let me salute the work and achievement of Catholic University in documenting, in studying, in celebrating the heritage of those Americans. Irish studies were initiated here 1896, the first Department of Irish Studies in any university in the U.S. only seven years after this institution opened its doors and over the intervening period, right up to the present day, the scholars who have graced these halls have made a contribution to the study of the rich linguistic, cultural and literary heritage bequeathed to us by the different major strands and traditions that have gone to make up the Irish nation.

The themes of heritage, of diversity and its acceptance, of the fight to end discrimination and to promote respect and recognition for minorities, are all themes for which this university is rightly celebrated and on which I hope to touch in my remarks here today and which go to the heart of Ireland's present tragedy. We are gathered here today at the beginning of the International Year of Peace and on the birthday of a great American, Martin Luther King, a man of world stature, whose principle of non-violence in the struggle for justice has been an inspiration and guiding light to me personally in my approach to the resolution of conflict, whether in Ireland or the international sphere.

You are, in this country heirs to beneficiaries of great traditions and principles of constitutional government which stand out as of particular value and indeed, as a standard of emulation and application in our own affairs in Ireland today. Through a process of development that was never easy or free of problems, you have gone very far in giving real, practical effect to equality before the law for every citizen and to equality of opportunity. Yours is a state where there is a wider measure of national and political consensus, fashioned from rich and broad diversity. From many you have one.

In America, there has always been respect for this idea of unity in diversity and whatever the controversies may be about the value and application today of the old melting-pot concept, there is, I understand, increasing acceptance of the idea of cultural pluralism. Again not without difficulty yesterday or devoid of controversy today, you have achieved religious toleration and established the separation of Church and State. Written on your smallest coin in this country is your message of greatest value, the cement of your society—E Pluribus Unum—from many, one. The essence of unity is the acceptance of diversity. The tragedy of divided people everywhere, as in Ireland, is that they have pushed difference to the point of division and have not yet learned the lesson that is the essence of unity in every democratic society in the world is to accept and respect diversity. To those among you who come from an Irish-American background, let me say, with no disrespect to those of you here whose ancestry and heritage are different, that you come from a community, which brought to the building of America qualities encompassed in the poet Yeat's description "the indomitable Irishry" and left a record of achievement in which you may take justifiable pride, as we in Ireland certainly do. That is a subject for another time but let me briefly recall how they brought to the support of a thirst for justice, appreciation of the power of organisation, reflected in the development of the labour movement and of popular, democratic politics. They were not all angels but in the main, rejecting the fatalistic claim that power corrupts, accepting instead the dictum of their fellow Irishman G.B. Shaw, "Fools corrupt power," they understood and applied the use of power, of politics, for good, as when in this nation, just over twenty years ago, John F. and Robert Kennedy embraced the vision of Martin Luther King and developed and applied the powers of the federal government in the interests of justice and equality for the black people of America.

The Irish Americans have also understood and put to good use the power of education, its power for the material and social advancement of the individual and of his or her community. They did not seek to improve their position in American society through violence or through any attempt to obtain or exercise a dominant position. Instead they harnessed the non-violent power of education, first saving from their meagre incomes as laboureres or servants the money that was necessary to educate their sons and daughters and, later applying the resources of any improved position to endow institutions of education such as the Catholic University of America and indeed, to support investment, economic and social development and cultural activity in Ireland itself. And all this progress without throwing a stone. The achievements of Irish in America from the background of starving immigrants and deep deprivation to positions of power and influence in all walks of American is one of the greatest success stories of non-violence in America.

In Northern Ireland, the people of Irish nationalist tradition whom I represent have followed the same path. We also shared that thirst and respect for education and when, after World War II, the policies of the British Labour Government greatly widened access to education, we seized the opportunities thus afforded. A new and highly educated generation emerged from the nationalist minority, as it also emerged among

the Irish here and more lately among the black minority here, which was not prepared to accept intolerance and disadvantage as their legacy or as a future for their children. That new generation embarked on a struggle to achieve equal rights in the North of Ireland, including the right to have their political and cultural tradition reflected and expressed in the structures by which they were governed. The methods chosen by the great majority of them were those of nonviolent protest and of democratic politics which *have* served so well for both the Irish and the blacks in America.

Before expanding a little on those parallels, let me sketch in briefly the background to the problems in Northern Ireland whose travail figures so frequently and so tragically in the newspapers here in America.

The story of Northern Ireland is the story of conflict—not one I must explain a religious conflict, even though the two communities who live there draw much of their character and their coherence from their religious traditions. It is rather a conflict between the aspirations of ordinary men and women—600,000 Nationalists, 900,000 Unionists—who have been trapped by a tragic error of history which saw their hopes and fears as mutually exclusive and irreconcilable within an Irish state but which obliged them nonetheless to live and compete side-by-side in one corner of Ireland. These two communities in Northern Ireland, Catholic and Protestant, Nationalist and Unionist, both behave like threatened minorities and only by regarding them and only by removing the fears which they both feel can a just and durable solution be found.

Northern Ireland was born out of the insecurity of the Protestant-Unionist minority in Ireland itself. Fearful of becoming a minority in the Irish State then emerging sixty years ago, distrustful of the intentions of their fellow Irishmen, zealous to protect the advantages they believed they had under British rule, the leadership of the Unionist community sought and achieved, through threat of force, the acquiesence of Britain in the creation of a new political, territorial and artificial entity in Ireland wherein they hoped they could shape their own destiny as part of the United Kingdom. But the new self-governing political entity thereby established, called Northern Ireland, was neither secure or homogeneous. Caught within its boundaries was a substantial Catholic and nationalist minority, which felt itself Irish, and which did not cease to be Irish simply because legislation elsewhere had drawn a line on a map and declared that henceforth they were British. Thus Northern Ireland, served only to extend and aggravate this conflict by compressing the clash of majority and minority within an even more narrow and more rigid territorial, economic and social confine. Much hated little room maimed us from the start.

For over fifty years the Unionist majority sought to entrench their position through political gerrymander and discrimination. Though inexcusable, it was inevitable that they should have acted in this fashion—as other majorities have at times acted—since their inheritance was not a land of promise but a polity of insecurity. It was inevitable also that each attempt they made, at the expense of their neighbors, to strengthen their role and protect their privileges should serve only to disrupt the structures of society as a whole and to create new tensions and new insecurities. This was the case also in the deep south of the United States not too many years ago where an insensitive and insecure white majority held away. I have already referred to the parallel emergence in Northern Ireland and in the American South of a new articulate generation with expectations raised through education and impatient and angry at the injustices they suffered.

The American civil rights movement in the 60's gave birth to ours. Your successes were for us a cause of hope. The songs of your movement were also ours. We also believe that "we shall overcome": that rallying song is sung every year at my Party Conference. Most importantly, the philosohy of non-violence which sustained your strugle was also part of ours. Our own history and our own circumstances gave a special power to the counsel of Reverend Martin Luther King that violence as a way of achieving justice is both impractical and immoral. As he put it:

"It is impractical because it is a descending spiral ending in destruction for all. The old law of an eye for an eye leaves everybody blind. It is immoral because it seeks to humiliate the opponent rather than win understanding; it seeks to annihilate rather than convert. Violence is immoral because it thrives on hatred rather than love. It destroys community and makes brotherhood impossible. It leaves society in monologue rather than dialogue. Violence ends by defeating itself. It creates bitterness in the survivors and brutality in the destroyers."

Can anyone looking at divided societies in the world today like Lebanon, Cyprus and Ireland doubt the wisdom of these words of Martin Luther King?

The world in the 60's responded with sympathy to our non-violent movement for civil rights as it did to yours. But whereas here in the United States the structures of your democracy were resilient enough to encompass the challenge of civil rights, in the unstable political environment of Northern Ireland, our struggle was perceived as a threat to the very survival of the society itself and as such was resisted by the institutions of the State.

In the ensuing clash, the Unionist majority, through the imposition of direct rule from London, lost their local parliament which they had come to regard as the symbol of their independence and as the guarantor of their heritage. Though many would still wish to regard Northern Ireland as their exclusive homeland, they lack the power and indeed the freedom to shape their destiny as they once hoped. Though they dominate the security institutions of the State still, they have not found security as a people. This insecurity has led them to oppose change, even when that change is constructive.

Nevertheless through pressure on the British Government including the presence of sympathetic opinion in America and the world at large, we were able to make, through non-violent methods, major progress on a number of fronts, especially on the original demands of our Civil Rights Movement. These included one-man, one-vote, fair allocation of publicly provided housing and an end to job discrimination. Before that, gerrymander was rife in Northern Ireland and local elections and unfair voting systems were used by the unionist ascendency to control housing and jobs on a sectarian basis. Housing conditions in many parts of the North were appalling. Today the housing situation throughout Northern Ireland has been transformed due to the creation of the Northern Ireland Housing Executive, a proposal which my own party, the Social Democratic and Labour Party, put to the British government of the day and accepted by them, thereby taking public housing allocation out of the hands of local unionist politicians. This has meant a major transformation in the living conditions of people throughout Northern Ireland. The electoral and local government system has been drastically altered with the introduction of proportional representation ending gerrymandering at the local level and drastically reducing the power of political bigots. A public regulatory agency, the Fair Employment Agency, for which we fought successfully but for which we want more teeth, is and has been a valuable watchdog in exposing, and making more difficult, discrimination by public bodies.

While we made these very worthwhile advances, affecting the lives of ordinary men and women, we encountered, as I have said, a blockage from the unionist parties, to our legitimate calls and efforts to secure for the nationalist people we represent effective political, symbolic and administrative expression of their identity, including a fair share in the exercise of political power in the executive, as well as the legislative branch of government. Moreover, the reforms we secured were not, regrettably, generously and openly offered by the majority party but had to be imposed on them by the British Government and Parliament.

Against the background of the resulting clashes and in impatience at the results achieved by peaceful, political methods, the philosphy of non-violence was rejected by a minority in my own community who followed the old law of an eye for an eye, who in the end were inevitably brutalised by the process in which they engaged, who in their savage anger and barbarous deeds have come to reflect themselves all of the hatred and sectarianism they had sought to overthrow and who, in their pursuit of violence, demeaned the cause we hold dear and lost us many good allies around the world. Sustained by their violence this terrorist group is beset by the illusion that they can, one day, impose their will on Ireland as a whole.

This violence, together with the unionist intransigence which gave it birth and the too long continued inadequacies of British policies in tackling the underlying political problem, has left us a bitter harvest. The human losses and economic costs have been enormous. The most tragic loss is that of the deaths of over 2,400 men, women and children. These deaths, in an area with a population of 1½ million, are equivalent in proportionate terms to the killing of approximately 350,000 in the United States. In addition, almost 25,000 people have been injured or maimed. Thousands are suffering from psychological stress because of the fear and tension generated by murder, bombing, intimidation and the impact of security countermeasures. In Northern Ireland, we now have the highest number of prisoners per head of population in Western Europe—in an area where twenty years ago, serious crime was practically unknown. The lives of tens of thousands have been deeply affected. The effect on society has been shattering. There is hardly a family that has not been touched to some degree by death, injury or intimidation.

Those of you concerned with Irish Studies will find the corrosive effects on community, to which Martin Luther King referred, in mutual fear and suspicion among neighbours, in the polarisation of small towns and countryside, in the erosion of the pi-

eties, decencies and courtesies of civilised living, searingly evoked recently, with the savage indignation of Jonathan Swift, in the recent novel by my fellow-Ulsterman and frequent sojourner to America, Ben Kiely, entitled "Nothing Happens in Carmincross". These are the fruits of violence and of alienation.

For terrorist violence, while it can never be condoned or accepted, too often springs from the alienation produced by intransigence or neglect, by the failure to tackle political problems through the political process, by the failure to accommodate adequately the identity and aspiration of communities and peoples whether it is nationalists in Northern Ireland, Palestinians in the Middle East, blacks in South Africa or Jews in the Soviet Union.

I would quote Martin Luther King again: "When an individual is no longer a true participant, when he no longer feels a sense of responsibility to his society, the content of democracy is emptied . . . when the social system does not build security but induces peril, inexorably the individual is impelled to pull away from a soulless society. This produces alienation—perhaps the most pervasive and insidious development in contemporary society."

Although a consequence of the injustices of others, alienation is a desperate and dangerous development within minorities because it weakens their coherence, erodes their faith in progress and gives terrorism the opportunity to take root. As it was expressed by W.B. Yeats: "Too long a sacrifice can make a stone of the heart."

When a society produces alienation in the individual, when it cannot provide for the equality and the differences of its citizens, "when the social system does not build security but induces peril," that society must be reshaped and transformed through new institutions which accommodate diversity and promote the best basis for reconciliation.

This is the only way forward in Northern Ireland. Let me demonstrate this by considering the alternatives offered. There is the unionist approach the majority community in Northern Ireland of ascendancy, of seeking the exclusive exercise of political power in Northern Ireland for themselves, of ignoring the existence of a communiy, comprising 40% of the area's population who have a different identity and a different aspiration. They hark back to the past and speak of the future only with fear and foreboding, a paranoia encapsulated by a poet in the lines now taken up in graffiti on the walls of the area's largest city: "To hell with the future and long live the past, May God in his mercy be kind to Belfast"

One can join in saying "Amen" to the last line but the conflict reflects a sad condition, a seige mentality, rooted in insecurity, in prejudice, in fear of domination by a Catholic majority in Ireland, so-called "Rome Rule". Even if, in light of history and of the terrorist campaign of the IRA, some of these fears are understandable, they are groundless. There can be no solution to our problem which seeks to destroy or to crush the Protestant heritage in Ireland. It would be unthinkable. Accommodation of difference is the only basis of peace and stability in our divided society.

Then there is the other alternative, that of the Provisional IRA and their political wing. The military wing bombs factories and the political wing shout about unemployment, the military wing shoot a teacher in a classroom, kill school bus drivers, kill people on campuses and then the political wing lectures us about education. The military wing maim and injure, they carry out attacks in hospital precincts and then the political wing talk about protecting the Health Service. On a Friday morning their housing spokesman complains about a $6 million cut in the budget of the Housing Executive in Northern Ireland as a whole. On the same Friday evening their military wing blows up $2 million of public money in a single street. The political wing attacks the British Government for reneging on an agreement with the Irish Government to bring natural gas from the South and the military blow up the inter-connector that connected the electricity systems, North and South. The political wing condemn the execution of a young black poet in South Africa but the military wing execute a young unemployed man in a back lane in my own city or a trussed up young couple in the back streets of West Belfast. The real strategy and objectives are clear. Have the military wing create as much discontent and deprivation as possible. The more unemployment the better. Then have your political wing feed off the people's discontent.

My party, the SDLP, born out of the Civil Rights Movement, has rejected these two purported alternatives which in fact offer no hope for the future. Like Martin Luther King, we had a dream, like Theobald Wolfe Tone, the father of Irish republicanism, our vision has been "to substitute for the denomination of Catholic, Protestant and Dissenter the common name of Irishman." Our chosen strategy encompassed Reform, Reconciliation, and Reunification along a path of steady progress, continually narrowing the gap between the reality and the dream, using the political means of dialogue, persuasion, negotiation, accommodation, compromise. Violence can never heal the deep wounds that divide a people. Only a healing process can in time end the division in Ireland.

Our analysis is that the first necessary step in that healing process is the creation of total equality of treatment of all the citizens of Northern Ireland, nationalists and unionists alike, from basic civil rights to full expression of their identity. I have outlined the worthwhile—but still far from adequate—reforms and changes achieved in earlier stages of this reform process. But even after these, Northern nationalists in Northern Ireland remained within a state with which they could not identify, with institutions, a security system, cultural assumptions and official symbolism which are alien to them and appeared in many ways designed to make them strangers in their own land, in a situation where they were denied any constructive means of expressing their Irish identity and aspirations, their cultural and political identification with the rest of Ireland. Thus, the process of bringing about practical recognition and respect for equality between the two identities and communities remains to be completed. To achieve this was the first objective we set for ourselves.

On the basis of that equality on that, because reconciliation can only be based on equality, comes the process of reconciliation, the second element, in my party's long-term programme, the breaking down of barriers between the different sections of our people. No one can underestimate the difficulty of that task. It will take time, but it is a task that involves everyone and that will lead, coming to the third major element, to the only Irish unity that really matters, the only unity that all pre-partition leaders spoke of, a unity that respects diversity and legitimises differences. That is a process and objective that no one need fear because everyone must be part of the building process. Those who claim that their role and objective in politics is to preserve, protect and develop the Protestant tradition in Ireland have surely much more interest in a process such as this than standing forever apart, paranoid about the future precisely because they have refused to grasp the nettle of settling their relationships with the people with whom they share the island of Ireland.

In the analysis I am setting out the process of reform and reconciliation could best be tackled through a framework corresponding to the framework of the problem and thus, through the British-Irish framework, through an approach that dealt and deals with the three major dimensions of the problem—relations between the two communities in Northern Ireland, relations between both parties, the nationalist and unionist traditions in Ireland as a whole and relations between Ireland and Britain. A promising start along these lines was made following discussions between the Irish and British Governments in 1980 but these efforts suffered a major setback in 1981 and 1982, as a result of the trauma arising from the campaign and deaths of the hunger-strikers imprisoned in Northern Ireland. As a consequence in that atmosphere three years ago, we faced a bleak situation and prospect, with alienation greatly accentuated and more widespread among all sections of the nationalist community and with the political situation apparently in a state of deadlock and paralysis.

My Party took a fresh initiative at that stage, designed to break the logjam and to carry our analysis into the realm of practical politics. We put forward the proposal which came to fruition as the New Ireland Forum, a deliberative body of elected representatives from the four major constitutional nationalist parties in Ireland, both North and South, representing over 90% of the nationalist population of Ireland. The purpose was to hold consultations on the manner in which lasting peace and stability could be achieved in a new Ireland through the democratic process and to report on possible new structures and process through which this objective might be achieved or, in other words, to set out a modern up-to-date and formal statement or blueprint, setting out the principles and structures on the basis of which the constitutional nationalist dream of a new Ireland could be achieved. After a process of scientific study, public hearings and political debate and compromise, that body produced, in May, 1984, an agreed report which attracted widespread acclaim and support including from President Reagan and from the United States Congress, in a Concurring Resolution of both Houses, the first on Irish affairs since the 1920's. Against the background of a fresh and generous assessment of the realities of the situation, this Report proposed ten key and necessary elements of a framework within which a new Ireland could emerge. These proposals were firmly rooted in the concept of unity in diversity. Indeed, the kernel of the Report was set out in one of its paragraphs, as follows:

"The solution to both the historic problem and the current crisis of Northern Ireland and the continuing problem of relations between Ireland and Britain necessarily requires new structures that will accommodate together two sets of legitimate rights:

The right of nationalists to effective political, symbolic and administrative expression of their identity; and

The right to unionists to effective political, symbolic and administrative expression of their identity, their ethos and their way of life.

The Report of the New Ireland Forum was adopted as policy by the Irish Government and taken as the basis for a process of negotiation with the British Government which after 18 months and not without some setbacks along the way, led to the signature of a formal international agreement between the two countries about Northern Ireland, on 15 November last, at Hillsborough in Northern Ireland, by the Irish Taoiseach, Dr. Garret Fitzgerald and the British Prime Minister, Mrs. Margaret Thatcher.

The Agreement is a major achievement of democratic, non-violent politics. It is a significant step forward on the road to lasting peace and stability. No one amongst us feels it is the final solution. The Agreement tackles the problem of alienation head on and seeks to secure, in line with the central requirement identified in the Report of the New Ireland Forum, equal recognition and respect for both the nationalist and unionist traditions so that nationalists can raise their heads knowing their position is, and is seen to be, on an equal footing with that of unionists. The Agreement provides, in a unique arrangement reflecting the particular and unique situation in Northern Ireland, for the establishment by the British and Irish Governments of an Intergovernmental Conference concerned with Northern Ireland and with relations between the two parts of Ireland. In the Agreement, the British Government accepts that the Irish Government will put forward views and proposals on matters relating to Northern Ireland within the field of activity of the Conference and the British Government, together with the Irish Government, agree that in the interest of promoting peace and stability, determined efforts will be made through the Conference to resolve any differences. The range of issues that are within the Conference's field of activity comprises most of the matters in which the public authorities of a State exercise responsibility and includes political, security, legal, economic, social and cultural matters. The Conference is serviced on a continuing basis by a Joint Secretariat located in Belfast.

These provisions, going beyond consultative role but falling short of an executive role for the Irish Government, take nothing away from the rights of unionists. Northern Ireland continues to be governed, as unionists still wish, by the British Government. The Agreement rather adds a dimension which by giving institutional recognition to the Irish identity of those of the nationalist tradition, without detriment to the identity, of unionists, will enable nationalists to participate fully in the affairs of Northern Ireland without prejudice to their aspiration to Irish unity.

These arrangements are, as I have indicated, unique in international relations and law as, I am sure, those here familiar with these fields will recognise.

The Agreement has secured the support of substantial majorities of the population in Britain and in the Republic of Ireland. It has been greeted with satisfaction by a majority of nationalists in Northern Ireland although there is, among many, a consciousness that much depends on its practical implementaion, with firmness and fairness, by both Governments. Internationally, there has been unprecedented support including again from President Reagan and from both Houses of Congress.

But, surprise, surprise, there has been a strong negative and hostile reaction among unionists in Northern Ireland. The unionist political parties have embarked on a determined effort to set the Agreement at nought, if necessary, as their spokesmen express, by making Northern Ireland ungovernable. One may regard this opposition from a community used to ascendency, to having all power in their own hands, as understandable, even as inevitable: it is certainly not justifiable or justified. The Agreement takes nothing away from the legitimate rights or concrete interests from unionists, nor does it diminish in any way their political, cultural or spiritual heritage.

Particular opposition has been expressed to the Irish Government having a role in regard to the affairs and administration of Northern Ireland. But this attitude ignores the identity and aspirations of the people I represent, who constitute about 40 percent of the area's population. If there is an apprehension that the role of the Dublin Government represents the thin end of a wedge pushing towards a united Ireland against the wishes of a majority, the answer is in the second major feature of the Agreement itself. This recognises, in a binding international instrument, that which is a matter of fact, that Irish unity would only come about with the agreement of a majority of the people of Northern Ireland; and that the present wish of a majority there is for no change in that status. In this Article the two Governments also declare that, if in the future, a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland, they will introduce and support in the respective Parliaments legislation to give effect to that wish. Thus the Article of the Agreement devoted to the status of Northern Ireland recognizes the identity and aspirations of both traditions there. It also makes it clear that Britain has no interest of her own, strategic or otherwise, in remaining in Ireland and that Irish unity is a matter for those Irish people who want it persuading those Irish people who don't, thus removing any justification whatsoever for the use of violence. You cannot unite people at the point of a gun.

There have already been three meetings of the Intergovernmental Conference, and it is clear that it is tackling the agenda for its work set out in other provisions of the Agreement and that it provides an effective framework for the resolution of problems through the techniques of democratic politics. The priority now is to stand firm in upholding and implementing the agreement. The unionists will have to be brought to see that, this time, they cannot defy the will of the British Parliament to which they profess loyalty, as they did successfully in 1912 and 1974. They must be brought to realise that they cannot have matters all their own way. In this way they can be liberated from the prison into which they have locked themselves and, one may hope, led to embrace true politics which they have been able to eschew up to now largely like the Whites in the Southern states. The Whites would never have been liberated without the federal government.

When they are ready to do so, I and my party stand ready to meet them and engage in discussions on how we share our future together. We must begin the process of breaking down the barriers between us, barriers of prejudice and distrust which are at the heart of the conflict that has disfigured Ireland for centuries. We have a choice. We can live together or live apart. We have lived apart for too long and we have seen the bitter consequences. Or we can live together with all the painful readjustments that this will require. It is the only road to peace and stability for whatever happens we will be sharing the same piece of earth for a long, long time.

I hope that what I have said has served in some small way to demonstrate the potential of democratic politics and of the philosophy of non-violence to make progress toward the resolution of what is perhaps one of the more intractable political problems in the world today. I believe that these same principles are applicable in the field of international relations.

Ordinary men and women in both our countries have, in the last few years, responded with extraordinary generosity to the problem of famine in Africa. It is no accident that it was an Irishman, Bob Geldof, who has done most to awaken the conscience of the world to the problem of world hunger. It is no accident that per head of population the Irish contributed more to the Live Aid appeal and to this entire famine relief effort than any other country in the Western World. As I said recently in a speech in the U.S. Senate building:

"Our country knew famine in the last century. It is for that reason that our country has been so moved by the present suffering of Africa. We know that our famines were not simply natural disasters. History shows that Irish people were starved, or forced to leave their native land, because of unjust distribution of land, poverty and extortion which forced the production of cash crops for the wealthy abroad instead of food for the hungry at home, trade structures which knew no morality, and unequal power relations between countries. These are the same injustices and absurdities which crucify Africa today. Our famine brought the starving to America and to the rest of the world. May the present famine bring America and the rest of the world to the starving."

World hunger demands change, not just charity. These problems make ours pale into insignificance as does the other great issue. The awesome stockpiling of this issue is intrinsically interlinked with world hunger. Over one million pounds per minute goes into the provision of weapons whose only potential is to destroy the earth. The transfer of those vast resources to the developing world would not only solve the problem of starvation but would transform world markets and end unemployment in the developed world as well.

We know from hard experience that the nuclear arms race did not begin with the election of Ronald Reagan or the discovery of plutonium. It begins with the acceptance of force or might as a means of maintaining or achieving political dominance. It does not take an etymologist to tell us that terrorism and deterrents in the end are about the same thing, force and fear. We know that when we are dealing with human conflict whether in a divided community, a divided country or a divided globe that it is the building of mutual trust and not mutual fear that will solve the problem of conflict—not just in Ireland, but on the globe—because we know that human beings are no different wherever they live. We are whether in Ireland or globally with Martin Luther King:

"We still have a choice today: non-violent co-existence or violent co-annihilation."●

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

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

ORDERS FOR MONDAY, JANUARY 27, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate convenes on Monday, January 27, 1986, the reading of the Journal be dispensed with, no resolutions come over under the rule, the call of the calendar be dispensed with, and 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, to be followed by a period for the transaction of routine morning business not to exceed 1 hour in length, with Senators permitted to speak therein for not more than 10 minues each; and provided further that the morning hour be deemed to have expired.

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

PROGRAM

Mr. DOLE. Mr. President, on Monday, then, we will convene at 12 noon. The two leaders, under the standing order, will have 10 minutes each and, as I have indicated, there will be a special order and morning business.

Following that, we hope to resume consideration of S. 638, the Conrail bill. I understand there is one amendment that can be agreed upon. It may be that the distinguished Senator from Washington, Senator GORTON, may have a motion to recommit which can be debated on Monday. If, in fact, there is a vote requested on Monday, the vote will occur on Tuesday.

Then, on Tuesday, a cloture motion will be filed on the bill and the cloture vote will occur on Thursday. But I am advised by Senators SPECTER, METZENBAUM, and others that there are a number of amendments that will be considered, and rollcall votes will be requested, I assume, starting on Tuesday.

So I indicate to my colleagues now that we could have rather late sessions on Tuesday, Wednesday, and Thursday of next week. It would be my hope to dispose of the Conrail legislation next week. That is my hope; it may not be a reality.

In any event, if we could do that next week, then we could start on TV in the Senate. That should not take long, a day or two or three and, hopefully, after that, the Genocide Convention and then the constitutional amendment to balance the budget and prayer in school. Counting Conrail, there are five right up front that all require extended debate. So I am not certain how many we will actually be able to turn to.

ADJOURNMENT TO MONDAY, JANUARY 27, 1986

Mr. DOLE. Mr. President, I move that the Senate stand in adjournment until the hour of 12 noon on Monday, January 27, 1986.

The motion was agreed to; and, at 4:06 p.m., the Senate adjourned until Monday, January 27, 1986, at 12 noon.