SENATE—*Thursday, August 7, 1986*

(Legislative day of Monday, August 4, 1986)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Let us pray.

Gracious God, our Lord and Savior, Senators are not superhuman. They are leaders or they would not be here—but they are subject to all of the human frailties: nerves, emotions, egos, bodies that can feel pain and be injured. They can grow weary, exhausted, discouraged, frustrated, depressed, they are not impervious to burnout * * * they are not infallible. And the needs of the world with all its problems weigh heavy on them. Weeks like this expose all the vulnerability of their humanness: late hours, recess deadlines, impending elections, an avalanche of amendments, challenging cosmic issues of monumental importance. They need Your grace, wisdom, and strength, Lord. Help them to realize this, seek it, accept it. For the sake of the Nation and the world at this critical, dangerous hour, and for Your honor, Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator ROBERT DOLE, of Kansas, is recognized.

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer, Senator THURMOND of South Carolina.

SCHEDULE

Mr. DOLE. Mr. President, we have leaders' time of 10 minutes each, and then we have a flock of special orders, 10 to be precise, and then routine morning business not to extend beyond the hour of 11:30 a.m.

SPECIAL ORDERS VITIATION

I ask unanimous consent that the special orders in favor of Senator HAWKINS and myself be vitiated so that would be of some help.

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

CLOTURE VOTES

Mr. DOLE. Mr. President, I also ask unanimous consent that the cloture votes scheduled to begin at 11:30 a.m., be postponed until—4 p.m.?

Mr. BYRD. Mr. President, if the distinguished majority leader will yield, I would propose that he may wish to ask that both cloture votes—the cloture vote on the Byrd amendment, the cloture vote on the Dole amendment to the Byrd amendment—be postponed, the first to occur at whatever time the distinguished majority leader would suggest. I think that would be all right.

□ 1020

Mr. DOLE. I would think by noon we should have from our side all the "proposed amendments" to either Contra aid or South Africa. Then we would need some time to put those in form. I would say maybe 4 o'clock would give us ample time.

Mr. BYRD. Very well.

Mr. DOLE. We will have an opportunity to meet this afternoon, maybe about 2.

Mr. BYRD. Very well.

The PRESIDING OFFICER. Is there objection? Is the Senator proposing that the quorum be dispensed with?

Mr. DOLE. Yes. Do you have any objection to that?

Mr. BYRD. Mr. President, I personally do not see any reason why that should be included at this point. I would just hope the leader would postpone——

Mr. DOLE. We will just postpone the cloture.

Mr. BYRD. All the operations under rule XXII regarding both of those cloture motions.

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

Mr. DOLE. And that will give us time. We are in the process on both sides of getting together amendments. We are not trying to encourage amendments.

So I say to my colleagues who may be listening, particularly on this side, the fewer amendments on either Contra aid or South Africa, the better, as far as we are concerned. We know there will be amendments. We know there may be amendments from the committee and there will probably be significant amendments from other Members. But we are hoping to put this agreement together and one thing that could sink it would be a raft of amendments that would take us the rest of the day to sort through and identify, because both the majority leader and the minority leader would like to know as specifically as we can just what the amendment does. We do not want to be trying to find out the rest of the day what the amendment may do.

MAKING SENSE ON SOUTH AFRICA

AGREEMENT ON FLOOR ACTION FOR SOUTH AFRICA

Mr. DOLE. Mr. President, as the Senate is well aware, we have been working hard over the past few days to schedule floor action on the South African legislation reported out of the Foreign Relations Committee last week by a strong, bipartisan 15-to-2 vote. I hope that in the course of today we can pin down an agreement which will allow us to move on this important legislation. Like Contra aid and some other things, it is really too big an issue to be bogged down in partisan or personal disputes. It is an issue on which the Senate should, and ultimately will, speak.

Meanwhile, the debate over South Africa continues, in the Senate and in the country at large. As with any issue as important and emotional as South Africa, the debate is likely to be marked more often by heat than light. For that reason, especially, I want to bring to the attention of the Senate two items which appeared in the press last weekend, which together make a valuable contribution to our consideration of this issue.

ARTICLE ON OPINIONS OF SOUTH AFRICA'S BLACKS

The first article I want to cite is a UPI story in last Sunday's Washington Post, entitled "Poll Says South African Blacks Split Over Sanctions." The article reports on the results of a poll conducted by the London Sunday Times on the attitudes of South Africa's blacks toward the question of economic sanctions. The poll, which the Times reports as the first ever national survey of South Africa's blacks, concludes that 39 percent of the blacks surveyed had never heard of sanctions or had no opinion on their impact; 32 percent opposed sanctions; and 29 percent favored them.

Obviously the results of a single poll will not be—and should not be—decisive on our own judgment on U.S. policy in this area. But it does strike me that the opinions of those who suffer under apartheid and who are going to feel the brunt of any sanctions we impose ought to weigh rather heavily in our calculations on what we should do. To some in Washington it

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

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seems to be an easy call to pick up our marbles and go home. But it apparently is not such an easy call of South Africa's blacks.

HELEN SUZMAN ON DISINVESTMENT

The other article I want to mention is an excellent piece by one of South Africa's most outspoken opponents of apartheid, Helen Suzman, which appeared in the August 3 New York Times Magazine. The article makes a compelling case against disinvestment and the kind of punitive sanctions that some are advocating. Let me quote briefly from Ms. Suzman's article:

Those who believe that a quick fix is likely to follow the imposition of sanctions, and that the Pretoria, regime will collapse within a short time thereafter, are sadly misinformed * * * far more likely is a retreat into siege economy, more repression and more violence.

Ms. Suzman then goes on to say:

While realizing I may lay myself open to the accusation of paternalism, I have to say that I have more respect for the American companies that have, so far anyway, remained in South Africa (and have set aside millions of dollars for the education, training and housing of their black employees) than for those who have left the country. The companies that have left have taken with them what influence they could have had inside South Africa, thereby . . .

And let me underscore this quote from the article:

. . . Thereby abandoning desperate, jobless bread-winners in a country with no Social Security safety net, no dole and no food stamps.

Mr. President, Helen Suzman's credentials as an opponent of apartheid are beyond question. Her thoughts on how best to accomplish the end of apartheid deserve our most serious attention.

I strongly urge any of my colleagues who have not read these articles from the Washington Post and the New York Times Magazine to do so immediately, and I ask unanimous consent that the full text of both articles be printed in the RECORD.

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

[From The Washington Post, Aug. 3, 1986]

POLL SAYS S. AFRICAN BLACKS SPLIT OVER SANCTIONS

LONDON, Aug. 2.—A public opinion poll of 615 blacks in South Africa shows 32 percent oppose economic sanctions and 29 percent favor them, the Sunday Times said in what it called the first national survey of South Africa's blacks.

The poll, conducted for the Sunday Times by Market and Opinion Research International and the South African company Markinor, was taken July 18-27 at 123 points throughout the country, both rural and urban, visited by black interviewers.

The results were published in the Sunday Times, which called the poll "the first country-wide survey of blacks in South Africa."

The 615 blacks who were polled were asked, "Are you in favor of economic sanctions against South Africa or not?"

Thirty-nine percent had never heard of sanctions or had no opinion, while 32 percent opposed them and 29 percent favored them.

Forty-four percent of those polled thought they would be hurt personally by economic sanctions, the newspaper said.

Nearly two thirds of those polled—63 percent—said they do not believe violence is justified to end apartheid, although 88 percent are unhappy with the racial system in South Africa.

Fifty percent of those polled said they thought South Africa's problems would be solved peacefully, against 42 percent who said the problems would be solved by civil war.

Of the blacks polled, 59 percent said they do not believe apartheid will exist in South Africa in 10 years, while 25 percent believe it will exist and 16 percent had no opinion.

[From The New York Times Magazine, Aug. 3, 1986]

HELEN SUZMAN ON DISINVESTMENT

(By Helen Suzman)

What should the United States do about South Africa? This is a simple question to which there is no simple answer, if there is an answer at all. Of course, if the desire to distance the United States from a morally repugnant system is paramount and if the objective is to punish South Africa for its glaring sins of omission and commission, regardless of the consequences, then sanctions and disinvestment spring readily to mind. And if political expediency is also part of the picture, then calling for economic sanctions must surely be irresistible.

I realized this in November 1984 when I was in the United States and watched on television the landslide victory of Ronald Reagan in the elections. The following morning, I received a call from the New York correspondent of the South African evening newspapers. He asked for my reaction to the election, and I told him I had no doubt that champagne corks were popping in Pretoria. I also said the celebrants were making a great mistake because I believed that the Democrats would seek a rallying cause—and South Africa was going to be it.

I did not need a crystal ball to make that prediction. During visits to the United States over the past seven years, I had observed the buildup of the anti-apartheid campaign in the United States, on campuses in particular. Year after year in the South African Parliament, I had warned that unless the government began to dismantle apartheid, which is legally sanctioned racial discrimination, and to desist from some of its more abhorrent practices—such as detention without trial and the forced removal of helpless black communities—South Africa would be faced with severe punitive measures. My warnings fell on deaf ears. Events in South Africa throughout 1985 triggered an anti-apartheid explosion in the West.

Day after day, scenes of ugly police brutality, of mass funerals of victims of police shootings in black townships, appeared before horrified American and European television viewers. (Such scenes were not shown on South African television, which is state controlled, although the horrendous black-on-black violence frequently appeared on the screen.) With relentless regularity, newspaper headlines abroad proclaimed the rising death rate, the enormous number of people detained without trial, torture at the hands of the security police, the hordes of children arrested and imprisoned.

By mid-1985, the South African issue had been reduced to a simple equation in the United States: "If you are against sanctions and disinvestment, you must be a racist—Q.E.D." The response was of tidal-wave proportions. In July 1985, Chase Manhattan, followed by other banks, pulled the rug from under South Africa's financial system by refusing to roll over loans; as a result, the value of the rand plummeted. Many colleges and universities divested themselves of stocks in companies doing business in South Africa. Cities and states "cleansed" their pension-fund investments of South African connections.

Last year, unable to withstand and hassle factor at home, fearful of boycotts of their products in the United States and nervous about political and economic instability in South Africa, 28 American companies (according to the American Chamber of Commerce in Johannesburg) withdrew from South Africa. Others have followed suit this year.

In September 1985, hoping to forestall more severe Congressional action, President Reagan, long an opponent of sanctions, signed an executive order that prohibited most new loans to South African businesses. The order also banned the sale of most nuclear-related technology to South Africa and the sale of the Krugerrand, the South African gold coin, in the United States.

Across the Atlantic, the other stalwart opponent of sanctions, Prime Minister Margaret Thatcher of Britain, was experiencing even greater pressures. She was forced to agree to limited measures against Pretoria at the Commonwealth conference in the Bahamas in October 1985. The final report of the Eminent Persons Group—a seven-member mission appointed at the Bahamian conference to conduct an in-depth investigation in South Africa—brought no comfort. The mission originally put forward a "possible negotiating concept" to the South African Government, one calling for steps toward ending apartheid. They included the suspension of violence by both the Government and the African National Congress (A.N.C., the most prominent of exiled groups against apartheid); the release of Nelson Mandela, the black leader who has been in prison for 24 years, and other political prisoners; the removal of the Government's military forces from black townships; the legalization of the A.N.C. and Pan African Congress, another black political organization, and a ban on detention without trial.

Instead of accepting these very reasonable proposals, which have long been advocated by myself and by other opposition politicians in South Africa, the Pretoria regime, as is its wont, embarked on a course of action that could only strengthen the sanctions lobby. Last May, while the Commonwealth mission was still in South Africa and was in the process of preparing its final report, the South African Defense Force carried out raids on Lusaka, Gaberone and Harare, the capitals of three neighboring Commonwealth countries. The official reason given was "to take out" A.N.C. bases. But the gains appeared to be minimal. Politically aware South Africans ascribed the raids to a Government attempt to prove to militant right-wing elements inside the country that the Government had not "gone soft" on the A.N.C. and was not succumbing to outside pressures.

Not surprisingly, diplomatic reaction abroad was totally hostile. The Commonwealth mission was understandably outraged, and its final report made this clear.

Shortly afterward, negotiations broke down and the group reported to the Commonwealth heads of government their "reluctant but unequivocal judgment that further talks would not lead anywhere in the current circumstances."

Paradoxically, it was during this tumultuous time that the most far-reaching reforms yet introduced by the South African Government in the direction of dismantling apartheid were enacted. As a result of pressures from inside and outside the country, during the recent Parliamentary session, the Government offered to restore citizenship to those permanent residents in the republic who ceased to be South African citizens when the four black homelands became "independent." (Even with citizenship, however, the blacks in South Africa will not have Parliamentary voting rights.)

The Government also opened the central business districts in major cities to all races. It made property ownership available to blacks in the townships. Most significant of all, it abolished the hated pass laws and influx control, and replaced the old pass book with a common nonracial identity document. (The pass laws have for many decades inhibited the moblity of blacks and their right to lead family lives. Millions of people have been arrested for infractions of these laws, which have bedeviled the relationship between the police and the black community.)

Although many vital issues remain to be addressed—redistribution of land and the disproportionate living standards of white and black South Africans—there is no doubt that the reforms signify a change of direction: away from apartheid. The recent reforms will undoubtedly have a positive effect on the future well-being of black South Africans. In fact, had these changes taken place five years earlier, the impact would have been far greater among blacks. As it is, they have been totally overshadowed by the reimposition of a state of emergency, the detention of thousands of people and the ongoing violence in the black townships.

The reforms have evoked little reaction in decision-making circles in the United States and Europe. (Ten years ago, they would probably have been considered significant, particularly in the United States, which at the time might still have been harboring vivid recollections of its own civil-rights struggle of the 1960's.)

This responsee—or lack of it—to changes the South African Government considers to be of major importance has not only increased its intransigence, but confirmed what it has long suspected: that the failure of the West to define precisely what it means by "dismantling apartheid" is part of a ploy to move the goal posts as each demand is met; ultimately, the Government fears, the West will insist on the total transfer of power to the black majority. This is simply not under consideration by the South African Government.

Those who believe that a quick fix is likely to follow the imposition of sanctions, and that the Pretoria regime will collapse within a short time thereafter, are sadly misinformed. Certainly, if I believed in such a possibility, I would back sanctions to the hilt. Far more likely is a retreat into a siege economy, more oppression and more violence. There will be a long drawn-out confrontation between a well-armed military force shoring up the Government and a popular movement backed by the masses and using Irish Republican Army-type tactics in urban and rural areas. The latter strategy has already been put into effect.

The Reagan Administration's policy of "constructive engagement" may well be dismissed in a great many circles in the United States and elsewhere. It has, at least, aimed for attainable objectives: to prevent forced removals of black communities; to extend funds from the Agency for International Development (A.I.D.) to civil-rights organizations and drought-stricken areas; to press for the release of anti-apartheid detainees. Moreover, together with the Sullivan principles, it encouraged American businessmen and, by example, their South African and European counterparts, to be socially responsible.

Nowadays, the Sullivan principles are also in the doghouse. Drafted almost a decade ago by the Rev. Leon Sullivan, a black Baptist minister from Philadelphia, the code calls for the desegregation of workplaces, equal employment practices, training for nonwhites, social services for black workers and the promotion of trade unionism. The code has been adopted by about 65 percent of the 260 or so American companies now doing business in South Africa. But many black South Africans feel that too much lip service has been paid to the code and not enough action taken.

While realizing that I lay myself open to the accusation of paternalism, I have to say that I have more respect for the American companies that have, so far anyway, remained in South Africa (and have set aside millions of dollars for the education, training and housing of their black employees) than for those that have left the country. The companies that have left have taken with them what influence they could have had inside South Africa, thereby abandoning desperate, jobless breadwinners in a country with no social security safety net, no dole and no food stamps.

The moral outrage and desire for punitive action is something I understand very well, but the reality that will come as a result of a grievously afflicted economy will not be seen by those living thousands of miles away. That reality, compounded by decades of unequal employment opportunities and oppression, is bleak beyond belief. True, many black South Africans say they approve of disinvestment and sanctions, despite the additional hardships they will endure as a result. They fall into four categories: those who have no jobs and nothing to lose; those who have jobs in "sheltered" employment and will lose nothing; those who want everyone to lose everything (therefor, "roll on the revolution"), and, finally, those who believe that the South African Government will crack at the first (or, at worst, second) sign of sanctions. The last category brings to mind a former British prime minister who predicted that it would take "weeks rather than months" to bring down Ian Smith's Unilateral Declaration of Independence in Rhodesia. In the event, it took another 15 years and 30,000 dead.

There are also leaders of the neighboring black states who advocate sanctions against South Africa, despite the fact that southern Africa is one economic unit. Whatever harm is done to South Africa's economy will certainly harm the economies of the country's neighbors, which are dependent on South Africa for jobs, markets and transportation.

The former High Commission territories of Botswana, Lesotho and Swaziland are part of a customs union with South Africa from which they derive substantial revenues; Botswana and Lesotho also belong to the rand monetary area. South Africa's Electricity Supply Commission is an important source of power for these countries, which also depend entirely on routes through South Africa for trade. Zaire, Zambia and Zimbabwe are heavily dependent on South African transport and ports for their imports and exports.

More than 250,000 foreign blacks work in South African mines alone, earning almost 1 billion rand (about $400 million) a year, at least half of which is repatriated. A further 170,000 foreign blacks are employed in other occupations in South Africa, not to mention an estimated one million "illegals." The neighboring states cherish the hope that the Western nations will pick up the tab to make good the substantial losses they will sustain after they cut their links with South Africa. Unfortunately, this hope is probably unfounded.

Unpalatable as it may seem to the sanctions lobby, the most practicable way to get rid of apartheid and to achieve a nonracial democratic society in South Africa is through an expanding, flourishing economy. The process of integrating blacks as skilled workers into such an economy would be expedited. Their economic muscle would then, through increased trade-union action, be a potent force not only in the workplace but also in the sociopolitical sphere. Strike action and consumer boycotts—both of which can be used as temporary expedients, unlike disinvestment and mandatory sanctions—are the most powerful weapons for blacks to use to resolve important issues like political power-sharing.

Indeed, consumer boycotts have already been used to great effect in some parts of the country, such as the eastern Cape Province, where many white-owned shops were brought to the brink of bankruptcy. Conversely, if blacks are unemployed and have nothing to spend, such boycotts would be meaningless. It is astonishing to me that those advocating punitive actions do not realize that, if successful, they will have undermined the most significant power base that blacks could acquire.

Certainly, this approach presupposes a long-term strategy and blacks, especially young blacks, want liberation now. No one should under-estimate the fierce spirit of resistance that pervades the black townships, but while incremental change is certainly attainable, the replacement of the white minority government by a black majority government is simply not within reach, even though many blacks believe that the era of white domination is about to end.

Those calling for sanctions and disinvestment often overlook two important factors.

First, while the present white minority Government in South Africa has no pretensions to democratic rule, there are also no guarantees that it would be replaced by a nonracial democracy respecting the rule of law, a free press, free association, free elections and an independent judiciary, not to mention an economy free of state control.

Second, South Africa does not consist only of an oppressed black majority and right-wing white oppressors. Indeed, 250,000 white voters (20 percent of the white electorate) in the last general election in 1981 cast their ballots for the official opposition in the House of Assembly—the Progressive Federal Party, which has for years advocated the ending of apartheid and the establishment of a truly representative govenment with protection for the legitimate rights of minorities. Although the percentage of those who voted against apartheid is

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small, it is nonetheless significant. It may be well to remember that from 1961 to 1974 I was the only Member of Parliament elected on such a platform.

Indications of support for such an alternative government from powerful nations like the United States would certainly encourage many more white South Africans to cast their votes against the Pretoria regime at the next election, due at the latest in three years' time. At the very least, there could be a Parliamentary realignment.

It may well be that all such arguments fall on deaf ears, and that they are advanced in a lost cause. Nevertheless, they deserve to be made in the interest of millions of moderate South Africans of all races who abhor apartheid, who have long fought the abominable practices of race discrimination and who are striving for a peaceful transition to a nonracial democracy. For them, at least, it is surely not too much to ask that they be spared the violence and misery of a scorchedearth policy.

It is not at all certain whether President Reagan can stave off Congressional imposition of harsh punitive sanctions, as he tried to do in his recent speech on American policies toward South Africa. But if he does—and it is a big if—it is vital that the Pretoria Government use the time so won to accelerate the dismantling of apartheid, to provide better housing and education and, most important, to extend political rights to blacks. The release of Mandela as a prerequisite for negotiations is an obvious first step, as are the release of all persons detained without trial and an end to the state of emergency.

The United States should keep up its condemnation of apartheid. The system of apartheid is an affront to people concerned with civilized values throughout the world. Its eradication would be an important gain for the civil-rights movement and would increase the sum of human freedom worldwide. The United States should exert pressure on apartheid, but not impose punitive measures that will wreck the South African economy. That is the strategy of despair that will destroy the inheritance which blacks will inevitably share.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

PROPOSED AGREEMENTS AND SCHEDULES

Mr. BYRD. Mr. President, the proposed unanimous-consent agreement that was handed to me last evening by staff, I believe, that was prepared by the distinguished majority leader or at his direction, which came as a result of our meetings yesterday in his office, has some very strange language in it.

I would like to inquire as to what the words—let me read the first paragraph:

I ask unanimous consent that, notwithstanding the provisions of rule XXII, H.R. 5052 be laid before the Senate at the close of morning business on Monday, August 11.

Why are those words "notwithstanding the provisions of rule XXII" in the request? Is it contemplated that the debate might be shut off on the DOD bill and that on Monday that bill would still be before the Senate by virtue of the cloture motion having been invoked to shut off debate?

Mr. DOLE. That was my thought, that if we did not finish DOD—though I am getting some heartening news from the managers, as of last night at about 11 o'clock, that they are really making progress. So I suggest there could be another cloture vote on DOD tomorrow. If they can take care of most of these amendments, they felt fairly confident they could finish at a decent hour tomorrow.

But, in any event, yes, that is the reason for that language. The distinguished minority leader raised the possibility the other evening that if we did get hung up—I guess last evening—if we get hung up on DOD, we could be on it all next week. So I understand from the Parliamentarian that that would take care of that problem.

Mr. BYRD. Yes, that is one good reason why Senators should not vote for the cloture motion on DOD tomorrow because, as I indicated last night, if cloture is invoked tomorrow on DOD, then the distinguished majority leader may find it difficult, because of time constraints, to work in legislation on South Africa and on Contra aid, the military construction appropriation bill, and on the Boren campaign reform measure. I contemplated that that was probably the reason why the language was in the paragraph. The distinguished majority leader has stated that that is correct.

Mr. DOLE. If the Senator will yield.

Mr. BYRD. Yes.

Mr. DOLE. On the other side, it appears to me that—and I hope to discuss this with Senator GOLDWATER today—if, in fact, they are having the success they indicate, and they disposed of 20-some amendments in a couple of hours last evening and have about 16 more of those which are acceptable and they have been able to get time agreements on, I understand, 4 other fairly major amendments, it is getting down to the point where it occurred to me that if cloture were invoked, it might speed up the process.

□ 1030

Mr. BYRD. I think it could be just the opposite.

Another bit of verbiage, in the first paragraph, I think, needs explanation. Reference is made to amendments. The language states amendments be dealt with "in the usual fashion." "In the usual fashion" may appear to the layman to be very correct verbiage, nothing to be concerned about. But to me that is strange language indeed in a consent agreement. I have been the party to hundreds of consent agreements over my 20 years working within the Senate leadership of the Democratic Party, and almost all of that time being spent on the floor. That is a very strange phrase. I think before we go further in any attempt to develop a unanimous-consent agreement that will be very clear and could be understood by Senators who know not quite as much about the rules and procedures as some may know, I would like to know what that means. Why is that language in that paragraph?

Mr. DOLE. As I understand again, we were trying to provide for amendments being dealt with in our agreement as we normally do, the usual form or the usual fashion. They could be specified in the agreement. Beyond that, I do not know of any other hidden meaning. Again, what might expedite it is if the Senator from West Virginia would make his suggestions in writing.

Mr. BYRD. I will be happy to do that.

Mr. DOLE. If the Senator will yield, as far as the majority leader is concerned, I would like to get an agreement that both sides are comfortable with, if the Senator has reservations, if I have reservations, or if other people have reservations.

Mr. BYRD. My reservations go to this rather weird language. In "the ususal form" are words of art in Senate agreements. But "in the usual fashion" can mean a lot of things. "Usual fashion" of course means that the committee amendment or amendments have to be disposed of first before floor amendments are in order unless they are to the committee amendment.

So "in the usual fashion" could mean many things. This being an agreement that deals with at least two very highly controversial issues which have developed a lot of emotion on both sides of the aisle, it seems to me the agreement ought to be very clear, and ought to be very specific as to just what is meant. In my judgment, this kind of language in a unanimous-consent agreement is not conducive to that clear understanding.

I think both the majority leader and I want an agreement that will be so clear that it will be unmistakable and that it will provide for the carrying out of the proposals that were discussed in the office of the distinguished majority leader yesterday.

Mr. DOLE. If the Senator will yield, I think for the record I will indicate what I did following our meeting. With the written suggestions that the distinguished minority leader gave to me wherein he stated that the disposition of amendments or some arrangement will permit orderly consideration of amendments, I suggested the Parliamentarian take the recommendations that the Senator has made, along with the earlier proposal that I had given the Senator to see if there is some way we could blend the two. I assume that particular language may be an effort to do that. Again, we can

revisit that to make certain there is no misunderstanding about it.

Mr. BYRD. I think it might be a good idea if the Parliamentarian were in the next meeting so he could clearly understand everything that is said. The proposal that I submitted to the distinguished majority leader was a conceptual proposal. We discussed it and I think reached a rather good understanding. I believe the unanimous-consent agreement that the distinguished majority leader has presented to me through staff has come a long way toward meeting the proposals that we had on yesterday.

I cannot agree to this unanimous-consent agreement as it is written. But I think we can get an agreement the Senator from Kansas can understand, I can understand, all Senators can understand, and that will carry out the intentions of the parties on yesterday.

There is one final problem I have with this consent agreement. It does not give assurance that the South Africa matter will get consideration in this Senate prior to the August recess.

That is not the intention of the majority leader. I know it is not. But without taking further time on this floor to explain why it does not—I will be perfectly happy to do that—this agreement, if it were entered into right now, would not guarantee Senators who want to act on the South Africa matter, that opportunity.

I will be happy to respond further and to provide a unanimous-consent agreement that will lay out the details clearly, leave no questions about the rights of Senators who call up amendments on both sides, will provide not only for assurance that the South Africa matter will be taken up and disposed of, but also that the Contra aid matter will be taken up, also that the Boren measure will be taken up, will provide for the vitiation of the cloture motions today, and provide for action on the debt limit extension clearing it of both issues that are still available to be called up by way of amendments on that.

It can be written, in a way so that all Senators can read and understand the agreement.

Mr. DOLE. If the Senator will yield, I think it would be helpful particularly with reference to the debt ceiling. As I indicated yesterday, we had a visit with the chairman of the Budget Committee.

□ 1040

I have also had a call from the chairman of the Ways and Means Committee, the Honorable DAN ROSTENKOWSKI, who wondered if he should send us a short-term extension. I said, "Not yet. We would like to pass the debt ceiling."

It is my understanding that there will be an informal meeting with some of the probable House conferees and Senator DOMENICI and others to see if they can at least start some preliminary work on the so-called Gramm-Rudman-Hollings amendment to the debt ceiling. That would be most helpful.

Once we get the agreement, if we could vote on the debt ceiling extension and send that to conference, that would be one big obstacle out of the way.

I do want to accommodate the distinguished Senator from Oklahoma. He has been very patient. We have had good discussions. I think we can work that out. He even indicated, to my understanding, that perhaps we could do 3 hours on Monday and 2 hours on Tuesday. I would like to think we can carve out an agreement in some way.

I do want to complete action in the Senate on both Contra aid and South Africa next week.

I believe that is our understanding and I do not know why we cannot achieve that. I would guess that upon the disposition of H.R. 5052, it would give rise to the minority leader for concern if we did not dispose of Contra aid. The only potential problem there is whether or not cloture can be obtained. I believe it can. We now have 50-some Senators who signed a cloture petition. I know a number on the Democratic side, not who signed the petition but I think who will vote for cloture. Some do it as a matter of practice, to vote for cloture.

I believe that can be accomplished. With cloture, we are assured that that would come out. That will erase the problem.

Mr. BYRD. Mr. President, I am going to offer an agreement that will assure the distinguished majority leader that both issues will come before the Senate and it will not leave any room for doubt that South Africa will be called up and disposed of. It will even give the majority leader two bites at the Contra apple.

As a matter of fact, I have it in my pocket, but I want to polish it up a little bit.

I have the usual type of unanimous-consent agreement that has been entered into over the years when there are very difficult measures. This agreement will provide that both sides have their fair shots.

Again, as I say, if it is entered into, it will provide that Senators in the minority as well as Senators in the majority have a chance to call up their amendments and have them disposed of. There will be a time limit on each amendment.

Without going into the details, which are rather dull or not very inspiring to the average listener, I will simply sum it up by saying again that this agreement that I have here will provide the distinguished majority leader the rest of this week, if he wants it, to dispose of the DOD bill. With the kind of progress that has been made in the last day, especially on the DOD bill, and the prospects for further reasonably prompt action, he should be able to have that DOD bill out of the way if not today then tomorrow. If it is necessary to come in Saturday, that is fine. But DOD will be out of the way. Of course, I cannot guarantee that, but a cloture motion will not guarantee it either.

I think if we just let the DOD bill move along on its own, with Senators having the opportunity to call up their amendments and debate them, hopefully, action on that bill will be completed by the close of business tomorrow.

In any event, if cloture is invoked on that bill tomorrow that would knock everything into a cocked hat and leave undecided and in a rather indefinite status the other measures that I think can be disposed of.

Once again, I will offer the distinguished majority leader an agreement that will provide for action which I proposed yesterday, for South Africa to go first. If the distinguished majority leader wishes that Contra aid goes first, that is all right with me. It does not matter to me which side goes first, just so that Senators on both sides, in both parties, have the opportunity to call up their amendments and dispose of them.

I must say to the distinguished majority leader that if he wishes to, I will be glad to sit down with him. This is the way I have done before with the Senator's predecessor when I was majority leader. I can sit down with him and with the Parliamentarian so that the Parliamentarian has a clear understanding of what we want. The agreement can be prepared by the Parliamentarian if the majority leader wants it prepared by the Parliamentarian and it would carry out those intentions.

I have a proposal and I will be ready after I have worked on it just a bit more and gotten the names of other Senators who have amendments. Then I would like to get the names of the Republican Members, or the distinguished leader can fill those in when the agreement is proposed. I think we can get a lot of work done before we go out next week.

Mr. DOLE. I think that is a good suggestion, if the distinguished manager will give me that. I can then review it and I think at that time we can sit down together on any little problems we can work out. Also by that time it is my hope, and again I will say it so that Members or their staffs who are listening in the offices will know it, that if Members on this side have amendments, not just numbers but amendments, to either South

Africa or Contra aid, we have to specify those amendments. We would certainly like to have those no later than 12 o'clock today.

Mr. BYRD. Mr. President, I have to attend a meeting of the Appropriations Committee which is marking up the energy-water appropriations bill.

I ask unanimous consent that my time under the standing order be reserved for me throughout the day.

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

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

CAN THE CONGRESS SAVE ARMS CONTROL?

Mr. PROXMIRE. Mr. President, recently, this Senator spoke here in the Senate about a tentative, hesitant suggestion made by an anonymous source in the Reagan administration to tie the proposal to reduce the number of nuclear weapons in the arsenal of both superpowers to a reduction in nuclear weapons test. Several weeks ago, the proposal became a 1-day newspaper story. Then it died. It has not been revived. Indeed, its prospect for revival appeared slim. It seemed slim for one reason. The administration—in fact, any Presidential administration—almost always has a firm hand on arms control and the arms control agenda. The President decides whether to negotiate. He decides when to negotiate. He decides who will negotiate on his behalf. He decides what will be negotiated. The role of the Congress has been, at best, secondary and peripheral. Congress has been a nosy but helpless kibitzer in the process. President Reagan has left no one in doubt. He opposes negotiating a superpower end to nuclear weapons testing. The American people and the Congress have disagreed with the President. Both have demonstrated again and again that they favor stopping nuclear weapons testing.

But so what? The President determines arms control policy. The Congress and the general public do not. The President has the power on this issue. So what has happened? So we have continued nuclear weapons testing. Except for the tentative suggestion of limiting the number of nuclear weapons tests—a suggestion that seems to have died aborning—the issue appeared to be settled.

But the House of Representatives has introduced a new power element into the situation. The leadership of the House majority has proposed a cutoff of funds for testing nuclear weapons with explosions over 1 kiloton after January 1, 1987. The cutoff would be conditioned on two actions by the Soviets. First, the Soviets will have to stop all testing of nuclear weapons above the 1-kiloton limit after January 1, 1987. Second, they will have to agree to the placement of enough monitoring stations with seismic devices in the Soviet Union to permit the United States to insure effective verification.

This action by the House might or might not have any real effect in limiting nuclear weapons testing. Passage in the Senate would be far more difficult. Even if the congressional limitation on nuclear weapons testing money did pass the Senate, the nuclear weapons tests might very possibly continue. It is true that the President would be hard put to veto the restriction because it would be part of an armed services funding bill that he would need to provide for the Nation's national security. But the President could probably find other money to continue at least some nuclear weapons tests.

Assume, however, that the House proposal passes the House but fails in the Senate. Senate-House conferees would then be mandated to seek a compromise between the House and Senate positions. In that event a partial reduction in the number of nuclear weapons tests, perhaps a 30 percent mutual reduction, combined with a mutual 30 percent reduction in offensive nuclear missiles, also with tight verification provisions, might emerge as a compromise. As this Senator has previously indicated, such a partial reduction in nuclear weapons tests would have little meaning, except as the beginning of a long-term process.

Actually, this process began way back in 1963. The 1963 limited test ban treaty specifically pledged both powers to negotiate a comprehensive end to nuclear weapons testing. Previous American Presidents have favored such negotiations. The partial reduction of these weapons explosions would resume the process. It would inch the two superpowers down the road that is most essential if arms control is to have any real significance. No arms control agreement, including the reduction of nuclear weapons, and no limitation on nuclear weapons, can have any real security significance in this nuclear age unless the two superpowers find a way to stop the onrush of nuclear weapons technology. The superpowers could slash their strategic nuclear warheads from 10,000 to 1,000 but the rush of nuclear technology flowing from testing could make the 1,000 warheads more devastating than the 10,000.

The dreams of President Reagan and Secretary Gorbachev to eliminate nuclear weapons from the face of the Earth are totally unrealistic. No weapons have ever become obsolete except by the invention of a more deadly and destructive weapon that took its place. The intelligence that enabled 20th century man to solve the problem of the atom and convert this fearsome energy into such devastating weapons can never be eradicated. Even if the superpowers succeeded in eliminating all their nuclear weapons, just one of the scores of countries on Earth with the economic and technological capacity to build nuclear weapons could become the top world power at any time in the future by building on the established technology. Nuclear weapons are here to stay. But there is nothing inevitable about their increasingly devastating power. If we stop testing, we stop the research that lies at the heart of the nuclear arms race. This Congress may have a historic chance this year to begin that process.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR MELCHER

The PRESIDING OFFICER. The Senator from Montana is recognized.

REDUCING PENTAGON SLUSH FUND WILL REDUCE DEFICIT

Mr. MELCHER. Mr. President, the figures that are coming in on the deficit calculation for the end of this fiscal year are mounting. What that means to us is that our job here, in Congress, is not being prudently done. If we were more prudent, we would obviously be reducing the Federal deficit at a much faster pace.

The Gramm-Rudman procedure would set in motion the requirement that next year's fiscal responsibility would be under a tighter rein. We would have more prudence and more deliberate cuts made in spending so that we do not end up with the 1987 fiscal year figures not coming down. Gramm-Rudman tells us for this coming year—let me repeat that and make it clear—for this coming year, fiscal 1987, we should have the Federal deficit down below $154 billion. That does not seem likely at this point.

On the Senate floor, we have the Department of Defense authorization bill and I think it is appropriate at this moment for me to describe an amendment I shall offer to the bill that would reduce spending in the Pentagon by some $12 billion—$12 billion. The amendment would not cut out funds from readiness, would not take pay away from the Armed Forces personnel, would not cut down on operation and maintenance. The $12 billion reduction would come from the slush fund. That slush fund is estimated by the controller at the Defense Department to be $60 billion plus of unobligated funds.

Mr. President, let me make this clear. These funds have been appropriated for specific purposes, generally for procurement of new weapons, but have not been obligated. That $60 billion that will be unobligated at the close of this fiscal year, October 1, is the slush fund I am speaking of. My amendment would reduce that by $12 billion.

If we are going to have an amendment on that slush fund, it has to come on this bill, not on appropriations. Why? The reason for that is that this would be legislation on an appropriations bill and therefore, be out of order on an appropriations bill. It must be done on the authorization bill.

I caution my colleagues to seriously consider this amendment. I ask for approval of the amendment when it is offered because it is obvious that spending must be cut in the military this year. This is the logical point to make a cut of this magnitude. Twelve billion dollars of unobligated funds would be cut and be available for fiscal 1987.

It will help us meet the Gramm-Rudman targets. It will not reduce troop level nor take away from operation and maintenance. Therefore, readiness is protected. I believe it is a sound amendment. I hope we can have acceptance of it by the Senate when it is offered.

RECOGNITION OF SENATOR DIXON

The PRESIDING OFFICER. The Senator from Illinois is recognized.

WHAT ABOUT CORN?

Mr. DIXON. Mr. President, I have spoken on the Senate floor and in the Agriculture Committee in recent weeks about the worsening prospects for U.S. agricultural trade, and rise again today to discuss this issue of great importance to my home State of Illinois and the entire Nation.

For the second month in a row, foreign agricultural imports exceeded U.S. agricultural exports. Our agricultural trade deficit in May exceeded $348 million. The figure for June is approximately $72.1 million.

As ranking member of the Subcommittee on Foreign Agricultural Policy, I have attended a series of hearings on agricultural trade issues. During our hearing last week, I questioned our witnesses about the possibilities of expanding our agricultural exports. The answer they gave me was unanimous: While we work to expand our agricultural exports, our supplies will remain. We must take additional steps to alleviate the grain storage crisis.

I stood on this floor 2 weeks ago, Mr. President, and introduced a resolution supporting the expansion of the Export Enhancement Program to include all of our trading partners. The very next day, I cosponsored an amendment with Senator DOLE which would accomplish this same goal.

The response we have received since the Senate passed that amendment has been astounding. The New York Times has published several articles in the past few weeks highlighting the outrage of several U.S. trading partners over the Senate's action.

Many of our trading partners have long maintained aggressive marketing campaigns to sell their agricultural products in the world market.

Mr. President, while I believe we must maintain good relations with our allies, I also believe that the American farmer should not again be asked to bear the burden of our foreign policy problems. I led the fight on the Senate floor which prevented the President from using agricultural embargoes for foreign policy reasons without the consent of Congress. I am prepared to again lead the fight to protect the interests of the Illinois and the American family farmer. It is high time that we aggressively market our own agricultural exports.

Last Friday, the Secretary of Agriculture announced an export initiative which would permit the Soviet Union to purchase up to 4 million metric tons of wheat through the end of this fiscal year.

Mr. President, I would like to ask the administration: What about corn? In Illinois and the Midwest, we face a serious storage crisis. We have no place to store our corn. At this time, it is hard to believe that the Department would announce an export initiative on wheat and not on corn. Our trading partners can now just sit back and wait for the price of corn to drop before they make purchases.

We need to act now. Illinois has at least 120 million bushels of corn and no place to store it. What about corn, Mr. President? What about Illinois? What about Iowa? What about Indiana? The top three corn-producing States have no place to store their grain. Our farmers are suffering.

I urge the President to use all his authority provided in the 1985 farm bill to make corn available to all of our trading partners. I also urge him to continue these export initiatives beyond the current fiscal year. If we expect to expand our share of world agricultural markets, we must act immediately.

□ 1100

I yield back the remainder of my time, Mr. President.

RECOGNITION OF SENATOR HUMPHREY

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, are we limited to 5 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. HUMPHREY. I liked it better when it was 15.

INFORMED CONSENT

Mr. HUMPHREY. Mr. President, several days ago I announced my intent to introduce legislation that would assure women contemplating abortion they would be provided with sufficient information that their consent to an abortion would truly be informed consent. I pointed out at that time that the recent Thornberg decision, which was read by many as prohibiting laws requiring informed consent, did nothing of the kind; that the Court was quite explicit in its decision and in the language of the decision indicating that laws requiring provision of information to assure informed consent surely are not unconstitutional, that instead the Court objected to certain provisions of the Pennsylvania law which it struck.

Mr. President, who can object to informed consent? Surely, no Senator, no Member of Congress, whatever his or her view might be on the fundamental subject of abortion. Whether a Member of Congress is for the so-called right to abortion or opposed, I think we can all agree that women contemplating abortion deserve to have the kind of information made available to them prior to the abortion such that their decision will be an informed decision. And yet, Mr. President, that is not the case today, I contend. I contend that too often women are not provided the information such that they can make an informed decision. Indeed, they are often provided with misinformation. As a way, I hope, of building support for my legislation, I intend to introduce into the RECORD every day in alphabetical order by State letters from women who have written to me who had abortions, who now regret having had the abortion, who say that if they had had information they believed they needed, they would probably not have had an abortion. As a part of that effort, today I will read into the RECORD a letter from a woman in Taylor, AZ. I am not going to state her name, but it is on the letter and it will be included in the RECORD. These are women, Mr. President, who are willing to come forward publicly and be known by name as being in favor of informed consent laws of the kind which I intend to introduce shortly.

I hope very much that the Senators from Arizona will read this letter in the RECORD and that other Senators will particularly read the letters from their own constituents.

TAYLOR, AZ,
May 23, 1986.

DEAR SENATOR HUMPHREY: I understand that you are in favor of an informed consent law on the national level. I too support this for very personal reasons which I will explain.

In 1980, I aborted my first child. I was told at Planned Parenthood that this "little blob of tissue" would be as easily removed as a wart. Terminating a pregnancy, I was told, is no more significant than removing a tiny blood clot in my uterus. "Sounds harmless," I reasoned. Exercising my right, I opted for abortion. At that time, no other options, such as adoption or single parenting were explained.

Had I been counselled properly concerning the pain and the development of my unborn child, I doubt that I would have chosen abortion. I was not forewarned of the health risks or the deep psychological after effects of abortion. As a bright college graduate, I had a promising future ahead of me. Following my abortion I became deeply depressed, suicidal and unable to hold a job. I never mourned the loss of my appendix, so why did I grieve over the passing of an enigmatic uterine blob? The answer is that it wasn't a mere "blob of tissue." It was a living baby. I realized it the moment I saw his dismembered body. I realized it too late.

I support this bill wholeheartedly and hope that this letter speaks to the hearts and minds of those who do not fully understand this issue.

Sincerely,

KAREN SULLIVAN ABLES.

Mr. President, here is a woman willing to be known by name in public, who states that she was not told anything about the child she was carrying, the object of the abortion. She realized, to use her own words, only too late when she saw his dismembered body that it was a living baby.

Now, it is not my purpose in introducing this legislation to debate the fundamental issue of abortion, but it is my purpose to point out that thousands and thousands of women are undergoing an abortion on the basis of misinformation, on the basis of propaganda, on the basis of euphemisms. It is shocking, it is disgusting, it is disgraceful, and it is degrading to women and to our society. I do not see how any Senator can oppose the concept—the concept—of requiring by Federal law informed consent. They might differ with the language and they are welcome to offer their suggestions and their amendments, but they surely cannot disagree with the concept. I urge all of my colleagues to support this effort.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR BENTSEN

The PRESIDING OFFICER. The Senator from Texas.

A CONSISTENT TRADE POLICY

Mr. BENTSEN. Mr. President, at a time when the public and private sectors in countries like Germany and Japan are working hand in hand to conquer rapidly expanding world markets, we have recently seen dramatic evidence of how trade has become a divisive, partisan issue in the United States.

With the prospect of a $170 billion trade deficit this year, the acknowledged loss of over 2 million jobs to imports, and a currency devaluation of 30 percent that has done little to increase our competitiveness, it should be obvious to Congress, to the President, and to the American people that a comprehensive, consistent policy on trade must become an urgent national priority. The time for rhetoric and partisan politics has long since passed.

I would like to take a few moments of the Senate's time to suggest that the 99th Congress can still make a creative, constructive contribution to American trade policy. I know there are those who say time is so short and the agenda so full that there is simply no opportunity for Congress to act on trade this year.

Mr. President, I disagree, trade is as important and urgent as any issue on our agenda. To duck the tough challenge of trade is to concede the future to our competitors.

Is time running out? You bet it is—but not just for Congress. We'll be here into October, but in just a few weeks the U.S. Trade Representative will be leaving for Punta Del Este, Uruguay, for the opening of a new round of multilateral trade negotiations.

That round of talks could last 10 years: It will set the tone of world trade policies into the 21st century. It will deal with problems of debt in the developing countries, reducing market barriers to trade, and stabilizing the world monetary system.

Despite our enormous trade deficit, America remains the unquestioned leader of the international trading system. We have an obligation to help structure a regime of fairness and opportunity in which all nations—including our own—can enjoy the benefits of trade.

With our standard of living and future prosperity at stake, most people would assume that we have prepared carefully and thoroughly for the new round of trade talks. Unfortunately, that is not the case, we still lack an overall strategy for solving our trade problems. We have not enacted a trade bill and, as a result, we are sending our representative to Punta Del Este without the authority to enter into serious negotiations.

You can be sure that fact will not be lost on our competitors who will be armed to the teeth with strategy, policy, and authority. You can be sure that other industrialized democracies will not be treating the Punta Del Este talks as a photo opportunity.

The administration will argue that it does not need a trade bill to start the new round of talks, because they already have negotiating authority. Mr. President, I would respond to that argument with three points:

First, existing trade negotiating authority is not a mandate for a new round of trade talks.

Second, President Reagan has only 1 year of negotiating authority left; the new round will hardly begin before his authority expires.

Third, the negotiating authority our representative will take to Punta Del Este was written 12 years ago—in 1974, in 1974 the United States had a trade surplus—not a $170 billion deficit. We were the world's largest creditor nation, and we are the world's largest debtor nation. The negotiating authority our people take to Punta Del Este predates the OPEC oil shocks, floating international currency exchange rates, and the rise of the semiconductor and personal computer.

Can anyone, Mr. President, seriously suggest that the administration should use the trade policies of 1974 to negotiate the trade problems of the 1990's? How can we expect to negotiate tough, effective trade agreements when our partners in those talks are well aware that our representatives lack a mandate and the backing of the Congress?

Of course, Presidents may negotiate trade agreements without congressional permission, but that is a risky business at best.

Back in 1968 President Johnson's negotiators came home with an international dumping agreement that required changes in U.S. laws and procedures. The President had no authority to negotiate the agreement, so he had to ask Congress to change the law. The Finance Committee refused his request because the agreement did not accurately reflect U.S. trade policy at the time. So the agreement collapsed.

Ten years later, when President Carter completed the Tokyo round of trade negotiations, the situation was reversed. Bob Strauss had full access to the President and consulted regularly with the Congress. He had full statutory authority to negotiate. As a result Congress approved a whole package of trade agreements and changed the law to conform with those agreements by an overwhelming margin.

For almost a year, Congress has been trying to give the President the authority our representatives need to negotiate effectively in Punta Del Este. Last November all 47 Senate Democrats cosponsored S. 1837, which gave the President authority for the new round. In the same month 34 Republicans and Democrats cosponsored S. 1860, which also granted authority. In May the House of Representatives passed a trade bill with new round au-

thority by a 2 to 1, bipartisan majority.

But it seems that the administration will only accept negotiating authority if it comes in the form of a blank check, I reject that approach, Congress has a constitutional role in making trade policy, and we simply cannot abandon our legitimate concerns in one of the most important, complex issues of our time.

Congress—Republicans and Democrats, Senators and Representatives—is concerned about international monetary negotiations; we are concerned about unfair trade practices like dumping, targeting, and subsidies; we are concerned about the international debt problem and adjustment assistance for workers who become the victims of trade policies.

Those are legitimate concerns for all Americans. They should form an integral part of any comprehensive trade policy for the future. No one, Mr. President, is seeking to impose a set of preconditions on the administration as the price of new negotiating authority. We simply want to consult; we want the administration to listen, appreciate our concerns, and work with us to restore America's ability to compete for world markets.

The last thing we need is a test of wills between Congress and the President on trade policy. That kind of tension and bitterness could doom the Punta Del Este talks to failure before they even begin.

I am convinced Congress must move ahead with trade legislation this year—and I hope the administration will help us hammer out trade policies that make sense for America.

Mr. President, there is a very significant distinction between protectionism and legitimate concern about unfair practices in world trade. It's time to start separating the rhetoric from the reality. It's time we start working together to build widespread support here at home for trade policies that will serve America's enlightened self-interest.

At the conclusion of what has been a very contentious and sometimes partisan week on trade policy, I would like to ask the majority leader—and through him the President—to make trade legislation a priority item for the 99th Congress. We still have the time—if we have the will.

□ 1110

RECOGNITION OF SENATOR BAUCUS

The PRESIDING OFFICER. The Senator from Montana [Mr. BAUCUS] is recognized.

THE NEED FOR TRADE LEGISLATION

Mr. BAUCUS. Mr. President, I join my colleague, the Senator from Texas [Mr. BENTSEN] in calling for trade legislation in this Congress, this year.

Before I go into detail, let me say that it is an honor for me to work with Senator BENTSEN. He has provided exemplary leadership in this area. He is one of the most forthright, prescient and persistently strong persons in this body in his analysis of the need for strong legislation. I commend him for his work. He has provided leadership not only on our side of the aisle but for the entire Senate and the country.

Mr. BENTSEN. Mr. President, if the Senator will yield, I appreciate his comments.

I know of the long and dedicated hours the Senator has devoted to working on trade legislation. He has made a very important contribution to our effort and the recognition of the problem we have today and how important it is for Congress to fulfill its role of responsibility, and the fact that we want to work with the administration in trying to have an effective trade round.

Mr. BAUCUS. I thank the Senator. That is exactly the point I want to make. We need legislation, in cooperation with the Members of the Senate on the other side of the aisle, in cooperation with other groups in our country, in order to pass a trade bill or a series of trade bills to help America fight our battles overseas.

I think it is appropriate, Mr. President, to review a little history.

From 1981 through much of 1985, the U.S. dollar skyrocketed to new heights. As a result, U.S. imports swamped our domestic markets, and our export markets dried up. We had very large trade deficits. Our American businessmen could not compete, and we were flooded by very inexpensive imports.

Throughout that period, many of us, particularly on our side of the aisle, explained that the U.S. dollar was too highly overvalued. It was killing our export industries, and we had to do something about it.

It will be recalled that President Reagan at that time said that the overvalued dollar is no problem whatsoever, that it is fine, that the United States should value a strong dollar because it makes us big and strong—it gives us a macho sense of being big and mighty.

However, it was not too long ago that Secretary of the Treasury Baker began to send signals that maybe the dollar was too highly valued. He met with various finance ministers around the world—the first meeting was held in the Plaza Hotel in New York City.

As a consequence, other countries have intervened and brought the dollar down to more appropriate levels.

Mr. President, now is the time to pass trade legislation. I do not think the President wants a trade bill. He does not want even a reasonable trade bill. He says that any trade bill is a protectionist bill. I do not know of any trade bill that the President has not labeled protectionist.

I think the time is now to pass trade legislation, since the President was sustained on the textile bill in the House yesterday. Since the President has been sustained, the need now is even greater for some kind of trade bill to begin to address our trade problems.

□ 1120

Various countries, Japan, for example, still dramatically deny access to American goods. Japan is a closed market. We ought to do something about that.

I think many countries peg their currencies to the U.S. dollar and take advantage of the United States. There are many ways foreign countries take advantage of the United States. Some have export subsidies. We do not have export subsidies. The list is endless.

I am not saying we should pass protectionist legislation. The United States cannot retreat into a shell. The United States has to live in the world but the United States has to take care of itself, has to stand tall and has to make sure that other countries do not take advantage of us.

We on our side of the aisle call upon the Members of the Senate on the other side of the aisle to call upon the President to work, cooperate, find a compromise, find some agreement, but at least let us pass some trade legislation that is going to help Americans, help Americans work, help Americans keep their work, help American workers find new jobs to help America.

Mr. President, I must say, on the other hand, the President has been worshipping at the altar of laissez faire, worshipping at the altar of free trade, and not recognizing in so doing there are other values that we also have to take account of, and those other values include taking care of America, making sure other countries do not take advantage of us.

Other countries do not worship at the altar of laissez faire. Other countries do not worship at the altar of free trade. Other countries rather proportionately worship at the altar of protecting themselves and passing legislation in their countries to help their workers, help their people at our expense.

I am only saying let us be pragmatic, let us not be blind to certain ideologies, let us rather be pragmatic, responsible, reasonable and work together and pass legislation.

There is still time for a trade bill, Mr. President, and I hope that President Reagan heeds our joint bipartisan call and does work with Congress.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR DURENBERGER

The PRESIDING OFFICER. (Mr. SYMMS). Under the previous order, the Senator from Minnesota is recognized.

HOUSE-SENATE CONFERENCE ON H.R. 3838

Mr. DURENBERGER. Mr. President, I am not a member of the House-Senate conference on the tax reform bill H.R. 3838.

However, as one who worked for many months with my colleagues on the Senate Finance Committee to fashion a reform proposal, which was approved 20 to nothing by the members of the Finance Committee and 97 to 3 by our colleagues in the Senate, I want to express my strong concern over the approach that the House Democratic conferees are taking in regard to this bill. I have recently reviewed the so-called House offer to the Senate conferees and I am convinced that the Nation's economy would be far better off if we had no tax bill rather than the proposal submitted by the House of Representatives.

As we know all too well, the Nation's economy is in fragile condition. The gross national product grew a bare 1.1 percent in the last quarter and there are signs of a significant slowdown in the overall economy. Most discouraging, industrial production has declined in 5 of the first 6 months of the year and shows absolutely no sign of picking up. If tax reform is to have any meaning, it must ensure that the Nation's economy begins to grow at a more steady and measured pace. Yet the offer presented to the Senate conferees would threaten to choke the economy into a downward slide.

Yesterday, we were nearly forced to a vote on the President's veto of the Textile and Apparel Trade Enforcement Act. Proponents of that legislation believed that the Nation's horrendous trade deficit would be eased if Congress adopted this protectionist measure. I do not agree and am pleased that the House did not override the President's veto. I would suggest to my colleagues that the most effective way to help solve the trade deficit is to avoid imposing draconian new taxes on American business operations abroad.

Yet that is exactly what the House conferees have recommended to the Senate by proposing more than $12 billion in additional taxes on American companies doing business abroad.

How ironic that the members of the same House committee which drafted the most protectionist legislation since Smoot-Hawley, H.R. 4800, would hamstring American businesses trying to compete abroad through the Tax Code.

What about all of those calls for American business to replace obsolete plant and equipment and streamline operations to face down the industrial challenge of the Pacific basin and Western Europe? The House Democratic conferees' answer to this question is to scale back depreciation deductions by $18 billion. And on top of that, the House proposes cutting back on the special tax credit we adopted in 1981 to spur research and development. In the face of the continuing decline of manufacturing in America, it seems that this proposal just adds insult to injury.

The natural resource sector of our economy—mining, timber, oil and gas—which has been in a depression throughout the 1980's just cannot afford the additional billions in taxes that the House proposal would mandate. Iron ore miners and timber growers in my State of Minnesota, and oil field workers in States like Texas, Louisiana, and Oklahoma will surely never see their jobs again if the House proposals are adopted.

The Senate made a major step in the direction of putting responsible public policy into the Tax Code and they put it especially into the Federal/State relationship when we adopted the tax-exempt bond provisions of the tax reform bill. These provisions allow State and local governments a great deal of flexibility in meeting their important public responsibilities as partners with the Federal Government.

Yet, the most recent offer from the House Democratic conferees sends a devastating message to every State and local government in this country—the Federal Government will mandate hundreds of standards that you must comply with. But the House of Representatives will make it nearly impossible for you to finance those obligations.

I must also note that the House Democratic conferees would take away many of the most important features of the Senate bill that benefit our hard pressed farmers. The House would not allow these self-employed individuals to deduct a single cent of the cost of their health insurance. And the House would not allow farmers to renegotiate their uneconomic loans with their banks without incurring a tax penalty.

This is not an exhaustive list of my strong objections to the tax philosophy embodied in the House offer. We do not have time for that this morning. It merely identifies the stronger of the strongest objections. The list of bad public policy proposals in the House Democratic offer goes on for 16 pages.

Mr. President, I urge my colleagues on the conference committee to hold firm on the provisions of the Senate's tax reform bill. Our economy cannot afford a bill which arbitrarily damages the ability of American business to compete effectively in the world economy. That is exactly what the House Democratic offer would do.

And I would call on our colleagues in the House who are not tax conferees and on the White House to pull out the promises they made to America when they switched to support the House bill last December. In his December 16, 1985 letter to Representative JACK KEMP, President Reagan reiterated that one of his "minimum requirements for a tax reform bill" was that the bill provide "basic tax incentives for American industries, including those which depend upon heavy capital investment in equipment and machinery."

The Senate fulfilled all of the President's promises for tax reform and now the House Democratic conferees propose that the Senate accept the antigrowth measures included in the House bill.

It is time for President Reagan to keep his commitment to lend his full support to the progrowth Senate tax reform bill.

When tax reform advocate JACK KEMP voted to adopt the House bill, he did so in order to "keep the process alive of reforming our Tax Code." But he and others promised "to lead a fight against a bill" that undermines the Nation's economy. Now is the time for those Members of the House who made the Senate tax reform bill possible to send a clear and direct message to the House tax conferees: Do not tamper further with the financing provisions of the Senate bill, a bill which brings dramatic fairness to the individual and corporate Tax Code and encourages the expansion and growth of jobs and industry in America which make the income-based Federal revenue possible.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR DECONCINI

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona [Mr. DECONCINI] is recognized for not to exceed 5 minutes.

Mr. DECONCINI. I thank the Chair.

FAIR ELECTIONS IN MEXICO

Mr. DECONCINI. Mr. President, last night in the late hours, thanks to the indulgence of the ranking minority member and chairman of the Armed Services Committee, I submitted a concurrent resolution (S. Con. Res. 158) and I want to speak to it for just 5 minutes this morning.

Mr. President, I would like to read a few statements made by the Catholic Church discussing a specific political situation in an unnamed country:

The churches will remain closed today as a sign of protest, as a loud cry on our part for those whose eyes remain blindfolded or who have been blinded by their own guilt.

We energetically denounce the shameful acts that took place on election day . . . we denounce the lies, fraud, the deliberate delaying of voting, the predominance of public force, the supplanting of individual, the blackmail, the threats and all arbitrary acts that took place on that day.

Where is the Catholic Church making these statements? A student of history might guess El Salvador. Recent world events might point toward the Philippines. Current newspaper accounts might implicate a Central American country struggling for democracy. Future newspapers could carry this scenario for South Africa or perhaps Chile. Where is this, you might ask? This is in the border state of Chihuahua, located in the north of Mexico. Independent civic groups and hundreds of volunteers have documented fraud in what they claim to be more than one-third of the polling places in Juarez. The Catholic Church, from which I just quoted, has been increasingly critical of the Mexican Government. They have bluntly told Catholics they have a moral duty to demand clean government. They have candidly told the Government that the cheating in Chihuahua constitutes a "social sin." They have threatened to close the churches in protest.

Mr. President, I have previously attempted to address this problem. On June 26, I introduced a resolution asking President de la Madrid to appoint a nonpartisan commission comprised of Mexicans of all political parties to monitor the elections in Mexico. On July 6, the elections in Chihuahua were marred by fraud in the most bitterly fought state election in recent Mexican history. The Mexican press reported my resolution to be meddling with the internal affairs of Mexico by sending Members of Congress to monitor the elections. This is simply inaccurate.

□ 1130

I rise today to articulate three important goals. First of all, to establish more effective and constructive diplomatic channels with the Mexican Government. I have written to my good friend, Senator Riva Palacio in the Mexican Senate, to explain and clarify my first resolution introduced with the distinguished Senator from California, Mr. WILSON. I believe he mistakenly thought it included international observers from outside the country. Sharing a 2,000-mile border, miles along Arizona, requires honest and constructive diplomacy. We need to continually discuss, debate, compromise, cooperate, and collaborate in formulating policy between our two countries. We will occasionally disagree, but we must work together. Our two countries are increasingly effected by social, political, and economic factors.

Second, by resorting to fraudulent activities witnessed by thousands of voters and hundreds of reporters, the Mexican Government risks heightened dissent at home. Furthermore, they risk criticism from abroad. And, they risk eroding support from the U.S. Congress. Erosion of domestic support and international confidence complicates Mexico's efforts to solve its worsening economic problems. This hurts Mexico's ability to obtain relief from foreign debt. This erodes their efforts to bolster trade. I am hopeful that fair and free elections will demonstrate their courage and conviction in the Mexican system. This can only assist our neighbors in solving their domestic and international economic problems. Cheating only undermines international confidence precisely when it is most needed.

Third, this is not an endorsement of one party over another, as some reporters in the Mexican press might claim. This is an attempt to support fair and honest elections and condemn fraud. Regardless of who wins, the Mexican people will benefit by ensuring that their political will is reflected by elected leaders.

As a matter of foreign policy, the stability of Mexico ranks second only to the Soviet strategic balance in significance to Americans in the next decade. American foreign policy must remain true, consistent, and fair. When we discuss fair elections, we must encourage all our friends to be accountable. That is why this resolution is both constructive and timely. President de la Madrid will meet in mid-August with President Reagan. As Mexico discusses its international trade and foreign debt problems, we must ensure that fair elections are discussed in an open and frank manner. Congress can send a very important message to both Presidents. This resolution recognizes the great nation of Mexico as a longstanding friend and ally of the American people and the United States. But it would be a mistake to ignore their recent electoral fraud and corruption with silent diplomacy. This resolution supports democratic principles and fair elections in Mexico for all of its citizens.

Mr. President, cosponsors of this concurrent resolution are the Senator from California, Mr. WILSON: the Senator from New Mexico, Mr. DOMENICI; the Senator from Florida, Mrs. HAWKINS: and the Senator from Texas, Mr. GRAMM.

Mr. President, I yield back the balance of my time or, if anybody wants it, I will be glad to yield it during morning business.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER (Mr. DURENBERGER). The time of 11:30 having passed, under the previous order, there would now be a period for the transaction of routine morning business. However, the Senator from Tennessee, also under that order, has the right to a special order. If the Senator would request unanimous consent that the period for morning business be suspended for the purposes of his special order, the Chair would entertain that request.

Mr. SASSER. Mr. President, I ask unanimous consent that the period for the transaction of morning business be suspended.

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

RECOGNITION OF SENATOR SASSER

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

CRACK

Mr. SASSER. Mr. President, on Tuesday I joined with other members of the Democratic Working Group on Drugs in offering legislation to intensify our efforts to combat the deadly drug known as crack.

It is past time that we focus our efforts on this very serious problem. In just a short period, the use of crack has reached epidemic proportions. It threatens to scar an entire generation of our young people.

Statistics show that one of every six of teenagers will have experimented with cocaine before they graduate from high school. That is a truly frightening statistic. And the picture is getting worse. Surveys show that 61 percent of all high school seniors have tried an illegal drug at least once. The simple fact is that students are used to the presence of drugs in their life experience.

For students—as for adults—crack is a particularly dangerous drug. It is highly addictive. Some say that one use of crack and you are hooked. Crack is also cheap. A vial of crack costs as little as $10.

I see the distinguished Senator from New York (Mr. D'AMATO) on the floor. I was interested in seeing him purchase a vial of crack in one of the newspapers not too long ago in an effort to illustrate the pervasiveness of this problem.

So that puts it well within reach, at $10, of most high school students.

The legislation we introduced (S. 2715) addressed both enforcement and education—and both are vital if we are going to make any headway in the battle against crack.

First of all, we add crack to the list of schedule I drugs. This is where it

belongs. Crack is as dangerous as any drug on the street—and more addictive than almost any of them.

Second, we create a separate crime for employing minors in drug operations. Drug dealers often employ minors as runners on the street or as a safety measure to avoid arrest. They know that minors are usually not charged or if they are, they are placed on probation.

I believe we have to come down on dealers and come down on them hard for the use of minors in their drug operations. It brings youngsters into the seamy underworld of crime and exposes them to drugs—usually resulting in their own addiction.

Third, we make it a separate crime to manufacture illegal drugs near a school. Crack is so easy to manufacture that drug dealers can set up shop near a school and entice students to purchase drugs.

Incredible as it may seem, while it is a crime to sell drugs to minors, it is not a separate crime to employ minors in drug dealing. By the same token, while it is a crime to sell drugs near a school, it is not a separate crime to manufacture them near a school. By creating these new offenses we are offering law enforcement a new tool to prosecute these vicious drug dealers who would destroy our youth for profit.

That is a start, Mr. President, but it is only a start. The second part of our bill addresses the issue of drug education. We will never win the war on drugs until we convince our young people to avoid drugs. Drugs are not recreational, it is not smart to use them. They are lethal and they kill you.

First, we direct that October 5, the first day of "Drug Abuse Awareness Week," be designated as "National Drug Abuse Education Day." This will allow us to focus national attention on the need to educate our young people to the dangers of drugs.

Second, we direct the Secretary of Education to immediately provide States with available information on drug education strategies and on the nature and extent of crack.

Third, we direct the Director of the National Institute of Drug Abuse to produce and run public service announcements on the dangers of crack. Again, this is something we can do right now.

While long-term drug education efforts are needed, we also need to do something now—in this school year. This is an emergency program to respond to an emergency situation.

Fourth, we establish a grants program within the Department of Education to enable States to develop drug education programs, to train counselors and teachers in drug education, and to pool knowledge of the most promising programs.

These steps are just a beginning. I know my colleagues who serve with me on the Democratic Drug Working Group are committed to further action to combat this growing national problem. And our legislation marks a good start in our war on drugs. I urge my colleagues to join with us in this important endeavor.

□ 1140

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the time of transaction of routine morning business.

Is there morning business?

DONALD REGAN RECEIVES IRON MIKE AWARD

Mr. THURMOND. Mr. President, I recently had the pleasure of attending a dinner at which White House Chief of Staff Donald T. Regan was presented with the coveted Iron Mike Award of the Marine Corps League. I know my colleagues join me in congratulating Mr. Regan on receiving this prestigious award. He has served with distinction in the Marine Corps, participating in five major battle campaigns, and retiring as a lieutenant colonel.

During his 5½ years of active duty, Mr. Regan was awarded five battle stars, a commendation ribbon, and a theatre ribbon. Following his active duty, he was in the Marine Reserves for 2 years. Donald Regan has continued his fine record of service to his country as the 66th Secretary of the Treasury and as the White House Chief of Staff.

I ask unanimous consent that the fine speech which Mr. Regan made before the Marine Corps League upon his acceptance of this award be included in the RECORD at the conclusion of my remarks.

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

MARINE CORPS LEAGUE DINNER

(By Donald T. Regan)

We Marines have a saying: There is no such thing as an ex-Marine. And standing here, this evening—with people like yourselves and the members of this great Marine Corps League—I can assure you: The heart knows how true that saying is, as true as it was 40 years ago when a young recruit proudly wore his first globe and anchor.

It's a deeply humbling moment for me: to accept this award—a most coveted one. To stand here tonight is also to realize that in a world of confused allegiances and divided loyalties, some things never change, that some traditions like those embodied by the Marine Corps League live on; and that there are those who remain upright, who remain always faithful.

But if I feel as one with you tonight, I must act as one as well. So I must live up to the Marine code and tell the blunt truth. Ladies and gentlemen, I confess I am sorely tempted this evening—like any good Marine on such an occasion—to reminisce, to tell some stories.

Now I realize that to do so in such distinguished company runs a considerable risk, particularly as I look out and see some of the most prominent members of the defense establishment, not to mention so many medals, ribbons, and stars. Of course, I learned as a young Marine how to defer to rank. Well, not always. I remember a story that a great American, the late Admiral Rickover liked to tell about being an Admiral. You know, I don't know why the Navy is always coming up at Marine events, it's just one of the oddest things. But anyway Admiral Rickover liked to note that the day before he received his promotion to Vice Admiral, a horse named Rickover also won the 5th race at Belmont Park. And Admiral Rickover commented: no other Admiral in history has had a whole horse named for him. But as I say Marines are a little different. I remember seeing another naval officer break in a Marine who was doing his first duty on board a ship. And the officer of the deck asked what he would do if a man fell overboard. "'I would yell, Man overboard!'" the Marine said. The officer then asked what he would do if an officer fell overboard. The Marine was silent for a moment and then asked, "'Which one, sir?'"

So, with all the military experience out here tonight, I'll be careful of my chutzpah; I won't make the same kind of mistake. So I don't think I should tell any stories tonight: well, maybe one.

1943. New Georgia. It is hot. Captain Regan, sitting in his tent in a pair of field shoes and shorts, hears a huge commotion outside. His Sergeant Major ducks in and says, "Captain, you better come quick and bring your sidearm."

Outside a large group of troops have gathered; the commotion is about an iguana who has been driven high up a coconut tree. Some of the Marines are shouting, others are throwing rocks; some of the Marines are from Brooklyn and think they have treed a man-eating crocodile. There is a hue and cry to shoot the reptile.

At this point, it is important to explain that sometimes when troops were being moved or replaced in combat zones an order would go out restricting ammunition clips to only a few authorized individuals. This was to avoid the kind of jumpiness and accidental firings that occur in the jungle, especially in darkness. As good Marines, we took it as a matter of faith that this was the sort of thing that only Army troops did, but we also had to obey the orders.

So in a Marine company only one person was authorized to shoot. And, as you have guessed by now, only Captain Regan could use his weapon. Now, ladies and gentlemen, every officer has one such moment in his career—a moment of truth, a moment when it is all there, right on the line. See Captain Regan surrounded by his Sergeant Major, his first sergeants and his troops. See Captain Regan take out his 45 and begin to pray. See Captain Regan aim his 45 and begin to sweat. See Captain Regan fire and get lucky. Watch the iguana fall. Watch Captain Regan return to his tent and only then begin to breathe again.

Permit me to turn now from reminiscing to a subject of vital importance: the defense budget. As you know, in his first term the President expanded defense spending greatly. He did so in light of a pressing and obvious need to rebuild our Nation's defenses—and he did so with broad political support.

In this second term, some assert that political support has weakened. Certainly on Capital Hill there is no shortage of plans to cut Federal spending by gutting defense. So the question arises: Will the President be able to maintain defense spending at the needed levels? Pundits in this town say "no." I say "yes"—and here's why.

The President has demonstrated a remarkable, even historic, ability not only to win on specific issues but to reshape the thinking that underlies the issues, to provide new first principles, to replace the prevailing fundamental assumptions with his own. Consider the record. When the President took office, the idea of any major tax reform was considered outlandish, maverick. Today we have already seen the President's 1981 tax cut take effect, and we're moving toward what promises to be the most sweeping and thorough tax reform in some four decades. Indeed, a recent headline in the Washington Post told the story: "The Impossible Became Inevitable."

Or look at aid to anti-communist insurgencies. When the President took office, official opinion in Washington still centered on notions of containment, of attempting to slow the Soviet advance. The idea that we should assist those endeavoring to reverse that advance was scandalous, an affront to established and comfortable patterns of thought. Today the United States is providing aid to freedom fighters in Afghanistan, Africa, Cambodia—and, yes, Nicaragua. El Salvador is safely in the freedom family. And Grenada has been saved.

This reshaping of the established order is precisely the kind of change I believe we're witnessing with regard to defense spending. The President is maintaining the defense budget with guts and persistence. And by giving the people the facts—facts like these.

In 1962, defense spending represented some 46 percent of the Federal Budget, while 29 percent was devoted to social spending. By 1982, those proportions had almost exactly reversed: Defense had fallen to 29 percent of the budget, while social spending had risen to half.

The President knows that the reason for the Federal deficit is social spending that has increased enormously, not defense. And as he says it again and again and again, using the bully pulpit of the Presidency to bring the point home, he's effecting a deep and lasting change in the thinking of the electorate and hence in the character of American politics. Strong defenses and the spending to maintain them, including foreign aid, are coming to be seen not as a temporary aim but as a given, a permanent aspect of the role our Nation must play upon the world stage.

Of course maintaining strong defense involves sacrifice, never politically popular. But the President is able to draw upon the spirit of sacrifice because he offers the people hope—not containment, but the advance of human freedom; not an unending balance of nuclear terror, but the Strategic Defense Initiative and possibility of making nuclear missiles obsolete.

The importance of S.D.I. to our Nation's defenses is obvious; even if only partially successful, it could vastly increase the cost to the Soviets of attempting nuclear aggression. What is perhaps overlooked is S.D.I.'s political importance. S.D.I. represents a forward strategy based upon specific objectives. It marks the difference between thinking defensively and thinking creatively and actively, between accepting the status quo and working for a dramatic change in the interests of peace. If you'll permit me a football metaphor, S.D.I. adds up to the difference between never getting past the fifty-yard line and going for a touchdown. The American people understand all this instinctively. And S.D.I. thus helps the President to enlist their support for his defense strategy as a whole.

In his effort to maintain our defenses, then, the President has the arguments on his side. In S.D.I., he has a winning strategy. And as the polls indicate, he has the American people with him as few Presidents in history. His opponents have on their side only the failed policies of the past.

But this brings me back to this evening, to this award. You see, I learned loyalty in the Marine Corps, so I'm puzzled when I see the press refer to me as a Reagan "loyalist," almost as though it were a criticism. In the Marines, we all knew we were part of a great cause. We knew our officers, we knew our men—and we were loyal to both, up and down. In the West Wing, I feel much the same way. Of course the obvious drama of landing on an island under heavy fire is missing—except maybe when I go up to Capitol Hill. But the sense of urgency is there. The sense of an enormous conflict is there—if at no other time, then certainly every morning at the national security briefing, when we learn what America's adversaries have done or are planning. And the sense of service, the sense of greatness, even if I may say so, the sense of camaraderie—well, that's there every time you walk down the hall and go into the Oval Office.

Loyalty, service—these days my mind goes back to the Corps a great deal. I've told you the great adventure story of Captain Regan and the iguana.

Well, there are other memories, not so humorous. Many of those here today have such recollections. Fate throws us together with others we hardly know; what we have in common is only this: we are all Marines. We live together, fight together, sometimes die together. We see almost daily acts of heroism that are soon forgotten, that history will never record—I can still see in my mind's eye just after a bombing attack on the island of New Georgia a Marine sergeant, without a moment's hesitation, run into the wild flames and flying shrapnel of a burning ammunition dump to pick up a wounded Marine and just barely make it back to safety. We see all this, we become as close as mortal human beings can become and vow never to forget. And then, when it is over and peace has come, we go home, back to a different more settled way of life. We may never see each other again; but we never forget—each other or the Corps.

Nor—and this is the blessing of living in this Nation—does America forget. It is why we are here tonight—to commemorate an institution whose spirit in 210 years of service to country has never flagged: the United States Marine Corps, born on November 10, 1775 in Tun Tavern—some Marines like to say it was a fitting place for the Marine legend to begin.

The military historians have looked for the reasons to explain such legends, to understand why some troops fight well and others do not. British historian John Keegan has said it is simply the will to win—a pride in unit, a sense of comradeship; a simple refusal to let the other guy down. It is what the Marine Corps is all about, that is the pride it instills; it is the real meaning of "Semper Fi." In his memoir of the Pacific War, William Manchester explained why he left his hospital bed to return to his troops, his fellow Marines. "It was an act of love," he wrote. "Those men on the line were my family, my home. They were closer to me than I can say, closer than any friends had been or ever would be. They had never let me down, and I couldn't do it to them, I had to be with them rather than let them die and me live with the knowledge that I might have saved them."

"A man will not sell you his life at any price," Manchester also wrote about the Marines he knew, "but he will give it to you for a piece of colored ribbon." He meant that to be a Marine is to live for something far beyond the bottom line or narrow self-interest.

"They are better," Ernie Pyle wrote after covering the Marines for the first time in World War II. "They are better because they think they're better."

It is so today. Our enlisted Marines today are smarter, better-educated, better-trained, and just as tough as the Marines of any era. And let me say the Corps itself has never been stronger, better-equipped, or better-led than by its current officer corps and a smart, likeable and tough Commandant, P.X. Kelley.

We are fortunate it is so. Look around the world today and see where blood is being shed—Angola, Afghanistan, Nicaragua—listen to those who say our defense budget must be slashed—and who cannot feel grateful that we have to defend our Nation a striking force that is vigilant and ready, infused with the spirit of self-sacrifice and devotion to country.

Ladies and gentlemen, not only from the halls of Montezuma and shores of Tripoli but in France in World War I, in Guadalcanal, Tarawa, Iwo Jima, Okinawa, in Chosin, Korea, in Vietnam, and in Lebanon and other places too numerous to mention, Marines have been in action; and the memory of those Marines sustains and inspires. They haven't changed; if anything, in all the ways that I have mentioned, they are better. Let us be proud of them; let us give them all our support. Let us ever be grateful there are those who fight for right and freedom, who call themselves a band of brothers, who claim the title of United States Marine.

SHOE AND TEXTILE WORKERS

Mr. SASSER. Mr. President, I deeply regret that we will not be able to provide assistance to our Nation's shoe and apparel workers. The administration's heavyhanded pressure tactics have worked—for now. Once again they have shown their insensitivity to the needs of our shoe and textile workers.

Yesterday was indeed a grim day for these hard-working Americans. For years, textile and apparel workers have seen their jobs disappear in the flood of imports while their Government stood by and refused to offer any assistance. While other countries erected trade barriers to protect a vast range of industries, U.S. workers were told that helping them would cause a trade war. In fact, the United States was not even enforcing the textile agreements we did have.

Finally, we in Congress said "Enough." Last year we passed the Textile and Apparel Trade Enforce-

ment Act. That bill promised some sanity in our textile and apparel import policy. It also promised our domestic industry that they would have a period of stability to modernize their facilities and compete with imports.

In what I think was a very ill-advised action, the President vetoed that bill. At the time, he said that in the series of bilateral textile agreements to be negotiated this year he would hold the level of import growth to the level of growth in the domestic industry. Well, Mr. President, I haven't seen much evidence of that in the agreements announced so far this year.

The recently announced treaties with Taiwan, Hong Kong, and with South Africa show that this administration has no intention of holding the line on import growth. What it does show is that they will continue their blind devotion to a concept of free trade that simply doesn't exist in the real world.

Textile and apparel imports rose 10.9 percent between May of this year and May of last year. In 1986 to date, they are up a staggering 23 percent. Between January and May of this year, our textile and apparel trade deficit was almost $8 billion. If that trend continues—and all the evidence is that it will—our textile and apparel deficit for this year will be $18,830 million.

But these figures are more than mere statistics. They represent real people and real jobs. Last year 4,000 Tennessee textile and apparel workers lost their jobs due to imports. The closing of a textile or apparel factory can be devastating to a local community. Many such facilities are located in rural areas. They are often the major employer in the area—areas which have few alternative employment opportunities.

As I travel around Tennessee, I continually see the effects of shoe imports on our citizens. I talk to individuals who have lost their jobs in the communities where they have lived and worked for years. They face the future with no prospects of new jobs.

Many textile and apparel workers are prevented by family obligations and ties from moving to a new area. Many are women—often single parents and the sole support of their children.

I am deeply distressed that the administration has chosen a head-in-the-sand approach to an issue that is literally shaping people's lives.

Sooner or later, Mr. President, we are going to have a trade debate in this body. And I want to put the administration on notice that when we do, those of us who represent shoe and textile workers will be supporting changes in our trade laws to assist these workers.

DISINFORMATION WITH REGARD TO CHILE

Mr. HELMS. Mr. President, I am deeply concerned about the massive campaign of disinformation which is being coordinated against the people of Chile who yearn for an orderly transition to democracy. A coalition of the media, the Marxists, and the State Department is seeking to destablize the transition to a full fledged democracy in Chile.

I identify it as a campaign of disinformation because I have been to Chile, and I have seen with my own eyes what is going on. There is a concerted effort to frustrate and discredit the efforts of the Chilean people. The Chilean people want a fully functioning, representative democracy; but they also want a democracy that is not going to slide back into a totalitarian regime, such as they experienced under Allende.

What disturbs me about the disinformation campaign is that the State Department, the CIA, and the media so often, for whatever reasons, side with the Marxists and the totalitarians.

When I publicly criticized Ambassador Harry Barnes for planting the American flag in the midst of a Communist rally, I did so because the decent people of Chile were shocked, and because those Americans who work in Chile and who understand the political alternatives in Chile were outraged by his actions.

Mr. President, Ambassador Barnes admitted to me that he did not see any of the leaders of the democratic opposition present at the demonstration which accompanied the funeral of Rodrigo Rojas. What the Santiago newspaper pictures showed were hundreds of red flags, Communist banners featuring the hammer and sickle, and the slogans of the revolutionary left. This was not a demonstration by Chilean citizens seeking early elections; it was a bid for a Communist takeover by the totalitarian left.

Ambassador Barnes' attendance at the Communist demonstration was exactly as repugnant as if he were Ambassador to Germany and had attended an illegal neofascist brownshirt rally complete with swastikas. Like Germany, Chile knows what happens when totalitarian ideologies take over the democratic process. Just as in Germany today fascist parties, fascist emblems, and fascist slogans have been declared unconstitutional by the constitutional courts, so too in Chile the emblems and parties of Communist totalitarianism embraced by Ambassador Barnes have been declared unconstitutional by the constitutional courts of Chile.

It is clear that Ambassador Barnes' actions not only subversive of the constitutional process in Chile, but made common cause with the enemies of the United States.

The policy of President Reagan is to promote the democratic transition on an orderly schedule. The policy of Ambassador Barnes is to disrupt the orderly transition, to promote the totalitarian left that Chile once threw off just in the nick of time, and to defame the government that rescued Chile from the clutches of international socialism.

Mr. President, Ambassador Barnes and Secretary of State Elliot Abrams have tried to spread the myth that human rights is a major problem in Chile. I have no doubt that human rights problems do occur in Chile. A country that is beseiged by terrorist revolutionaries seeking to destroy freedom has a different problem in balancing the rights of the majority to be free from terrorism and the individual rights of insurrectionists trying to overthrow law and order. Israel, for example, has had to adopt a policy of tough justice to protect its citizens against the attacks of the PLO, and sometimes it has missed the mark. But nobody doubts the good will of Israel toward human rights over the long haul.

So too with Chile. The State Department Human Rights Report itself says that there have been no major cases of human rights violations, such as cases of "disappeared persons," in recent years. And recently a left-wing political science institute in Chile named FLAXO took a scientific survey of public opinion. It was so stunned by the outcome that it tried to suppress the results, but word leaked out and it was forced to publish its findings. The poll showed that more than 60 percent of the Chilean people believe the major problem facing Chile is the economic situation, not surprising in view of the world economic recession. Only 2 percent thought that human rights was a major problem in Chile. But not a word about this poll has appeared in the major media of the United States.

Ambassador Barnes and Secretary Abrams are trying to cater to that 2 percent with their support of the violent Communist left—at the expense of the democratic opposition and the parties that support President Pinochet. There is a democratic left in Chile, but Ambassador Barnes and Secretary Abrams are leaving them high and dry.

There is no doubt that politicians of all stripes would like to have their chance to try to rule the country, and it appears to serve their self-interest to have an early election. But President Pinochet is following the schedule set up in the democratic constitution adopted by 67 percent of the people in 1980. He has not deviated from that schedule; and, in my judgment, it would be a grave mistake to

attempt to try to force him to depart from that schedule.

What is really happening is that Chile has already begun to recover from the world recession, with a growth rate of 4 percent for 1985, and continuing at 4 percent for this year. The agricultural sector has made a strong recovery for the export market, particularly since the seasons are reversed in the Southern Hemisphere, and Chile is able to market seasonal produce in North America when our fields are dormant. Indeed, Chile has the highest growth rate in Latin America.

Mr. President, the resurgent economy is just beginning to have its impact upon the people. Such an impact is precisely what the Communists and Socialists fear most. If the growth rate continues, the economic disaffections of the Chilean people will have vanished by the time of the elections scheduled for 1989, and it is expected that there will be strong support for the political parties advocating social justice through the market economy.

Thus it is to the obvious advantage of the Communists and Socialists to force elections at an earlier date under the intimidating threats of terrorism and social unrest; it is to the advantage of the parties of freedom to keep to the established constitutional schedule. The desire of Ambassador Barnes and Secretary Abrams to attack the economic base of Chile is aimed directly at the partisans of freedom and against the interest of the United States.

Thus Ambassador Barnes has targeted Chile as an object of hostile penetration. Along with Secretary Abrams he has publicly assisted Mrs. Veronica de Negri as an aggrieved mother psychologically wounded by a supposedly brutal regime.

While we can all sympathize for a mother's grief, the intelligence capabilities of the State Department and the CIA evidently were too incompetent to understand another aspect of Mrs. de Negri's life. The view of the media and the Marxists must be tempered by the view of many Chileans who remember her years in Chile as a militant member of the Communist Party of Chile, skilled in psychological warfare.

Mr. President, the image of Rojas and Quintana as merely idealistic young reformers must be tempered by the findings of the special prosecutor that the pair were in fact part of a group of terrorists carrying gasoline, molotov cocktails, and rubber tires for erecting burning barricades, and that Quintana had been arrested for similar activities last April.

The image of brutal soldiers deliberately dousing the helpless pair with gasoline, must be balanced by the special prosecutor's finding that Quintana attempted to kick a molotov cocktail at the group of young soldiers arresting her, only to have it explode against her foot, and of the burned pair refusing to go to the hospital, and inexperienced soldiers making a fatal misjudgment by allowing them to go free. There will be those who prefer the Communist version of the story, but it is remarkable that neither the media nor the State Department have made the other version, based upon sworn testimony and findings by a distinguished judge.

This picture of Chile is admittedly different from the picture presented by the media, the Marxists, and the State Department. But it deserves to be examined disinterestedly by those seeking both truth and the transition of Chile to a stable democracy.

Mr. President, at this point let me outline parts II and III of this statement for those who may be interested in the details which I shall set forth.

There have been at least four themes of disinformation on the Rojas case spread by those seeking the transition of Chile to Marxism.

The first theme of disinformation is that the Chilean Government is somehow stalling on the road to democracy. This is a favorite theme of the State Department.

The second theme of disinformation is that the so-called democratic forces of the left are the best protection for Chile against communism. But the fact is that the same democratic forces of the left that took Chile down the road to totalitarian communism are the very same forces contending for power today.

The third theme of disinformation is that the military forces deliberately sought to torture and kill Rojas and his companion, and subsequently attempted to prevent them from receiving competent medical treatment. This is a theme repeated over and over again by Mr. Ariel Dorfman, a self-appointed spokesman for Chile, most famous for his book, "How to Read Donald Duck," a Marxist interpretation that condemned Walt Disney as an agent of cultural imperialism.

The fourth theme is that Rodrigo Rojas was an idealistic young man, struck down in the flower of his youth. But the fact is that his family, and the family of his companion, are both well known as Communist activists, whose clear motivation has been, and continues to be, to impose communism upon a hapless Chile.

In the last section of this statement, I will discuss the historical role of the Communist Party in Chile, the role of the Communist Party in the general strike of July 2 and 3, the factual incidents relating to the burning of Rojas and Quintana. In addition, at the appropriate time, I will put in the record a number of official documents relating to the Rojas case for the historical record.

PART II

THE ROJAS CASE

Mr. President, I am deeply concerned that the circumstances surrounding the tragic death of Rodrigo Andres Rojas Denegri and the investigation of his death and the burning of his companion, Carmen Gloria Quintana Arancibia, have been grossly distorted by the major media in this country.

I am also concerned that the process of transition to representative government as called for under the 1980 Chilean Constitution has been equally distorted by the media in this country.

Mr. President, as I said to the press in Chile and here in this Chamber, I am neither pro-Pinochet nor anti-Pinochet. What I am for is freedom in Chile. What I am against is communism whether it is in Chile, Cuba, Nicaragua, Surinam, or wherever it seeks to enslave nations and destroy civilization.

CHILEAN CONSTITUTIONAL TRADITION

Mr. President, Chile has been recognized as having one of the most democratic traditions in this hemisphere. It has lived under just three Constitutions since 1833, a remarkable feat within the context of Latin American history. Chile has had the Constitution of 1833, the Constitution of 1925, and the Constitution of 1980.

It is a fact that the Constitution of 1980 was approved in a plebiscite by 67 percent of the Chilean people. It is a fact that the Constitution of 1980 is composed of articles of a permanent character and articles of a transitory character. It is a fact that the transitory articles spell out the timetable and process for the restoration of representative government in Chile. It is a fact that the Constitution of 1980 calls for a plebiscite in 1989 to vote up or down on a Presidential nominee put forward by the junta. It is a fact that the Constitution provides that if this nominee is voted down by the people, then a process leading to open elections in 1990 will commence.

Mr. President, it is also a fact that laws regulating political parties, the registration process, and other electoral matters have been drafted, or are in the process of being drafted, as called for in the Constitution of 1980. It is also a fact that these laws have or will be submitted for final approval in order to set the stage for the political aspects of the transition process as spelled out in the Constitution of 1980.

Mr. President, it is certainly clear that the transition process in Chile is operating under the timetable and guidelines spelled out in the 1980 Constitution which, I will point out again, was approved in a plebiscite by 67 percent of the people of Chile. If anyone doubts this, it is a simple matter to read the Chilean Constitution of 1980 and to then check the actions of the

Government. Should any Senator wish a copy of the 1980 Constitution either in Spanish or in English, I am sure that the Library of Congress would be pleased to furnish it.

Mr. President, our own Constitution spells out a timetable for elections. How would we react if the Soviet Union, or Cuba, or Red China, or England, or France, or West Germany, or any other country in the world, tried to pressure us to hold our next Presidential election in 1987 or in 1989, and not in 1988, as called for by our Constitution? Would Senators in this Chamber like to have a foreign nation dictate when their next election would be? I think not. We all love and respect our Constitution too much for that. We all wish to defend our Nation's sovereignty from foreign interference.

Mr. President, I am apalled that there are those in the media, in Congress, and in this administration who would force the Chilean nation to tear up its Constitution in order to suit their fantasies or their election campaigns, or their news circulation, or their careers in the State Department. Are we, in the United States, going to launch a global campaign to draft constitutions for every country on the face of this Earth and then impose them on these sovereign nations? It would appear that this is what some have in mind.

THE RECORD OF THE DEMOCRATIC LEFT

I am also appalled that the discussion of the so-called democratic forces in Chile has been divorced from the facts about Chile's recent historical experience and political life. There appears to be a short memory in the media, in Congress, and in the administration about the facts of Chile's political evolution over the last two decades.

It is a fact that the Presidential elections of 1964 were bitterly contested and that the line was drawn between freedom and Marxism. The candidate of the Christian Democratic Party, Eduardo Frei, was no Marxist. He was a Christian Democrat in the tradition of reformist Catholic thought as expressed in particular by Jacques Maritain. Unfortunately, his economic programs were not well thought out and attempted to find a way around the free enterprise system. This did not lead to the kind of economic growth that he hoped for but I say again, Eduardo Frei, he was no Marxist.

The campaign of 1964 pitted Eduardo Frie against Salvador Allende, who was a long standing member of the Socialist Party of Chile, which was and is Marxist and even Marxist-Leninist in character. Frei's two campaign slogans were "Revolution in Liberty," which expressed his reformist but democratic outlook, and "Democracy or Marxism," which referred to Allende and his Marixist-Leninist Cuban style platform. Allende was backed by a coalition composed of the Socialist Party, the Communist Party, and other racial Marxist and Marxist-Leninist elements. Ultimately, center and right of center parties supported Frei.

To give an indication of the intensity of the campaign, the Christian Democrats, led by Frei, invited Fidel Castro's sister to Chile to campaign on Frie's behalf. She came and denounced her brother Fidel and his Communist destruction of Cuba. She warned the Chilean people against Allende and his program for a Cuban-style revolution in Chile. Frei won the election and the Communists bided their time.

In 1970, Allende was put forward by the same Socialist-Communist coalition as before. It was a three-way race because the Christian Democratic Party had fallen under Marxist leadership through its candidate, Radomiro Tomic. Tomic refused to align the Christian Democrats in a coalition with center and right parties. Allende was then elected with 36 percent of the vote, less than his coalition had polled in 1964. But with Tomic's assistance, he was able to obtain congressional certification of his "victory."

It is a historical fact that from 1970 to 1973, Allende's coalition of Socialists, Communists, and terrorist groups (such as the MIR) plunged Chile into a Cuban-style social and economic revolution. Allende never stopped quoting Marx or Engels to explain what he was doing. The Chilean Congress used every means at its disposal to block his Communist policies. The Supreme Court exhausted every effort to call into question his unconsitutional behavior.

It is a historical fact that the Chilean Congress and the Chilean Supreme Court called upon the Chilean military to intervene to save the country from Allende and his Communist program which was wreaking havoc on the country. It is a fact that the moderate Christian Democrats supported this request for military intervention to preserve Chile. It is a fact that Eduardo Frei wrote to the head of the Christian Democrat international headquarters to explain why he supported this military intervention.

Mr. President, this is the historical process that led to the establishment of the Government, headed by President Pinochet, that is now in transition to representative government as provided for in the 1980 Constitution. If there are those in this country who wish to create myths about Allende, if there are those who wish to stand up for the Allende policies which were destroying Chile, then they should plainly state their support for the Marxist and Marxist-Leninist road down which Allende was leading his country. Would these supporters of Allende wish to lead our own country down the same road?

THE MEDIA AND THE ROJAS CASE

There have been numerous disinformation themes introduced into the American news media about the Rojas case. It is alleged, without the slightest proof, that the military doused gasoline upon the burn victims. It is alleged that the Government prevented the transfer of the burn victims from the Central Emergency Hospital in Santiago to the Workers Hospital. It is alledged that every bone in the boy's body was broken by the military. It is alleged that the military broke the teeth of the young girl with rifle butts. The U.S. State Department, on several occasions, called on the Government of Chile to "investigate" the incident even though an investigation was already underway by the independent Chilean judiciary.

Mr. President, what has not been presented to the American people is the factual situation surrounding the incident. It is a fact that the massive outbreak of terrorist violence of July 2 and July 3 of this year was planned months in advance by the violent Communist-inspired leftists in Chile. The fact that the general strike and violent demonstrations were planned in advance and publicly announced by the Civilian Assembly, a Communist front organization, has scarcely been reported at all. The fact that these two young people were actively participating with other activists in preparing barricades, molotov cocktails, and other incendiary devices at the time that they were burned, has not been reported at all.

Mr. President, it is a fact that the two young people were receiving appropriate medical care at the main emergency hospital in Chile. Moreover, the Workers Hospital, which had sent a doctor to examine Rodrigo Rojas, found that he was receiving adequate medical care, that it would be highly dangerous to move him to the Workers hospital, and that the Workers Hospital was not equipped to handle a patient in his condition. It is a fact that there is absolutely no mention of any bones being broken in the Workers Hospital doctor's examination of Rodrigo Rojas. It is also a fact that the girl's front teeth were removed by a team of doctors at the Workers Hospital in an emergency procedure after she was transferred there from the central public emergency hospital.

Mr. President, before our plane landed on Chilean soil on July 9, I instructed my staff traveling with me that they should dedicate time while we were in Chile to get to the bottom of the Rojas case. While in Chile, I met with the Minister of the Interior, the President of the Supreme Court, the Minister of Foreign Affairs, and

other officials with knowledge about the case. During each of these interviews, I asked for information that these officials might be able to provide concerning the case without, of course, violating any legal procedures involved in the special investigation which is similar to a Federal grand jury in the United States. My staff contacted the special prosecutor by telephone and indicated my strong interest in the case and in the investigation. I personally indicated my strong interest in the case to every official with knowledge of the case that I met.

I would add that during my 25-minute conversation with the U.S. Ambassador to Chile, Mr. Barnes, on Saturday, July 12, I asked a number of questions about the Rojas case in order to ascertain the information that the Embassy had on it.

It is unfortunate that the American media spent so little time in research and analysis of this tragic incident (which, incidentally, occurred within the context of a 2-day general strike which was organized by the Communist-inspired antidemocratic political sector in Chile). During this 2-day period, there was violence in several cities in Chile which included the use of molotov cocktails and firebombings of stores, taxis, and buses by the Communist-inspired terrorists. Rather than dig for the facts, the U.S. media simply allowed itself to be misled by the propaganda of several extremist spokesmen for the radical left in Chile.

ARIEL DORFMAN

One of the prime disinformation agents of the radical Chilean left in our country, Vladimiro Ariel Dorfman Zelicovich, appeared on numerous television shows as well as in the New York Times, Washington Post, and the Village Voice, a weekly published in New York City.

Mr. Dorfman is a naturalized citizen of Chile born in Buenos Aires, Argentina, on May 6, 1942, and naturalized on December 29, 1967. On September 11, 1973, the day of the military intervention against the Communist Allende regime in Chile, Dorfman sought refuge in the Argentine Embassy. He later fled to Argentina. It is unclear as to why he immediately sought refuge in the Argentine Embassy on the day of the coup. In 1979, he applied for a temporary entrance to Chile but this was denied. He came to the United States in 1982 and participated in several conferences on Latin American literature. On October 3, 1983, he was granted official permission to return to Chile.

About his travels since 1983, the following facts are known. He entered Chile on September 2, 1983, from the United States, and returned to the United States on September 17, 1983. On May 14, 1984, he entered Chile from Ecuador, and departed Chile for Argentina on May 16, 1984. He returned to Chile from Argentina on December 22, 1984, and left for the United States on February 8, 1985.

During the spring semester and fall semester of 1985, Dorfman taught courses as a visiting lecturer at Duke University in North Carolina in the International Studies Department. He is scheduled to teach courses again at Duke in the fall semester of this year. On March 27, 1986, he left Chile for Italy and returned several weeks later to Chile via Argentina. He departed Chile on July 4, 1986, for the United States, and launched his disinformation campaign on the Rojas case. He is married to Maria Angelica Malinarich Saa and holds a degree in philosophy from the University of Chile.

Dorfman has claimed that he cannot express himself in Chile. It is interesting to note in this regard that he is a member of the editorial council of a radical leftist weekly magazine, APSI, which is published in Santiago and which is easily available on newsstands there. According to records in Chile, the name of the company owning the magazine is the Sociedad Agencias Publicitarios y de Servicos Informativos, Ltda. The name, APSI, is an acronym of this company. According to these records, the company was formed by Eduardo Araya Alemparte and Hilda Lopez Aguilar. Eduardo Araya apparently served under Allende in the Foreign Ministry in the capacity of a Third Secretary but was removed from his post on September 11, 1973, when the Allende regime was overthrown. It is further reported that Eduardo Araya is a member of the Communist Party of Chile. The legal representative of APSI is Marcelo Contreras, Nieto who is reported to be a member of the Socialist Party of Chile.

Dorfman's article, which appeared in the Village Voice of New York in its July 22 edition, was an exercise in deception by the author with respect to the Rojas case, particularly in the area of the medical attention that the two young people received. In fairness to the Village Voice, which is a colorful institution in New York, it can be said that the article was essentially an opinion piece and not portrayed as a straight news item.

RECORD OF MEDICAL TREATMENT

It is asserted by Mr. Dorfman that the Government prevented Rojas' transfer from the main emergency hospital to which he and Miss Quintana were taken to the Worker's Hospital several blocks away. The Washington Post on July 8 covered Dorfman's July 7 press conference at the Institute for Policy Studies in Washington when Mr. Dorfman declared that the police blocked the effort to transfer the boy. In an article for the Village Voice Mr. Dorfman paints a picture in which he is at the center of an epic struggle to secure medical treatment for the boy in the face of governmental resistance to medical treatment for the boy. He also includes his disinformation theme that the Government blocked efforts to transfer the boy to the Workers Hospital. The facts are quite the opposite.

Indeed, when I asked Ambassador Barnes to describe the Embassy's role in securing medical treatment for the boy and the girl, Ambassador Barnes admitted that the Chilean Government did not prevent the boy's transfer to the Workers Hospital. Mr. Barnes also indicated that as of that day, July 12, the Embassy had no exact information on the circumstances surrounding the burning of the boy and girl. Ambassador Barnes under questioning noted that he had talked with Dr. John Constable, an American doctor from the Massachusetts General Hospital who had flown to Chile at the Rojas family's request to assist in medical treatment.

According to a New York Times article of July 9, Dr. Constable's trip was sponsored by the American Committee for Human Rights and by the Working Group for Democracy. Dr. Constable indicated in this interview that the private hospital could not have helped under the circumstances. Dr. Constable had apparently examined the patient and conferred with local doctors involved in the case. Dr. Constable specializes in plastic and reconstructive surgery and on burns. Dr. Constable, in addition to this duties at Massachusetts General Hospital, is an Associate Clinical Professor at the Harvard University Hospital. Ambassador Barnes noted that approximately 60 percent of the boy's body had been burned and that these burns were above the waist.

Mr. President, on Wednesday, July 9, my first day in Chile, I met with the Minister of the Interior, Ricardo Garcia Rodriguez, at 6:30 in the evening. Our meeting, which my staff attended, lasted over 2 hours and covered many aspects of the situation in Chile including the Constitution of 1980 and the timetable which it spells out for the transition to representative Government. In order to be able to inform our distinguished colleagues on the Rojas case, I spent some 45 minutes asking questions and discussing the case with the Minister of the Interior. I requested that the Minister provide documentation about the case which I could present to the Senate. The Minister did not hesitate to make available important documents relating to the case and to the conduct of the investigation.

RODRIGO ROJAS

According to information provided by the Ministry of the Interior, Rojas entered Chile by land via the Peruvian town of Tacna, on May 9, 1986. He was

accompanied by an American citizen named Paul Goldstein about whom no further information was available.

Rodrigo Rojas is apparently the son of Veronica Denegri Quintana and Ramon Eduardo Rojas Ruiz Tagle. This marriage ended in divorce. It is unclear at this time whether or not there is a family relationship between Mrs. Denegri and her son's female companion during the rioting on July 2, Carmen Quintana. According to Chilean authorities, Mrs. Denegri is an active member of the Chilean Communist Party and has operated under the code name of Andrea. It is reported that she belonged to the Ho Chi Minh cell of the Communist Party of Chile and was active in the propaganda front of the clandestine Communist Party apparatus.

For this reason, she was arrested by Chilean authorities on March 8, 1976, for subversive activities. She was released on May 19, 1976. On April 14, 1977, she left Chile and came to the United States. On September 14, 1981, she was formally prohibited from entering Chile owing to her subversive activities against Chile.

Mrs. Denegri has a second, son, Pablo Salvador Oyarzo Denegri, who was born in May 1974 and inscribed in the public registry of Valparaiso, Chile on July 25, 1974.

According to Chilean authorities, Mrs. Denegri's sister, Amanda Liliana, is an active member of the Socialist Party of Chile in a Marxist-Leninist faction of the Party. Other members of the Denegri family, Nora Patricia, Domingo Antonio, and Claudio Andres, are all active militants of the Communist Party of Chile according to Chilean authorities.

According to Chilean authorities Carmen Quintana was arrested on April 16 of this year for her participation in violent activities at a university in Santiago.

PART III

COMMUNISM IN CHILE

Mr. President, the Communist Party of Chile was established in 1922 with the assistance of the already established Socialist Labor Party of Chile which took a Moscow line. The Communist Party of Chile was declared illegal in 1927 during the Administration of President Carlos Ibanez. The party later participated in the formation of Popular Front governments in Chile under three presidents drawn from the Radical Party: Petro Aguirre Cerda (1938–42); Juan Antonio Rosas (1942–46); and Gabriel Gonzalez Videla (1946–52). The party was again declared illegal in 1948 by President Gonzalez.

Mr. President, it is an interesting historical fact that Salvador Allende, as a member of the Socialist Party, was the Minister of Health during the Popular Front government of President Aguirre in 1938. Allende had decades of experience working with the Communist Party of Chile and was no babe in the woods idealist as some have portrayed him.

Senators will note that the tactic of Popular Front governments was devised by the COMINTERN and was implemented in Spain in 1936. France and Chile were also testing grounds for this tactic in the 1930's. In 1935, the Communist International recommended alliances of Communist Parties with "bougeois democratic parties." The General Secretary of the COMINTERN stated, and I quote,

> The formation of a joint People's Front providing for joint action with Social Democratic parties is a necessity. Cannot we endeavor to unite the Communist, Social Democratic, Catholic and other workers? Comrades, you will remember the ancient tale of the capture of Troy. The attacking army was unable to achieve victory until, with the aid of the Trojan Horse, it penetrated to the very heart of the enemy camp. We, revolutionary workers, should not be shy of using the same tactics.

Mr. President, I do not see how one could be any clearer in terms of strategy than was the General Secretary of the Communist International, Mr. Dmitrov. This is the same strategy that Moscow, and Communists around the world, are using in our own time. It is not some historical relic to be found in a dusty book of Dmitrov's speeches. It is a strategy which the international Communist conspiracy uses today in the service of the masters of the Kremlin.

Mr. President, we have heard and we will hear all manner of talk about working with supposedly democratic forces in Chile during the transition period. I have heard that our Government is already pouring United States taxpayer's money into the coffers of the Christian Democratic party in Chile in support of the so-called National Accord. The State Department has supported and undoubtedly will continue to support, the concept of a broad front of supposedly democratic leftist parties in Chile as an alternative to the current constitutional government in Chile—and as an alternative to the truly democratic parties of the opposition on the center and the right of the political spectrum.

A POSSIBLE COALITION?

I can foresee the State Department attempting to put together a coalition of the Socialist Party, the Marxist factions of the Christian Democrats, and the Marxist factions of the Radical Party linked to the Socialist International. I can see the State Department going so far as to try to split the center and center-right parties and incorporate sections of the National Party and its breakaway factions into this coalition. Money will pour in from all over the world from West Germany, from Italy, from the United States to intervene on behalf of this type of a coalition. In embryo form, this is what the so-called National Accord appears to be about.

Mr. President, all that I can say about this type of process is that it will inevitably lead to economic decline and lack of progress for Chile and its people. There is no clear cut commitment, and there will not be any clear cut commitment, on the part of this type of coalition with Marxists to free enterprise and to private property.

We will not see productive capitalism at work creating jobs and opportunity and raising the standard of living for the Chilean people. What we will see is the destructive face of the finance capitalism of the New York banks who profit so handsomely from lending to countries plunged into debt by Socialist regimes. Under a socialistic regime, Chile would go further into debt, the New York banks would lend money to the State and profit off of the accompanying interest. There is no risk to the banks in this kind of game.

SOCIALISTS AND BANKERS

Mr. President, in this kind of game, Socialist regimes are a New York banker's best friend because they create sovereign debt. After all, the IMF and the World Bank are right around the corner, and with U.S. taxpayer's money they stand ready at any time to bail the banks out of their bad loans to the State and to State-owned corporations. If either the IMF or the World Bank needs more money it is a simple matter to persuade the Congress of the United States to appropriate further billions of dollars to the international bureaucrats who themselves are exempt from taxation in the United States.

Look at the Mexican case. Isn't that just what has happened in the last few weeks? Didn't the same thing happen in 1982?

We are witnessing today in Central America the consequences of a State Department policy which has imposed socialism on the people of El Salvador, Guatemala, Costa Rica, and Panama. Economic disintegration is a fact in these countries. They are heading backward into the days of the 1930's and 1940's in terms of the economic development. Why? Because the State Department has imposed socialist governments on these countries and socialism never has and never will provide economic growth and prosperity.

It is essential that the exact nature of supposedly democratic parties in Chile be known.

It is a fact that in Chile supposedly democratic parties on the left are highly factionalized and that significant and powerful factions of these parties are Marxist and Marxist-Leninist in character. In no way can these parties and factions be considered democratic. I can predict that there

will be as much disinformation about the nature of these parties and factions as there has been about the Rojas case and the situation in Chile that we have seen in the press and heard from the State Department in recent days.

It is another historical fact that members of the Communist Party of Chile participated in the International Brigades of the Communist forces in Spain during its Civil War. The Communist Party of Chile, therefore, has had firsthand experience with this popular front tactic not only in Spain but also in Chile itself. It has steadfastly adhered to this tactic through the years as a way of penetrating government coalitions and influencing government policy in Chile.

Senators will recall that the Marxist-Leninist Sandinista elements joined in a so-called popular front operation to oust President Somoza of Nicaragua. Once this stage of the revolution was accomplished, the Marxist-Leninist Sandinista vanguard element purged its non-Communist rivals and consolidated its dictatorship in Nicaragua. This tactic of the two-stage revolution, of course, is based upon orthodox Soviet methods as developed by Lenin himself.

In 1958, the Communist Party of Chile was legalized and operated legally until 1973 when it again was declared outside the bounds of legal political activity. The Communist Party of Chile participated in the left-wing alliance during the national elections in 1958 and in 1964. The Communist Party participated in the popular unity coalition of Salvador Allende who was the candidate of the Socialist Party and who was approved by the Communist Party in the 1970 elections which brought him to power with 36 percent of the vote in a three-way race. Since 1980, the Communist Party of Chile has publicly emphasized the need for revolutionary violence to seize power in Chile. In recent months, the Communist Party of Chile has again been promoting its concept of a popular front tactic.

SOCIALIST PARTY OF CHILE

It is no secret that the Socialist Party of Chile, founded in 1933 from several existing socialist parties, has had a long standing relationship with the Communist Party of Chile. Major factions of the Socialist Party follow Marxist-Leninist ideology under Moscow's leadership and discipline. A key leader of one powerful faction, Clodomiro Almeyda, is an avowed Marxist-Leninist and lives in exile in East Germany.

It is also no secret in Chile that the Youth League of the Communist Party of Chile has a working relationship with the Youth League of the Christian Democratic Party which is supposedly democratic but which is heavily factionalized. This working relationship between the two youth groups was publicly announced by them and was reported in the local Chilean press.

Likewise, it is no secret that the Marxist factions of the Christian Democratic Party introduced the concept of the "noncapitalist road" as developed by Khrushchev into its party ideology. This addition of Soviet ideology into the Christian Democratic Party occasioned leading non-Communist members of the party to protest and leave the party. It is a fact that the radical Marxist factions of the Christian Democratic Party have yet to renounce this part of their platform.

COMMUNISM AND THE JULY 2 AND 3 GENERAL STRIKE

Rodrigo Rojas shortly after entering Chile in May of this year began working as a computer assistant at the computer center in the physiology department of the University of Chile.

The incident in which he and his companion were burned occurred within the context of a 2-day general strike which the radical antidemocratic left had been preparing for several months. The strike and violent demonstrations had been scheduled for July 2 and July 3. Throughout the city of Santiago and its suburbs, radical elements prepared for a campaign of violence which included the use of fire bombs, street barricades involving rubber tires soaked with flammable liquids and then set ablaze, firebombing of buses, and firebombing of stores and residences.

This violent activity was widely reported in the Chilean press and included many photographs of flaming barricades erected by the Communist inspired radicals, burned out stores and homes, and burned busses.

Terrorists planted major explosive charges which destroyed three key high tension electric power lines which cut power off in region III, IV, and V of the country. Several terrorist organizations publicly claimed credit for planting bombs around the country. As a result of terrorist violence hundreds of innocent private citizens were wounded or burned by terrorist firebombs and had to be hospitalized. Over 50 terrorist bombs went off throughout the country.

Mr. President, I would emphasive that all of this violence and destruction by the Communist inspired terrorists was widely reported in the Chilean press. Anyone glancing through the press clips for the first week of this July in any of the newspapers in Chile—as I did when I visited Chile—will find lengthy reporting on the damage and a variety of photographs revealing the damage. Was there even a hind in the United States press of the extent of the Communist inspired violence in Chile during the week? No. What was our Embassy in Chile reporting to Washington about conditions in the country? Frankly, I do not believe that either the major media nor the United States Embassy in Chile had the slightest interest in fair and balanced reports of the situation, either to the American people or to the administration.

THE ROJAS INCIDENT

At the site of the Rojas incident, radical elements were preparing street barricades of rubber tires soaked with flammable liquids. Also they were preparing firebombs of the molotov cocktail type and more sophisticated chemical blends which do not need to be ignited but which burst into flame on contact with oxygen.

The exact details of the tragic fate of Rojas and Quintana are not yet known in full.

The special investigating judge has conducted a preliminary investigation on the matter which concluded that the boy and girl were burned owing to an accidental explosion of the incendiary materials that their group of activist friends were carrying and preparing. The judge has also concluded that under Chilean law, which is based upon a Roman law tradition, the senior officer at the sight of the incident is guilty of negligent manslaughter for not immediately taking the burn victims to a hospital. This type of negligence would not be a crime under U.S. law which follows an English common law tradition in this type of situation. As further investigation proceeds in Chile, the details will presumably become available through the judicial process.

The military patrol at the demonstration site is said to have used blankets to smother the flames enveloping the boy and girl. They were then transported to a different section of Santiago and dropped off on a road leading to the small settlement of Quilicura.

On July 2, at approximately 10:30 a.m., owing to reports by motorists at the access control post for the Arturo Merino Benitez Airport, a police patrol went to the road to Quilicura at its intersection with La Boza street and confirmed that Rojas and Quintana were there and that they were severely burned. Apparently, the police after giving some preliminary first aid treatment took the boy and the girl to the main emergency hospital in Santiago.

On the same day, after the Government had been informed of this incident, the Minister of the Interior petitioned the First Court of Appeals of Santiago to designate a special judge to investigate the case. The first court of appeals named Alberto Echavarria Lorca as the special investigating judge for the case. Mr. Echavarria is well known in Chile as a distinguished professor of law at the University of Chile where he has taught for over

two decades. His academic and professional specialites include criminal procedure.

Mr. President, I would point out to Senators that this incident was reported in the Chilean press on July 3. The El Mercurio specifically reported the incident in its extensive coverage of the violence of the preceding day. El Mercurio also reported that the Minister of Justice had requested a special investigation of the incident. This newspaper, the leading newspaper in Chile, was certainly available to our Embassy on July 3.

Statements by the United States State Department in Washington, beginning on Monday July 7, called on Chile to investigate the incident. But this was 5 days after the Ministry of the Interior had requested a special investigation, and 4 days after it had been reported in El Mercurio. This indicates a lack of information—to say the least. Whether this was due to inept reporting by the Embassy, or to a specific design to grandstand on the part of some in the State Department is unclear.

The Government of Chile fully cooperated with the independent judiciary in its independent investigation and submitted several documents to the investigating judge providing information about potential witnesses as well as requesting certain steps to be taken with respect to the investigation. These steps included a request that the criminal laboratory of the investigation police of Chile prepare a report on the clothes that Rojas and Quintana were wearing in order to determine the origin and cause of the burns, a determination of the flammable agent that caused the burns, and the origin and date of the burns.

Mr. President, I am no lawyer but it was explained to me that under long established Chilean legal procedure, the outcome of the investigation by the special investigating judge can result in two actions. If the judge determines that there has been a crime and that there are grounds to proceed with a criminal prosecution and that only civilians are involved then the judge himself proceeds with the trial.

If, however, a military person is found to be involved, then the matter is turned over to the military court system for further investigation after which the military court system may determine that prosecution for criminal activity is required. However, actions of the military court system are under the supreme court which is the final focus of legal authority in Chile. Should the military courts fail to handle the case in a manner acceptable to the supreme court, or should an appeal be made over the military courts ruling and judgment, then the supreme court can take the matter before itself.

Mr. President, I request unanimous consent that an official aide-memoire of the Ministry of the Interior of Chile on the Rojas case as translated by the Congressional Research Service be entered in the RECORD at the conclusion of my remarks as exhibit 1.

Mr. President, I request unanimous consent that the formal petition of the Ministry of the Interior to the first court of appeals to appoint a special investigative judge to the Rojas case dated July 2, 1986, as translated by the Congressional Research Service, be entered in the RECORD at the end of my remarks as exhibit 2.

Mr. President, I ask unanimous consent that documents from the Ministry of the Interior to the special investigative judge of July 7, and July 8 as translated by the Congressional Research Service be entered in the RECORD at the end of my remarks as exhibit 3 and exhibit 4.

Mr. President, I ask unanimous consent that a letter dated July 3, 1986, as translated by the Congressional Research Service from Dr. Jorge Escobar Cousino, director of curative medical services at the Hospital del Trabajador to Dr. Raul Guzman, director of public assistance at the main emergency hospital in Santiago requesting permission for Dr. Guy Heiremans, chief physician of the intensive care unit at the Workers hospital, to examine the patient Rojas be entered in the RECORD at the end of my remarks as exhibit 5.

Mr. President, I ask unanimous consent that a medical report dated July 3, 1986, on the examination of Rojas on July 3 at 1 p.m. by Dr. Guy Heiremans to the director of his hospital as translated by the Congressional Research Service be entered in the RECORD at the end of my remarks as exhibit No. 6.

I would call to the attention of Senators the medical report of Dr. Guy Heiremans of the Workers Hospital. I am told that Dr. Guy Heiremans is the nephew of the chairman of the hospital, Mr. Eugenio Heiremans. In paragraph four of the report, Dr. Heiremans states that, and I quote:

> The above indicated makes the transfer to another hospital highly dangerous, keeping in mind that where he is currently, he has the necessary means for his care.

Mr. President, it is clear from this paragraph in Dr. Heiremans report that the myth created by Mr. Dorfman and others in the media, to which regretably some in this Chamber have fallen prey, that the Government interfered with the transfer of the patient, is simply without foundation.

I would draw the attention of Senators to the same medical report in paragraph six which states, and I quote:

> In view of this situation, it was felt that the patient would not benefit from a transfer and that our hospital is not in a position to receive a patient with these characteristics.

Mr. President, taken in conjunction with the earlier paragraph that I cited from the report, the following facts are quite clear: That the medical judgment of the second hospital—the one that the Rojas family sought too transfer the boy—said too that the boy was receiving proper care at the main emergency hospital; that the Government in no way interfered with his transfer; that his transfer would have been highly dangerous; and that the Workers Hospital itself was not in a position to receive Rojas. I would add that in the case of Miss Quintana, who was less severely injured, she was later transferred to the Workers Hospital.

Mr. President, I am appalled by the ease that disinformation on this case was spread by Mr. Dorfman and others of his ilk through the American media. I would note that it appears that Dorfman has used the Institute for Policy Studies here in Washington as a platform for his press comment. It is no secret that the IPS has, according to knowledgeable observers, functioned for over two decades as a conduit for Soviet and Soviet bloc disinformation efforts. It is a sad commentary that such an organization as the IPS and such specialists in disinformation as Dorfman can distort our public debates and discussions and mislead not only our own news media, but this adminstration and even the Congress.

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

EXHIBIT 1.

SANTIAGO, *July 12, 1986.*

CASE: RODRIGO ANDRES ROJAS DENEGRI, CARMEN GLORIA QUINTANA ARANCIBIA

1. Events:

1.1 For July 2 and 3 the sectors of opposition to the government had called for a social mobilization with characteristics of protest and a stoppage of activities.

1.2 On July 2, 1986, at approximately 10:30 a.m., because of reports made by private motorists at the Access Control Post for Arturo Merino Benítez Airport, a Carabinero patrol went to the road to Quilicura and Lo Boza Street, and was able to confirm that at that place were, with critical burns, Rodrico Andres Rojas Denegri and Carmen Gloria Quintana Arancibia, both 19 years of age.

1.3 These persons were taken to the Carabinero post in Quilicura and then, because of the seriousness of their injuries, to the Central Public Assistant post of Santiago.

1.4 When at that time the two youths were questioned about the circumstances under which the events leading to such serious wounds had occurred, they refused to give any information.

2. Dissemination (of news):

2.1 The news of these events was disseminated immediately inside and outside of the country.

2.2 In the cables sent abroad, it was noteworthy that from the first instant "uni-

formed personnel" and "army patrols" were metioned as the perpetrators of the burns exhibited by said two youths.

3. Government Action:

3.1 In view of the seriousness of the event and the imputations mentioned, the Government, through the Ministry of the Interior, requested, the same day, July 2, of the First Court of Appeals of Santiago, the designation of an Extraordinary Visting Judge to be established as the special high-ranking investigator dedicated exclusively to the case, in order to fully clear up the events.

3.2 As a result of this request, the First Court of Appeals of Santiago named Minister Alberto Echavarría Lorca as the investigative judge in this case.

3.3 In addition, the Government cooperated with the Court immediately. With this end, on the 7th of this month, it requested a series of steps, all of them aimed at this purpose. (A photocopy of the corresponding documents with details on the procedures requested is attached.) Even more, with this same goal, on the 8th of this month, through another document, new steps were requested, which are considered important for the clearing up of the events being investigated. (A photocopy of that document with the details on these steps is also attached.)

4. Medical Care:

4.1 The initial care was given to the victims at the local medical post of the same site in which they had been found and when the gravity of their condition was confirmed, they were transferred, as has been said, to the Central Post of Santiago.

4.2 The mother of the youth Rojas Denegri, as well as some of the media, stated that the transfer of the youths from the Central Post to the Workers' Hospital, a place that would have greater resources for this type of emergency, had been prohibited.

4.3 It is clear from the certificates, photocopies of which are attached, that Dr. Escobar, Director of Curative Medical Services of the Workers' Hospital, designated Dr. Guy Heiremans, of the same hospital, to examine the "feasibility of making said transfer provided it does not mean a risk for the patient that is going to mean immediate or subsequent complications for him." After Dr. Heiremans had completed his examination, a photocopy of which is also attached, he resolved: "the above makes the transfer to another hospital highly dangerous, keeping in mind that where he currently is they have the necessary means for his care," and he ended by stating in his report that "in view of this situation it was felt that the patient would not benefit from a transfer and that our hospital is not in a position to receive a patient with these characteristics."

5. References of Victims:

5.1 Rodrigo Andres Rojas Denegri was a Chilean citizen with residence in the United States and he entered the country on May 9, 1986, from Peru via Tacna, in the company of an American citizen named PAUL GOLDSTEIN, about whom no more information is know.

5.2 Inturn, Carmen Gloria Quintana Arancibia is a student of Electronic Civil Engineering at the University of Santiago.

6. Current Situation:

6.1 The case is in the proceeding stage (the procedural stage established in ordinary laws for the clearing up of criminal acts).

6.2 The Visiting Judge is carrying out all the investigations of the case, for that purpose having the collaboration of the services that he may require.

6.3 Before the investigating judge, all persons who seem to have information on the matter are providing testimony.

6.4 The Government will remain attentive in order to foster attainment of that information with all the legal means in its reach in order to accelerate the total clearing up of the events and the determination of those who are guilty, who shall be deserving of the respective punishments.

6.5 It is not appropriate at this time in the case to prejudge or anticipate any final evaluation of the case, which will be the responsibility of the Court in charge of the investigation.

Attached to the document on the Rodrigo Andrés Rojas Denegri and Carmen Gloria Quintana Arancibia case are the following documents:

1. Photocopy of the document asking the First Court of Appeals to designate a Visiting Judge.

2. Photocopy of the document presented on July 7, 1986 to the Visiting Judge, asking for the steps indicated.

3. Photocopy of the document presented on July 8, 1986 to the Visiting Judge, asking for the steps indicated.

4. Certificates issued by the authorities of the Workers' Hospital.

EXHIBIT 2

CONCERNING: REQUEST FOR DESIGNATION OF VISITING JUDGE

I, Ricardo Garcia Rodriguez, Minister of the Interior, with residence in this city, Palacio de la Moneda, respectfully say:

Today, July 2, 1986, at approximately 10:30 a.m., and in view of a report by private motorists made at the Access Control Post for Arturo Merino Benítez Airport, a Carabinero patrol gathered on route 70 (road to Quilicura) and Lo Boza Street; they were able to confirm that at that intersection were, with serious burns, Rodrigo Andres Rojas Denegri, 22, student at the University of Santiago, and Carmen Gloria Quintana Arancibia, 19, also a student at the same institution.

Both showed burns on their clothing and various parts of the body, so they were taken to the Quilicura station and from there to Central Public Assistance, where they are in critical condition.

When questioned by the Carabinero patrol that was present at the site, they refused to report on the circumstances that led to the facts described above.

In the opinion of the Minister of the Interior, they are [in] extremely critical [condition]. They show signs of aggravated brutality, the result of the crime of violence to which the promoters of today's events have led the citizenry.

Accordingly, it is a matter of events that have produced a justified public alarm and which require prompt repression because of their special gravity and harmful consequences.

Therefore:

I ask: that in view of the above and in keeping with what is provided in Article-560, No. 2, of the Organic Law of Tribunals, that it be ordered that a Judge of the First Court of Appeals of Santiago be designated on extraordinary visit in the Nineteenth Criminal Court, before which has been entered today document No. 405, which relates and reports the events previously described, and that the case be taken to the higher court for the investigation of and verdict on the same.

EXHIBIT 3

JULY 7, 1986.

REQUEST FOR CONDUCTING OF PROCEDURES INDICATED TO THE VISITING JUDGE

I, Ricardo Garcia Rodriguez, Minister of the Interior, because of the death of Rodrigo Rojas Denegri and injuries of Carmen Gloria Quintana Arancibia, state:

That, with the object of cooperating properly with the action of the Court, I request of that Visiting [Judge] that the following steps be carried out:

a) That Mr. Andrés Domínguez, attorney, who has made public statements through the press, stating that he has information related to the events which are the subject of this proceeding, be summoned to testify.

b) That Ariel Poblete, journalist, Secretary of the Editorial Staff of the magazine *Cauce*, be summoned to the tribunal on the records that he had in hand in order to include a feature article on the events being investigated in edition No. 82 of said weekly, on page 21.

c) That a summons be issued for a person named Pedro Martínez, whose identification data should be provided by Mr. Ariel Poblete, and who, according to what said article stated, witnessed the events.

d) That the Criminal Laboratory of the Investigation Police of Chile prepare an expert report on the following points:

1) Clothing of the persons Rojas and Quintana, in order to determine the origin and cause of the burns.

2) Determination of the heat-giving agent that caused the burns, for which purpose they will be authorized to report to Legal Medical Service in order to examine the corpse of Rojas and to the Workers' Hospital for the same purposes with respect to Miss Quintana; and

3) Possible origin and date of burns.

e) Summon the Director of Central Public Assistance, Dr. Raúl Guzmán, so that he will put at the disposal of that judge all medical files on the care provided to Rojas and Quintana.

f) Summon the medical doctor of American nationality named Constable, who supposedly treated the burned persons and reported on that to the U.S. Ambassador.

g) Summon Dr. Jorge Villegas of the Workers' Hospital, who examined the above-mentioned persons, and under whose care Miss Quintana is now.

I include the documents which justify the above requests.

Therefore, I ask that the above requests be granted.

EXHIBIT 4

JULY 8, 1986.

REQUEST FOR CONDUCTING PROCEEDINGS—VISITING JUDGE

I, Ricardo Garcia Rodriguez, Minister of the Interior, in the proceedings related to the death of Redrigo Rojas Denegri and the injuries of Carmen Gloria Quintana Arancibia, state:

That with the object of cooperating properly with the action of the Court, I ask of that visiting [judge] that the following steps be taken:

(1) That Ramiro Gavilane Granja, journalist, Director of the EFE Information Agency, be summoned to testify; he states in the documents already presented on July 2, 1986 he sent abroad a cable in which he refers in detail to the events which are the subject of this proceeding.

(2) That Jose Aldunate, priest, be summoned to testify; as stated in the publication of the Magazine *Cauce*, included in the records of the case, he stated that he was an eye witness to the events and even gathered up some of the victims' belongings.

(3) That the Director of the Workers' Hospital, Dr. Escobar, who provided medical assistance to the injured Miss Quintana, be summoned to testify.

Therefore: I ask that what is requested be granted.

[Signature]

EXHIBIT 5

SANTIAGO, *July 3, 1986.*

Dr. RAÚL GUZMÁN,
Director of Public Assistance, "Dr. Alejandro del Río" City.

MR. DIRECTOR: This office has received the request from the U.S. Embassy that the possibility of transferring the critically burned patient Mr. Rodrigo Rojas Denegri to our hospital be examined.

In that matter, I have appointed Dr. G. Heiremans, Chief Physician of the Intensive Care Unit, to act as my representative and to go your establishment in order to determine, after examining the patient and conversing with the attending physician, the feasibility of making said transfer, provided it does not mean a risk for the patient that is going to mean immediate or subsequent complications for him.

Thanking you for the facilities you may grant us, with best wishes,

WORKERS' HOSPITAL,
Dr. JORGE ESCOBAR
COUSINO,
Director of Curative Medical Services.

EXHIBIT 6

JULY 3, 1986.

From: Dr. Guy Heiremans, Director of Curative Services.

Re Rodrigo Rojas Denegri, 19 years of age.

In accordance with what you requested, I proceeded to visit the patient, Mr. Rodrigo Rojas Denegri, at Public Assistance (Central House).

In that respect I can report the following:

1. The visit was made at 1:00 p.m. on July 3, 1986.

2. I was received by Dr. Raúl Guzmán (Director), who got in touch with Dr. Garcés (Chief of Burn Services) and Dr. Fierro (Resident Physician of the Service).

3. The patient is hospitalized in the Burn Service and his condition is the following:

19 years of age. He has been suffering from burns for approximately 30 hours.

a) Surface burned, 62%.

b) Most of the surface affected is type AB.

c) The gravity index upon entry was 128 points, without considering respiratory burn. The current index and future one will decline greatly, according to what the doctors of the Service have reported.

d) For some hours he has been without pressure, without a palpable pulse, and without diuresis.

e) Gasometry indicates the presence of adult respiratory distress.

f) Metabolic acidosis, dehydration, and hypernatremia.

4. The above indicated makes the transfer to another hospital highly dangerous, keeping in mind that where he is currently, he has the necessary means for his care.

5. Because of his hemodynamic instability and distress, within a few hours he will need a mechanical respirator, orotracheal intubation, and extensive use of intensive technical instrumentation.

6. In view of this situation, it was felt that the patient would not benefit from a transfer and that our hospital is not in a position to receive a patient with these characteristics.

Sincerely,

Dr. GUY HEIREMANS E.,
Chief, UCI.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1987

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

The legislative clerk read as follows:

A bill (S. 2638) to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1987, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize certain construction at military installations for fiscal year 1987, to authorize appropriations for national security programs of the Department of Energy for fiscal year 1987, and for other purposes.

The Senate resumed consideration of the bill:

Pending:

(1) Byrd (for Kennedy and Weicker) Amendment No. 2414, to set forth a comprehensive and complete framework to guide the efforts of the United States in helping to bring an end to apartheid in South Africa and lead to the establishment of a nonracial, democratic form of government.

A motion was entered to close further debate on Amendment No. 2414 and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on the cloture motion would occur on Thursday, August 7.

(2) Dole Amendment No. 2417 (to Amendment No. 2414), of a perfecting nature, to promote economic and political development, peace, stability and democracy in Central America, to encourage a negotiated resolution of the conflict in the region, and toward these ends, to enable the President to provide additional economic assistance for the Central American democracies as well as assistance for the Nicaraguan democratic resistance, subject to certain terms and conditions.

A motion was entered to close further debate on Amendment No. 2417 and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on the cloture motion would occur on Thursday, August 7.

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, parliamentary inquiry. Am I correct in remembering that Senator DECONCINI has an amendment that is to be called up at this time?

The PRESIDING OFFICER. The Senator is correct, the DeConcini amendment No. 2588.

Mr. GOLDWATER. I thank the President.

Mr. President, I would like to remind my colleagues that we did a good job yesterday on amendments on this bill. We accomplished a lot. If we can accomplish as much today in the next, say, 12 hours, I feel rather certain that we can finish this legislation today.

Relative to the amendment that is coming up, I want to say that I am very, very well aware of the problem that his amendment addresses. Senator DECONCINI and I live on the Mexican border. It is 1,875 miles from Tijuana to Texas and we only have six airplanes to patrol that whole distance. I can tell you, Mr. President, that we probably find as many as three wrecked airplanes a week on the deserts along the Mexican border.

If all they want to do is land their nacotics and get away, they do not care what happens to the airplane. It is impossible for us to know how many tons of these narcotics come across that Mexican border. We do not have the means to surveil it. Because of that, I am very, very sympathetic to the purposes of the DeConcini amendment. However, it is like other amendments. They say get the money out of defense.

Mr. President, there is not any money in defense. I am looking around, we are all looking around for a place to cut another $10 billion out of defense, and here comes an amendment that says we will supply needed aircraft from the defense fund.

I just have to tell my friend, Senator DECONCINI, when he gets here, that we are broke. I would love to do it. But we cannot even buy those aircraft for the Air Force or the Navy or the Army, let alone for the very important task of drug interdiction.

I wonder if my friend from Maine would like to address himself to this because he has given a lot of thought to the problem and this specific problem.

Mr. COHEN. I thank the chairman for yielding.

Mr. President, last evening we spent a considerable amount of time talking about the deficiencies of our special forces, pointing out that we are no better prepared today than we were 6 years ago to conduct a rescue mission such as that in Iran. We do not have any more aircraft than we had 6 years ago. We are still 5 or 6 years away from having the kind of airlift necessary to deal with terrorists and insurgencies. Suddenly we have another amendment pending that would add another $200 million or $300 million on top of the $200 million added for the Coast Guard last night to the defense budget.

Frankly, I do not know. The Coast Guard is very important to drug inter-

diction. Certainly the Senator from Arizona, Senator DECONCINI, is really concerned about the influx of drugs coming into the country. His record is well established on that.

We have a problem in my own State of Maine with drugs coming in. We have a problem with the Coast Guard. We cannot get enough Coast Guard helicopters to rescue drowning fishermen, not to mention interdicting the flow of drugs coming into the State of Maine. It seems to me if we are now going to impose upon the Defense Department additional burdens requiring additional aircraft to be dedicated to this purpose, with the advice, and I assume consent of the Justice Department, the very least we should be willing to do is say Justice should pay for it.

So if the Senator from Arizona, Senator DECONCINI, were amenable to altering his amendment to say that the appropriated funds shall come from the Department of Justice and be transferred to the Department of Defense, I would have no objection. But it seems to me if we are going to start adding $200 million and $300 million and $500 million on top of what we are requesting, and take that out of the defense budget, we are making a mistake. I would have to actively oppose it.

I would be willing to support the amendment provided the Senator from Arizona would modify his amendment to say that any funds that are appropriated for the Justice Department would be transferred to DOD.

If he is willing to do that, then I think we would have a basis for accepting the amendment.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I echo what the Senator from Maine has said so well. We have got a real budget squeeze in this bill. The Chair well knows we have tried to protect areas that are in this bill that involve crucial parts of our national security, not only the military itself but other components including some intelligence components. We have a real squeeze on the budget, not just this year. We have a squeeze on the budget for the next 3, 4, 5 years.

When I say squeeze I mean a squeeze of massive proportions.

I am very much in favor of what the Senator from Arizona, Senator DECONCINI, is trying to do. I would like to cosponsor his effort because he is doing what we need to do for our drug effort. But it is incumbent on the administration who is at least at this stage seemingly endorsing the program, backdoor, to come forward and show how we are going to fund this and ask for the request and the proper budget.

We cannot simply fund everybody's high priority project in the defense budget. We cannot do it.

So I know there are an awful lot of people who want to vote for this. It may very well be one of those votes where our committee position does not prevail, but it seems to me what the Senator from Maine is suggesting is perfectly in order.

I would suggest an amendment that would put this in the function at least that is carried under the budget resolution as the Justice Department function or the Treasury Department function or some category. We simply cannot afford to fund this out of the military budget.

We are funding the Coast Guard. We accepted the amendment of the Senator from Alaska. That is a unique set of circumstances because those Coast Guard personnel are going to be on Navy ships. One of the very sensitive areas is posse comitatus, the law that precluded military participation in law enforcement is on the books, beginning in the reconstruction days because of some of the abuses of military in enforcing the law back after the War Between the States.

And we have an amendment that was very carefully crafted about 4 years ago which was my amendment which permitted the military under certain circumstances to assist domestic law enforcement in drug enforcement. They are doing that now. We put the Coast Guard on the Navy ships because we did not want the military making arrests. Therefore, there is a unique set of circumstances for the amendment of the Senator from Alaska. But this amendment basically in spite of the purposes which I applaud is basically a shifting of resources from the Department of Defense to the Department of Justice. If we are going to start doing that on this bill, I do not know where we draw the line.

There are a lot of different departments that would like to get defense funds. If this was going to be justified, it should have been justified in a period of time when the defense budget was growing.

We are going down in real terms now. We are going to have a squeeze on personnel. The Members of this body are going to begin to understand what we are doing in the defense budget by the end of this year or early next year when they start hearing from military personnel who have gotten RIF's because that is the kind of action that is going to end up being taken under this outlay squeeze, particularly if we continue to have project after project that tends to be funded out of the defense budget.

Mr. COHEN. Is the amendment now pending before the body?

The PRESIDING OFFICER. The amendment is not pending.

Mr. PRYOR. Will the Senator from Maine yield to me?

Mr. COHEN. I would like to call up the amendment first, so we can start the time running.

AMENDMENT NO. 2588

(Purpose: To authorize funds for enhancement of drug interdiction assistance activities of the Department of Defense)

Mr. COHEN. Mr. President, I call the amendment up which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. PRYOR. Will the Senator yield from that?

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN], for Mr. DECONCINI, proposes an amendment numbered 2588.

Mr. COHEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 229, between lines 14 and 15, insert the following new section:

SEC. 2121. AUTHORIZATION OF APPROPRIATIONS FOR ENHANCED DRUG INTERDICTION ACTIVITIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Defense for fiscal year 1987 for enhancement of drug interdiction assistance activities of the Department as follows:

(1) For procurement of aircraft for the Navy—

(A) $83,000,000 to be available for modification of four P-3 aircraft by the addition of APS-138 radar, including the purchase of four APS-138 radar sets; and

(B) $138,000,000 to be available for refurbishment and upgrading of four existing E2C Hawkeye surveillance aircraft for drug interdiction purposes, and the procurement of four replacement E2C Hawkeye aircraft and related spares for the Navy.

(2) For procurement for the Air Force, $49,500,000, to be available for procurement of 3 aerostat radar systems, 3 aerostat radar spares for such system, and 1 aerostat radar system authorized and funded for location in the Bahamas by section 5(b) of the Urgent Supplemental Appropriations Act, 1986 (Public Law 99-349; 100 Stat. 723).

(3) For operation and maintenance for the Air Force, $12,615,000 to be available for the transfer of 6 Air Force helicopters to Davis Montahn Air Force Base for use in carrying out drug interdiction missions.

(4) For the Secretary of Defense, $12,000,000 for enhanced intelligence collection activities concerning illegal importation into the United States of drugs originating in South America.

(b) LOANS TO THE UNITED STATES CUSTOMS SERVICE.—Secretary of Defense shall make available the refurbished, upgraded, and modified aircraft, using funds appropriated pursuant to authorizations in subsection (a)(1) to the United States Customs Service in accordance with chapter 18 of title 10, United States Code, except that the four replacement E2C Hawkeye aircraft procured

using funds appropriated pursuant to authorizations in subsection (a)(1) shall be delivered to the Navy.

(c) RESPONSIBILITIES OF THE UNITED STATES CUSTOMS SERVICE.—(1) The United States Customs Service shall have the responsibility for operation and maintenance costs attributable to the aircraft refurbished, upgraded, or modified using funds appropriated pursuant to authorizations in subsection (a)(1) and the aerostat radar systems using funds appropriated pursuant to authorizations in subsection (a)(2), except that responsibility for the operation and maintenance costs by the United States Customs Service shall commence upon receipt of the modified, refurbished, and upgraded aircraft authorized in subsection (a)(1) and upon completion of the installation of the aerostat radar systems authorized in subsection (a)(2).

(2) Upon enactment of this Act, the Commissioner of Customs shall immediately commence consultations with the Commandant of the United States Coast Guard regarding coordination of the deployment of the aircraft authorized in subsection (a)(1) and on loan to the United States Customs Service under subsection (b) in order to maximize the detection, surveillance, and intelligence gathering capabilities of the drug surveillance aircraft on loan to the United States Customs Service. The Commission of Customs shall make quarterly reports to the Committees on Appropriations and the Committees on Armed Services of the Senate and the House of Representatives regarding drug interdiction plans developed under this paragraph.

(d) AMOUNTS IN ADDITION TO OTHER AMOUNTS.—The amounts authorized by subsection (a) are in addition to any other amounts authorized to be appropriated to the Department of Defense in this Act for fiscal year 1987.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Does the junior Senator from Arizona control half of the time?

The PRESIDING OFFICER. That is correct, 40 minutes equally divided.

Mr. NUNN. Parliamentary inquiry: How is the time divided? Who controls time?

The PRESIDING OFFICER. There are 40 minutes equally divided with no amendments thereto in order.

The Senator from Arizona [Mr. DECONCINI] has 20 minutes, the manager of the bill has the other 20 minutes, unless he is in favor of the amendment.

Is the manager in favor of the amendment?

Mr. NUNN. The managers of the bill are not in favor of the amendment. I think Senator GOLDWATER already made that clear.

Mr. GOLDWATER. We are not in favor of the amendment.

Mr. NUNN. I suggest Senator GOLDWATER manage the time in opposition.

Mr. GOLDWATER. I think it would be more comfortable, instead of having two Senators from Arizona running the time, to let the Senator from Georgia get in the action.

Mr. NUNN. I will be glad to manage the time in close consultation with the senior Senator from Arizona.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

□ 1150

Mr. DECONCINI. Mr. President, this amendment is cosponsored by the Senator from New York [Mr. D'AMATO], the Senator from Florida [Mr. CHILES], the Senator from New York [Mr. MOYNIHAN], the Senator from Tennessee [Mr. SASSER], the Senator from California [Mr. WILSON], and the Senator from New Mexico [Mr. DOMENICI].

Mr. President, last Monday, the President of the United States stated that he declared the war on drug abuse problems that plagues our Nation, which is poisoning our youth, and destroying the fabric of American society. On April 18, the President signed a national security decision directive which, among other things, called for the increased use of military resources to combat the narcotic traffickers.

On June 18, after nearly 4 years of congressional badgering, the administration finally concurred with the elements of the national drug interdiction strategy that Congressman ENGLISH, Senator NUNN, Senator STEVENS, Senator D'AMATO, Senator CHILES, myself, and many others, have supported in cooperation with the Department of Defense, the U.S. Customs Service, and other supporting agencies.

The amendment that we are offering will authorize funding for the second important phase of this drug interdiction plan and accelerate DOD's role in providing the sophisticated military resources to our civilian drug interdiction efforts.

The first phase of this program was authorized in the fiscal year 1986 DOD authorization bill, funded in the continuing resolution in 1986, Public Law 99-190, and reconfirmed in the urgent supplemental appropriations bill of 1986 signed into law by President Reagan on July 2.

Mr. President, this amendment authorizes a total of $295.1 million to fund five major proposals for enhanced Department of Defense drug interdiction assistance.

The Attorney General, as chairman of the Drug Policy Board, recommended four of these proposals in a letter to the Armed Services Committee of the House and Senate on June 18, while the Secretary of Defense recommended the fifth proposal to the Drug Policy Board in April.

Also, the elements addressed in my amendment today will form a major plank in an administration southwest border initiative that is scheduled to be announce next week.

Specifically, the amendment that we are offering will contribute the following drug interdiction assets to our war against the drug smuggler:

First, four existing E-2C Hawkeye surveillance aircraft will be refurbished by the Navy and turned over to the U.S. Customs Service; and the Navy, in return, will receive four replacement E-2C aircraft: Total cost, $138 million includes spare parts.

Second, four existing P-3 Navy aircraft be retrofitted with APS-138, 360-degree radar and turned over to the U.S. Customs Service for drug interdiction purposes: Total cost: $83 million, includes three APS-138 radars.

I have now agreed to one P-3 with APS-138 prototype at a cost of $27 million.

Third, three aerostat radar surveillance systems to be purchased by the Air Force for both national security and drug interdiction purposes: Total cost: $49,500,000, including spares for these aerostats and aerostat authorized in Public Law 99-349 for the Bahamas.

Fourth, transfer of six Air Force helicopters to Davis Monthan Air Force Base near Tucson, AZ to be co-located with the Tucson Customs Service Air Support Branch. These aircraft would be flown by Air Force pilots with Customs Service officers on-board: Total cost, $12,615,000.

Fifth, increased intelligence collection activities concerning illegal importation of drugs into the United States from South America: Total cost: $12 million.

Mr. President, this amendment offers a balanced, well-conceived, cost-effective strategy for combating the drug smuggler with sophisticated military resources.

It represents a culmination of vigorous, sometimes heated negotiations and compromise between myself, the Defense Department, the Administration, and other Members of the House and Senate.

My amendment will fund four proposals that have the support of OMB and the administration, plus a P-3 prototype that will offer an outstanding addition to this comprehensive plan for putting more sophisticated military assets into the war on drugs—at a price that the American taxpayers can afford.

Mr. President, last Monday, Attorney General Meese said in an editorial that—

The President's decision to sign the recent national security decision directive underscores our commitment to use military resources when appropriate against the insidious drug threat. (Washington Post, August 4, 1986.) Our plan is consistent with the

President's national security directive of April.

It is consistent with the original air wing concept originally authorized back in May of 1985.

It is consistent with the plan endorsed by the Secretary of Defense in April, in his report to Congress and the Drug Enforcement Policy Board.

It is consistent with our original concept of using existing DOD aircraft and sensors, whenever possible, and only purchasing those assets that are not already available for drug interdiction purposes.

And my amendment is consistent with our attempts to provide the most sophisticated DOD assets to meet the requirements of our drug interdiction agencies to detect, intercept, and arrest the drug trafficker.

My amendment will put our national drug interdiction effort into overdrive as we attempt to catch up with the narcotics trafficker, at a cost that the American taxpayers should be more than willing to pay.

Mr. President, let me finish by saying that, if we are willing to spend over $3 billion on a strategic defense initiative [SDI] that might not work, then we should be able to find $295 million for a program that will.

This amendment will go a long way toward meeting the President's goals and our own goals of attacking the drug smuggler that threatens our shores, our cities, and our children's futures.

I urge my colleagues to enthusiastically support this amendment and to turn up the heat on the narcotics trafficker.

Mr. President, I cannot think of a better investment that this Senate can make today with our defense funds. Most of this is going to be used in training with the defense capabilities intact. We have an opportunity to strike a blow, Mr. President, against drug interdiction. Sixty percent of the cocaine coming into this country comes by way of airplanes from outside our borders. We have to do something and we have to do it now. It is time that we use some of these assets.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DECONCINI. Mr. President, is my amendment at the desk at this time?

The PRESIDING OFFICER. The amendment is pending.

Mr. DECONCINI. Mr. President, I am glad to yield to the Senator from New York [Mr. D'AMATO].

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

Mr. D'AMATO. Mr. President, I rise not only to support this amendment, but to commend the Senator from Arizona, Senator DECONCINI, for his constant attempt to help utilize and mobilize resources of this country in the battle against drugs.

We talk about a drug war. The fact of the matter is there is no drug war. That is, we are not waging a war against those who bring drugs into this Nation. It is absolutely ludicrous to say that because we have undertaken some action, that we have begun to wage war that we have really mobilized, given the significance of what is taking place in our communities today.

This proposal is a logical next step in the comprehensive drug interdiction strategy that we have been working on—Senator STEVENS, Senator CHILES, Senator HAWKINS, Senator ABDNOR, and others—for years.

If we are serious about stopping more than 1 percent of the almost 19,000 flights that carry drugs into this country, then endorsing and supporting this initiative is the only logical step to do that.

Mr. President, I understand that there is a squeeze in resources on the defense side. I vote for those defense budgets. I am going to continue to do so.

However, I cannot think of a more important mission in the way of training, in the way of using our resources to interdict those 19,000 planes that carry their cargo of death and destruction into our neighborhoods and into our communities. It is about time that the Department of Defense understood that this is as important a mission as interdicting those who would spread alien philosophies and those who would come and pose a threat to our national security, whether it be the Qadhafi's or the Soviet Union with their KGB people.

If we cannot interdict the 19,000 planes that are carrying these drugs, then all of our wonderful defense systems go for naught.

This amendment, as Senator DECONCINI indicated, is in keeping with the national security decision directive signed by the President on April 18. It represents a plan agreed to by Attorney General Meese in the National Drug Enforcement Policy Board in June.

Senator DECONCINI has just set forth, in a very clear and detailed, manner, the history of bipartisan congressional support for an increased Department of Defense role in drug interdiction.

I think if we are going to do more than just give rhetoric to the so-called war against drugs, then we have to support the adoption of this legislative initiative to give to those who are in this battle the tools to see to it that we interdict the drug runners, to make it more than a slim possibility that they may be apprehended, to begin to say that, "If you are running drugs into this country, there is a good chance that we are going to interdict you, prosecute you, and put an end to this."

□ 1200

I hope that whatever difficulties do exist in terms of accepting this amendment could be worked out prior to a vote because I would like to see this amendment adopted unanimously, because we then show concrete proof that it is not just rhetoric, that we are prepared to mobilize nationally this war against drugs.

I urge my colleagues to give this amendment their full and overwhelming support.

I thank the Chair.

Mr. ABDNOR. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment offered by the Senator from Arizona.

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

Mr. ABDNOR. Mr. President, I want to take this opportunity to commend the distinguished junior Senator from Arizona for sponsoring this amendment. We have worked together very closely over the past 5 years to develop an air interdiction effort. He has been a key player in the effort and deserves much credit. We have made strides, but we have a long way to go. The assets provided by this amendment will help considerably.

Yesterday the President of the United States declared war on drug abuse. It is a major problem facing this Nation today. No one can deny that. We have tried as hard as we have to provide support to the men and women on this country's front lines of defense against the drug trafficker. Quite frankly the support we have given has been modest at best. I am sure my good friend, Senator DECONCINI, will agree with me when I say we are glad the administration is coming to our aid.

I am just sorry to say it has taken too long. We have a long way to go. The drug problem is epidemic in this country. There are many steps which must be taken. These steps include education of our people. We must cut down on the demand. That, however, is a long term process. In the meantime we must interrupt drug trafficking. Detection and interdiction provide the means to that end. The dopers have had the upper hand too long. They have been better financed and better equipped. The assets provided in this amendment will provide the state of the art equipment to the good guys. It will make an impact.

I am very happy to be a cosponsor of this amendment and urge my colleagues to join in its support.

● Mrs. HAWKINS. Mr. President, I rise to speak in favor of the amendment of the Senator from Arizona, Mr. DECONCINI. This amendment makes

military surveillance equipment available for use in various drug interdiction programs. I share the concern of the Senator from Arizona about how inadequate our Drug Interdiction Program is in the Southwest and other parts of the country. We must recognize in this country that drug trafficking is a matter of national security. We must make the most sophisticated resources available to fight the scourge of drug abuse. If we fail to take this forceful action more of our citizens will be put at risk.

While I understand that our defense programs are facing serious budget constraints, these interdiction programs are a very high priority in the fight against drug traffickers. Many in this body have talked the so-called war on drug abuse. But we can never prevail in this war if we do not use the weapons and equipment necessary to prevail. The equipment that would be made available to the Drug Interdiction Program by amendment of the Senator from Arizona will go a long way toward ensuring that we do prevail in the war against drug traffickers and drug abuse.

Mr. President, as a cosponsor of the amendment of the Senator from Arizona, I urge my colleagues to support this proposal and thereby make a significant contribution to our national effort to stop drug traffickers. Only by our strong collective action can we begin to bring the tragedy of drug abuse and drug addiction to a halt.●

● Mr. MOYNIHAN. Mr. President, I thank my good friend and distinguished colleague from Arizona. I am pleased to cosponsor this amendment to provide badly needed funds for use in surveillance and interception efforts against drug smuggling. This proposal will help us to deal effectively with at least one-half of the drug equation: supply.

There is no more insidious and pervasive threat to our Nation. The abusers of drugs bring about numerous dangers to themselves and those around them; a drug epidemic brings with it a crime epidemic of equal proportion. The most elemental of all civil rights—the right to move freely in your own society—is denied by the presence of drug dealers and pushers on our streets. Just last week, the New York City Police Department reported a marked surge in crime in the last 6 months directly attributable to drugs. The number of reported major crimes rose to 249,090, and that was just for the first 5 months of this year. Of the 653 murders which occurred during this time, 35 percent were drug related. Consider: more than one-third of all murders in New York City were due to the inability to successfully combat drugs.

Our focus now is on countries like Bolivia, Peru and Colombia, as they are the primary source of most of the drugs which end up on our streets. This amendment allocates funds for the collection of intelligence on the flow of drugs from countries such as these, and for the planes and equipment to stop shipments before they reach our shores. If we can cut off the flow of drugs, we will have addressed at least one part of the drug equation.

But intercepting drugs is only one aspect of dealing with supply. Another calls for destroying drugs where they are produced. That means assisting countries like Bolivia and Peru in changing their agricultural base from coca plants to legitimate crops. These types of programs can work: they worked with respect the poppy plant—from which heroin is made—in Turkey in the early 1970's.

Permit me to explain. In 1969, President Nixon asked me to be his assistant for urban affairs. I agreed. I proposed to the President that among the first things to be done about American cities was to place international drug traffic on the agenda of American foreign policy. He agreed, and in the course of 1969 this was done. To be precise, in August of that year I flew eastward to Calcutta, Istanbul, and lastly Paris. At each place, I talked with American and local officials, stating that the United States could no longer tolerate the extraordinary commerce in smuggled heroin then flooding our cities, especially on the east coast, and bringing with it a plague of death and crime.

I met with the Turkish Foreign Minister and explained to him that the heroin flowing into the United States began as poppies grown in Turkey then processed in Marseilles, France. There it was associated with bread and life, but here it meant a slow death in our cities. Afterward, I flew to Paris to meet with the head of the French "Securite," who wondered how we could ask him to clamp down on drugs when we couldn't enforce our own laws. As we parted, he looked me straight in the eye and asked, "What kind of people are you?" that we were now coming to them about a matter which we should have taken action upon much, much earlier.

Now, we are faced with a cocaine, and more recently crack, epidemic. Some say that we can't afford to allocate more money for drug interdiction: I say we can't afford not to. The costs of drug abuse to our society are enormous. According to a study commissioned by the Alcohol, Drug and Mental Health Administration, drug abuse costs society a total of $60 billion every year. Yet this Senate continues to cut drug enforcement and interdiction programs by invoking such measures as Gramm-Rudman. For example, in New York City, the Immigration and Naturalization Service cannot fill 50 staff positions because of Gramm-Rudman's cut in its budget. It is not reasonable to expect these agencies to do an adequate job with inadequate funding.

The time has come to provide sufficient ammunition to those who are on the front lines of the fight against drug abuse. We require sophisticated and powerful equipment to combat smugglers, and this amendment would provide it. In part, it calls for the conversion of the E-2C Hawkeye aircraft, made by the Grumman Co., on Long Island, to be used against those who dare to bring lethal drugs into this country. With sophisticated instruments such as these planes, we give ourselves a fighting chance in winning the war against drugs.●

The PRESIDING OFFICER. Who yields time? If neither side yields time, time runs equally against both sides.

Mr. NUNN. Mr. President, I suggest the absence of a quorum to be equally divided.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COHEN. 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. COHEN. Mr. President, if I could have the attention of the Senator from Arizona [Mr. DECONCINI]——

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Mr. President, I am glad to pay attention to the distinguished Senator from Maine.

Mr. COHEN. I wonder if he would be willing to modify his amendment to delete the P-3 aircraft out of his amendment. As the Senator knows, the Secretary of Defense felt very strongly in opposition to that in view of the cost that will be involved in that aircraft and that the developing cost will be excessive. He is trying to hold down that range.

Mr. DECONCINI. If the Senator from Maine will yield, I have talked with the Senator from California [Mr. WILSON], who serves on the committee. I am most reluctant to do that, because I think there is a lot of misinformation stemming from the Secretary of the Navy regarding the P-3's. We have those figures indicating that it is going to cost hundreds of millions of dollars to retrofit them; we have a firm commitment from one defense contractor to do four of them for $83 million. So I am very reluctant to do it.

However, let me say to my good friend from Georgia and my senior colleague from Arizona. I realize how far they have come to find some accommodation here. The answer to the question is, I shall reluctantly do that,

although I would like to yield to the Senator from California for his comments on it if he cares to get into this before we voluntarily give away the P-3.

The PRESIDING OFFICER. It will take unanimous consent to modify the amendment.

Mr. DECONCINI. I understand. I thank the Chair.

I shall be glad to yield back to the Senator from Maine.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I yield to the Senator from California.

Mr. WILSON. I thank the Senator.

Mr. President, I think the Senator from Arizona has stated his reluctance, but I think it is probably a wise compromise. We are placed in this unfortunate position not through the fault of any member of the Armed Services Committee; very much to the contrary. The senior Senator from Arizona [Mr. GOLDWATER], the distinguished chairman of the Sea Power Subcommittee [Mr. COHEN], and the distinguished ranking member from Georgia [Mr. NUNN] are not in any way opposed to efforts to bring about more effective, more rigorous drug interdiction. Very much to the contrary. I dare say there is not a Member of this body that does not recognize the need for greater efforts to be made.

The reservations that are being expressed by the Senator from Georgia and the Senator from Arizona and the Senator from Maine have to do with money. They do not oppose the effort; they oppose its being funded from the defense budget.

Spending as many hours as I do with them agonizing about the allocation of too-scarce resources for our national security, I can well understand and entirely sympathize with their reluctance to see money that they have not authorized spent for purposes, however commendable, other than national security.

I support the junior Senator from Arizona. I think we have a compromise here that both sides can support. The point I am attempting to make, Mr. President, is that we are placed in the position of the junior Senator from Arizona having to take less than he feels is really required to make an adequate effort and the members of the Armed Services Committee, on the other hand, reluctantly granting some of their too-scarce resources for a purpose not contained in their bill.

I think what it means, very clearly and simply, is that this compromise may be the best that we can do this year. But there is an absolute necessity for the administration to recognize the need for new money for this effort, which I rank in many instances as being more important than a number of the expenditures we make even for national security. We are faced with a situation not just of growing concern; it is a growing crisis.

I say to my friend, the junior Senator from Arizona [Mr. DECONCINI] first, he has my support and my admiration for the steadfastness in the effort he has made.

Second, I extend thanks to my brothers on the Armed Services Committee. I think the pain of having to oppose a good program simply because you have inadequate resources to pay for what is in your own bill is something we can all understand and sympathize with.

What we need to do, I think, in this instance, is take this compromise, however reluctantly it is made by both sides, recognizing that we are placed in an untenable position because we have not accurately and adequately allocated, as a priority, what is necessary for us to discharge the obligation to interdict the flow of drugs into the United States, particularly the aerial interdiction of aerial smuggling.

So, to my friend from Arizona [Mr. DECONCINI], I say I think we should accept this and then make common cause with our colleagues on the Armed Services Committee so that new money and adequate money can be available to do this job properly in the future.

□ 1210

Mr. NUNN. Mr. President, will the Chair inform Senators what the remaining time and its allocation is?

The PRESIDING OFFICER. The Senator from Georgia has 13 minutes, the Senator from Arizona has 7 minutes.

Mr. NUNN. Mr. President, I believe this is a good compromise based on the information we now have. I must say I am not completely satisfied that the cost figures we have are entirely accurate. We have several estimates mostly on the telephone from the Department of Defense about various aircraft, but we are not going to be able to settle that on the floor now.

I believe that when we go to conference we should have much closer scrutiny of the figures which have been given us so we can make sure that not only are we doing something in the drug area but we are procuring the aircraft that are most effective and efficient for this purpose and also procuring aircraft for this purpose that are competitive and that meet the taxpayers' need to save money.

I am not satisfied on that aspect, but I know the Senator from Arizona has done the very best he can with this amendment. I think the Senator from California and the Senator from New York have made major contributions. I believe it is a very important program.

We still have a terrible dilemma of where we get the money. Nothing has changed. We are going to have to cut our bill very, very substantially in conference. We do not meet the budgetary figures—the numbers are going up on the floor, not down—and we do not meet the outlay figures.

So we will have a real problem in conference. The House is going to be debating probably today a couple amendments that will get their bill down to the budget authority and get their bill down to the outlays. We have closely coordinated our position with the Senate Budget Committee. They understand that we are over the ceilings. They understand that we are pledged to come back with a budget authority figure within the ceilings, and they understand that we are not pledged to come back in the outlay figure, although we are going to strive for that, because we have said over and over again those two numbers, budget authority and outlays, are totally incompatible; we cannot meet both. We can meet one of the other but not both.

So this amendment, worthy as it is, adds to our problems in conference. I serve notice to the Justice Department and Treasury Department we are for the drug problem, but we are also for honest accounting in executive budgets. And when they endorse a program they should endorse it in their budget; it should be sent up in their budget or it should be sent up here in a supplemental. It is rather frustrating to be handling the military budget and get other departments of the executive branch endorsing efforts to take money out of this budget and put it into other budgets.

That is just not the way to handle the accounting of the Federal Government. But I do applaud the program. We have a very serious problem with drugs in our Nation. I think drug affliction in our Nation does indeed affect our national security so I applaud the Senator and I believe the compromise should be accepted.

I yield whatever time the Senator from Maine may need.

Mr. COHEN. Just for the purpose of clarification, as I understand the proposed modification, it would still require the purchase of four new E-2C Hawkeye aircraft which would be transferred to the Navy; the Navy then would have the assets to dispose or divert for purposes of drug interdiction?

Mr. DECONCINI. If the Senator from Maine will yield, that is correct. There would be four new ones purchased for the Navy and four existing ones would be sent over to Customs obviously subject to recall for national security purposes.

Mr. COHEN. I thank the Senator.

Mr. DECONCINI. Mr. President, I will be glad to yield to my colleague from Arizona.

Mr. GOLDWATER. Mr. President, I think what is happening on this particular amendment is rather indicative of one of our major problems when we set out to provide legislation, particularly in the field of defense. The Senator from Georgia and I had an audience with the President just 2 days ago. We outlined in great depth the very, very dangerous situation that our Armed Forces face. We told him that we could not authorize more money because we did not have any more money. In the usual language, we are broke. Yet, Mr. President, this morning, August 7, the Secretary of Defense sends a letter over here saying that they support the DeConcini amendment. We do, too. I, like my colleague from Arizona, live on that border, and we know what we want. But we do not like to get an approval from the Secretary of Defense about an hour before we are going to work on this thing. And then, Mr. President, we have been thinking about this legislation, traveling under the assumption that the Attorney General did not want money specifically appropriated for this, and yet this morning we find the Attorney General backing this amendment.

Again, I say that I think both the Senator from Georgia and I would back this amendment without question provided we had the money.

So I wish, Mr. President, that the administration would learn how to operate a little better than they do, so that the committees are not left hanging in the air when important decisions have to be made.

I thank my colleague from Arizona for agreeing to delete the P-3's. I think that was a very wise move, and I think it will ensure the passage of the amendment and acceptance in the conference.

I yield the floor.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senator from South Carolina [Mr. HOLLINGS] be added as a cosponsor.

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

Mr. DECONCINI. I also want to thank the Senator from New York for his steadfastness in taking the time away from the Appropriations Committee that he is supposed to be at right now on defense I think to come over and talk to this, as well as my colleague, Senator WILSON, from California.

Mr. President, I will ask to insert in the RECORD a letter that is addressed to my senior colleague from Arizona, Senator GOLDWATER, from Attorney General Edwin Meese dated June 18, 1986, spelling out what is necessary under the National Drug Enforcement Policy Board. I note that all of the items that are in this original amendment with the exception of the P-3's are a part of this policy board's decision. I ask unanimous consent that that letter be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
NATIONAL DRUG ENFORCEMENT
POLICY BOARD,
June 18, 1986.

Hon. BARRY M. GOLDWATER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The DOD Authorization Bill for FY 1986 called for the establishment of an Air Force Special Operations drug interdiction air wing to provide peacetime air interdiction surveillance and detection assistance to drug enforcement authorities.

The conference report accompanying the FY 1986 Appropriations Act (appended to the Continuing Resolution) required the Department of Defense to configure one AC-130H-30 stretched variant gunship for drug interdiction surveillance deliverable not later than January 31, 1987. Thirty-five million dollars were appropriated for this purpose. The Conference Report also suggested that DOD should consider budgeting for an additional nine AC-130H-30 gunships during FY 1988-89.

In my letter to you on February 12, 1986, I expressed the National Drug Enforcement Policy Board's concern that the C-130 gunship was not the most cost effective means of providing air surveillance and detection (Enclosure 1). Further, I suggested that the Policy Board would work with the Congress to identify appropriate resources best suited for drug surveillance and intelligence needs, consistent with DOD mission requirements.

In an April 18, 1986 letter to the Vice President, Senator DeConcini and Representative English proposed a plan to implement the DOD Air Wing (Enclosure 2). This plan provides for seven aerostat radar surveillance balloons (two in the Bahamas and five along the U.S. Southern tier); ten C-130 aircraft retrofitted with target acquisition radars (two for SOUTHCOM; remaining eight divided equally between Florida and Arizona); and four Customs P-3A aircraft (or suitable platform) retrofitted with 360° radar.

The National Narcotics Act of 1984 empowered the Policy Board to review, evaluate and develop United States Government policy, strategy and resources with respect to drug law enforcement efforts. Accordingly, on May 19, 1986, the Vice President asked the Policy Board to review the Congressional plan. The Policy Board analyzed the plan and agrees that certain parts of it would help address the problem along the Southern tier. Specifically, they are: placing five aerostats along the Southwest border, moving Air Force helicopter assets to Davis Monthan AFB, and providing two C-130's to SOUTHCOM to assist drug law enforcement on a not-to-interfere-with-mission basis. The Board believes that the location of the aerostats and other detection assets should be determined by those agencies responsible for their operation.

In addition to the above elements from the Congressional plan, the Policy Board proposes modifications which address interdiction needs and also provide an effective enhancement to the Government's overall anti-drug effort. The alternative proposal constitutes a Government-wide package that will initiate improvements in several of the critical components of the drug strategy. They are presented in Enclosure 3.

The total cost of our proposal is $232.9 million (plus one year O&M of $33M), compared with $309M (plus $61M O&M) for the Congressioanl plan. Not only would this alternative cost the taxpayers less, the Policy Board believes that it would also be more effective. Our proposal simultaneously addresses several of the key elements of the strategy in a balanced approach, rather than focusing solely on interdiction assets.

While I believe that our proposal fully addresses the needs along the Southwest border, the differences in terrain and threat along the Southeast border pose a more complex set of problems. As an interim solution, the Policy Board endorses the substitution of E-2C's for P-3A's as air surveillance platforms. The P-3A's would then be returned to DOD. (In our view, the E-2C is superior to the P-3A in terms of cost, effectiveness and availability.) However, the Policy Board must emphasize that it is prudent to study other air surveillance modalities before final determination is made for the Southeast border. We will forward to the Congress, following the Policy Board's expedited review, a complementary report for the Southeast border.

I know you share our concern over the adverse impact illicit drug trafficking has on our nation. On behalf of the Board, please be assured of our willingness to work with the Congress to effect measures to end this national scourge. I have sent identical letters to Chairmen Hatfield, Whitten, and Aspin.

Sincerely,

EDWIN MEESE III,
Attorney General.

Policy Board's alternative proposal [1]

	Million
Interdiction:	
Items from Congressional plan:	
5 Aerostats for Southwest border [2]	$62.5
Transfer 6 Air Force Helicopters to Davis Monthan AFB in Arizona [3]	15.0
2 C-130's to Southcom [4]	79.4
Other items:	
Customs Service Command, Control, Communication's Intelligence Center (C^3I) for the Southwest border	10.0
An All-Source Intelligence Center to modify or replace the existing El Paso Intelligence Center (EPIC)	15.0
4 E-2C's for Southern border [2]	14.0
International/Intelligence:	
DEA foreign agents	4.0
Intelligence Community [2]	12.0
Investigations: DEA voice privacy radios	7.0
Drug Prosecution: U.S. Attorneys	6.0
Drug Abuse Prevention:	
National Institute of Drug Abuse	3.0
ACTION	5.0
Total	232.9

[1] Additional O&M for full year operation is estimated at $33M.

[2] Acquisition funded by DOD; O&M funded by other agencies.

[3] Acquisition and O&M funded by DOD.

Mr. DECONCINI. Mr. President, I send to the desk a modification which is in accordance with the understanding and discussion we just had, which modifies my amendment, taking out the P-3's. I ask unanimous consent that the amendment be so modified.

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

The amendment, as modified, is as follows:

On page 229, between lines 14 and 15, insert the following new section:

SEC. 2121. AUTHORIZATION OF APPROPRIATIONS FOR ENHANCED DRUG INTERDICTION ACTIVITIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Defense for fiscal year 1987 for enhancement of drug interdiction assistance activities of the Department as follows:

(1) FOR PROCUREMENT OF AIRCRAFT FOR THE NAVY—$138,000,000 to be available for refurbishment and upgrading of four existing E2C Hawkeye surveillance aircraft for drug interdiction purposes, and the procurement of four replacement E2C Hawkeye aircraft and related spares for the Navy.

(2) For procurement for the Air Force, $49,500,000, to be available for procurement of 3 aerostat radar systems, 3 aerostat radar spares for such system, and 1 aerostat radar spare for an aerostat radar system authorized and funded for location in the Bahamas by section 5(b) of the Urgent Supplemental Appropriations Act, 1986 (Public Law 99-349; 100 Stat. 723).

(3) For operation and maintenance for the Air Force, $12,615,000 to be available for the transfer of 6 Air Force helicopters to Davis Montahn Air Force Base for use in carrying out drug interdiction missions.

(4) For the Secretary of Defense, $12,000,000 for enhanced intelligence collection activities concerning illegal importation into the United States of drugs originating in South America.

(b) LOANS TO THE UNITED STATES CUSTOMS SERVICE.—The Secretary of Defense shall make available the refurbished, upgraded, and modified aircraft, using funds appropriated pursuant to authorizations in subsection (a)(1) to the United States Customs Service in accordance with chapter 18 of title 10, United States Code, except that the four replacement E2C Hawkeye aircraft procured using funds appropriated pursuant to authorizations in subsection (a)(1) shall be delivered to the Navy.

(c) RESPONSIBILITIES OF THE UNITED STATES CUSTOMS SERVICE.—(1) The United States Customs Service shall have the responsibility for operation and maintenance costs attributable to the aircraft refurbished, upgraded, or modified using funds appropriated pursuant to authorizations in subsection (a)(1) and the aerostat radar systems using funds appropriated pursuant to authorizations in subsection (a)(2), except that responsibility for the operation and maintenance costs by the United States Customs Service shall commence upon receipt of the modified, refurbished, and upgraded aircraft authorized in subsection (a)(1) and upon completion of the installation of the aerostat radar systems authorized in subsection (a)(2).

(2) Upon enactment of this Act, the Commissioner of Customs shall immediately commence consultations with the Commandant of the United States Coast Guard regarding coordination of the deployment of the aircraft authorized in subsection (a)(1) and on loan to the United States Customs Service under subsection (b) in order to maximize the detection, surveillance, and intelligence gathering capabilities of the drug surveillance aircraft on loan to the United States Customs Service. The Commissioner of Customs shall make quarterly reports to the Committees on Appropriations and the Committees on Armed Services of the Senate and the House of Representatives regarding drug interdiction plans developed under this paragraph.

(d) AMOUNTS IN ADDITION TO OTHER AMOUNTS.—The amounts authorized by subsection (a) are in addition to any other amounts authorized to be appropriated to the Department of Defense in this Act for fiscal year 1987.

Mr. DECONCINI. Mr. President, I will be glad to yield to the Senator from Georgia.

Mr. NUNN. Mr. President, I am prepared to yield back the remainder of the time of the former opponents of the amendment.

Mr. COCHRAN. Mr. President, before all time is yielded back, let me just ask—I was on my way to the floor—of the Senator from Arizona whether or not this amendment would preclude the retrofitting of planes other than the P-3 for the drug interdiction efforts?

As I understand the modification, am I correct in the assumption that the planes are being taken out of the amendment?

Mr. NUNN. The P-3's have been taken out by the Senator from Arizona.

Mr. COCHRAN. So there would be no prohibition of the administration or the administrators of Customs or the Coast Guard retrofitting other aircraft such as the C-130 for surveillance purposes in the drug interdiction effort?

Mr. DECONCINI. If the Senator will yield, maybe the Senator from Georgia would care to discuss the Defense Department and Air Force position on using the C-130 but this modified amendment only takes out the P-3's.

It does not go to any other retrofitting or modification of any other airplanes. If the Drug Policy Board so ordered the Defense Department to do it and the Defense Department found the funds or decided to do it or in conference if they decided to do it with P-3's or the C-130, let me yield to the Senator from Georgia for the answer.

Mr. NUNN. I would agree with that assessment. I think the plan fact out here today, at least as one of the managers of the bill, I do not know which aircraft are better for this purpose and even though the P-3's have been eliminated in the amendment based on cost information from the Department of Defense, it seems to me what we want to do in this program like any other program is find the best airplane for the job and get it, whatever it happens to be, at the best cost, and I would say that would be our goal in conference. We do not have enough information here now—at least I do not—to be able to make that kind of judgment.

□ 1220

Mr. GOLDWATER. Mr. President, if the Senator will yield, I will try to help him a little.

The E-2C is a proven fleet aircraft with overwater and overland capability. The E-2C is a sort of miniature AWAC. It is used off the decks of carriers.

The trouble with the P-3 for this use is that it is a down-looking radar. It is a submarine detector. What we have to have is radar that can look forward or sideways.

We have a very fine, old Army airplane, the Mohawk, that is perfectly satisfactory for this type of operation, and we have been using them on the Mexican border. It has an infrared side-looking radar and standard radar for straight ahead.

I believe that the money necessary to modify a P-3 would be to exorbitant, and the money to buy AWACS would put it out of the question.

I think the decision that has been reached here this morning by the members of the Armed Services Committee is probably the least expensive one we can come up with.

Mr. COCHRAN. Mr. President, I appreciate very much having the explanation of the managers of the bill and the author of the amendment. I certainly have no objection to the amendment, and I join in applauding the Senator from this initiative.

Mr. DECONCINI. Mr. President, I thank Senator GOLDWATER and Senator NUNN and their staffs for their cooperation.

I yield back the remainder of my time.

Mr. NUNN. I yield back the remainder of my time.

Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. No.

Mr. NUNN. I think it would be preferable if we did not have a rollcall vote.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified.

The amendment (No. 2588), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. I believe there was a unanimous-consent agreement reached last night to accommodate another amendment at this point.

The PRESIDING OFFICER. The Senator is correct. The amendment would be offered by Senator HATFIELD.

Mr. GOLDWATER. 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.

□ 1230

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

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

The Senator from Oregon is recognized.

AMENDMENT NO. 2606

(Purpose: To prohibit the use of funds for the production of binary chemical munitions until certain conditions are met)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 2606.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 10, strike out lines 9 through 16 and insert in lieu thereof the following:

SEC. 109. BINARY CHEMICAL WEAPONS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the Presidential certification of July 29, 1986, transmitted to Congress pursuant to section 8093 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1217)), does not meet the requirements of such section and, therefore, the conditions necessary to begin production of binary chemical munitions pursuant to such section do not yet exist.

(b) PROHIBITION ON USE OF FUNDS.—None of the funds appropriated pursuant to an authorization contained in this or any other Act may be used—

(1) for the procurement or assembly of binary chemical munitions (or components of such munitons); or

(2) for establishment of production facilities necessary for procurement or assembly of binary chemical munitions (or components of such munitions),

until legislation has been enacted, after the date of the enactment of this Act, declaring that the certification requirements of section 8093 of the Act referred to in subsection (a) have been met.

(c) EXCEPTION.—The prohibition in subsection (b) does not apply to funds used exclusively for research, development, test, and evaluation of binary chemical munitions.

Mr. HATFIELD. Mr. President, this is a very simple amendment and yet I know that it carries with it many implications.

Mr. President, I allocate myself 5 minutes.

I would like to consider this amendment strictly on the wording and the intent of the amendment.

I will not make any efforts here today to hide my own personal feelings about the weapon involved in this amendment—nerve gas. I fought the idea of nerve gas production and sought to sustain the moratorium placed on it by President Nixon for many years.

But if we could but lift our eyes for just a few moments to the actual wording of the amendment, I would like to concentrate on its merit outside of the question of whether you are for or against nerve gas.

In the continuing resolution passed by this Senate last year, there was included the following wording—and I refer specifically to Public Law 99-190—there will not be any moneys expended for the binary chemical munitions for production purposes until "there has been submitted to the North Atlantic Treaty Organization a force goal stating the requirement for modernization of the United States proportional share of the NATO chemical deterrent with binary munitions and said force goal has been formally"—and let me emphasize "formally"—"adopted by the North Atlantic Council."

Mr. President, there are three groups within this whole NATO structure to which we refer: the Military Review Committee, the Defense Planning Committee, made up of the defense ministers of various member countries, and the North Atlantic Council, made up of the member nation's foreign ministers.

In effect what happened was this: the Military Review Committee (in which Ambassador Abshire represents the United States) approved of binary weapon production force goal, as part of the total force goal package. The Defense Planning Committee took note of that fact—did not act on it—but took note of that fact. Mr. President, the Council never took action on it in any form or in any shape.

□ 1240

The wording of our language has not been complied with. How did it happen?

Mr. Abshire, our permanent representative, was very much aware of the precise language of the requirement. Let me tell you the intent was very, very carefully crafted because we wanted to make sure that this was considered by both the military and the political groups within NATO. It is something more than a military question. It is a political question as well.

Mr. Abshire says, "Well, we should have used the words 'force plans' rather than 'force goals'," because force goals are considered by the military agency, not by the North Atlantic Council. Now, after the fact, that is a very interesting interpretation. But it still does not override the wording and the intent of the wording of the language in the appropriation bill.

Now, Mr. President, the committee that now has this authorization bill before us, the Armed Services Committee, is attempting, evidently, to try to undo the situation or to correct it after the fact. This bill will allow binary weapon program production money to be utilized after approval by the military group that has already acted upon it, the Defense Planning Council.

Mr. President, that does not change existing law. The existing law says very carefully that there shall be formal adoption given by the North Atlantic Council.

Now you might ask: Why should the Council do this, as well as the military arm of NATO? I have letters here, Mr. President, from three of the four countries that disapproved of this weapons system, written by their ambassadors. Their ambassadors are political appointees. Mr. President, you cannot have it both ways. You cannot have a military group saying, "Oh, this is approved," and then the political people of those countries going home and saying, "Oh, we didn't approve it. We didn't approve it, because it is too hot a political item to approve."

Now let us not get into all the arguments about whether this is a deterrent and all those other matters relating to the nerve gas weapon. Let us get to the essence of this amendment, which is simply to restate the language of existing law. That is all.

Not one NATO ally has agreed to bring this binary weapon to their land. Why should America take the brunt of all the political venom being expressed in the very countries where their own political people refuse to take a stand but then, backdoor, under the table, through their military people in a lower echelon of the NATO, say, "Oh, yes, we approve." It is a double standard. It is not honest. It is not forthright.

Not too long ago, I happened to be in the company of the head of government of one of our NATO allies. I raised the question to this head of government. He said, "Oh, please don't make us take a position on this. We will support you on it. We will support you through the Defense Planning Committee, but do not ask us in the political realm to take a position. It is to hot a potato for us to handle."

So America takes the full blame for this.

Mr. President, there is an integrity of Congress' instruction at stake here. That is the essence of this amendment. Does the Congress mean what it says? And is the agency that the instruction is directed to going to ignore

it, thumb its nose at us, and say, in effect, "Well, that means little," even though it is the law of the land and has been signed into law by the President as well as passing both Houses of Congress.

I say again, I very forthrightly say I am opposed to nerve gas production. I am all out opposed to it. But that is not the purpose of this amendment at this time. Instead, it is to sustain the integrity of the Congress. That is the essence of this amendment.

I reserve the remaining part of my time.

Mr. GOLDWATER. Mr. President, parliamentary inquiry. How much time do we have left?

The PRESIDING OFFICER. The Senator from Arizona has 23 minutes and the Senator from Oregon has 18 minutes.

Mr. GOLDWATER. Mr. President, I yield as much time as the Senator needs.

Mr. COHEN. I thank the chairman for yielding.

Mr. President, let me say at the beginning that I was opposed to the requirement that the NATO countries have a veto, in essence, over the question as to whether or not the United States would resume production of chemical weapons. It seemed to me that that was placing the United States in a rather untenable position, to in any way derogate our responsibilities to our NATO allies on this issue as to whether or not we should resume the production for possible deployment in other regions of the world.

But that is not the issue that is being debated here today, as the Senator from Oregon has correctly stated.

Senator GLENN and I spent a considerable amount of time on this issue in conference with the House of Representatives. It is not as clear as the Senator from Oregon would have us believe, that the language is so precise. As a matter of fact, even though the bill contains a reference to the North Atlantic Council in the bill itself, it is interesting to note that in the bill's report language the reference is to the North Atlantic Alliance. So there is a great deal of ambiguity on this very proposition.

I submit to my colleagues that the Senator from Oregon, who has correctly stated his long opposition to the program, has seized upon an ambiguity in order to strangle the program from being either initiated or indeed completed.

Now what has happened with respect to this particular issue? We have requested that the NATO allies be required to express some approval of a plan that has been proposed by the administration. A letter was sent to the Senator from Oregon from our permanent representative, Ambassador David Abshire, explaining exactly what took place with respect to the North Atlantic Council.

The fact of the matter is that, back in 1966, when France withdrew from the NATO integrated military command structure, the NATO countries had to formulate some mechanism whereby issues pertaining to force goals could be resolved and approved, without the approval of France. At that time, it was decided to give that authority for force goals to the DPC, the Defense Planning Committee, which was done. And it has been that policy since 1966.

Now I have a copy of a letter—and I hope the Ambassador will forgive my pronunciation of his name—from Andre De Staercke, who was the dean of the NATO permanent representatives at the time that the decision was made, when France withdrew from the NATO integrated military command structure, to establish a mechanism whereby these decisions pertaining to force goals could be dealt with.

Let me just read a portion of the letter he addressed to Ambassador Abshire. He said:

> Since France intended to cease participation in discussions and decisions on NATO's integrated defense structure, it became necessary to agree upon a way to reach final decisions on these matters at the highest level. A number of possibilities were considered, with French participation in the search for solutions. Fortunately, a body which could serve the purpose was already at hand—the Defense Planning Committee. In 1963 the Council had made a decision to constitute itself as a Defense Planning Committee for the purpose of carrying out the decisions of the 22-24 May 1963 Ministerial meeting * * * The DPC so established was open-ended and chaired by the Secretary General. All that was needed was a Council decision giving the DPC full competence in all matters pertaining to NATO's integrated defense structure. The North Atlantic Council, in which, of course, France is a member, took this decision, with French agreement, the 3rd of November 1966. Thus the DPC is, in effect, the Council when it deals with matters upon which it alone is competent.

□ 1350

So here we have the dean of the permanent representatives speaking on this particular issue, the DPC acting as the council on matters pertaining to force goals. That particular position is reinforced by Lord Carrington, I quote from Lord Carrington who had an interview, recently, May 28, 1986, on this particular issue because questions were raised by the European press as to whether or not they had complied with the United States position. Let me read just for a moment Lord Carrington's responses.

> And the Defense Planning Committee is in no way subordinate to the Council (North Atlantic Council—NAC). The Council doesn't bless what the Defense planning Committee does. How could it, when it has one nation which does not partake in those discussions: so there is no question whatever here of having a re-run of anything that we may have done in the DPC.

Later during the same interview he said:

> I think there really is no way in which that could be done. I mean, as I said, the DPC is not a subordinate body to the Council and there is no way that the Council could take cognizance of what happened in the DPC. Would it be prepared to.

I think it is clear with this letter, which I will also submit for the RECORD along with that of the former dean, Ambassador Staercke it is clear from the records of the Defense Planning Committee that that is the body of competent jurisdiction to handle issues dealing with force goals.

It somehow has been suggested here just because the DPC made the decision, not recognizing that it is the body of competent jurisdiction, it did not have the approval of its political leadership. I do not know of any particular permanent representative to the NATO alliance that acts without instructions from its very highest political officers and leaders. I would submit to my colleagues that no permanent representative is going to take action to approve anything without the approval of the cabinet level ministers and indeed the leadership of that country. For anyone to imply somehow these military type personnel are operating all on their own without any sort of accountability to higher political leadership I think is a clear misstatement of the facts.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the letter to Ambassador Abshire dated May 28, 1986, and the letter to Senator GOLDWATER from Ambassador Abshire, along with the excerpt from Secretary General Carrington's press conference.

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

ANDRE DE STAERCKE,
Brussels, May 28, 1986.

Ambassador DAVID M. ABSHIRE,
U.S. Permanent Representative on the North Atlantic Council.

DEAR AMBASSADOR ABSHIRE: The purpose of this letter is to confirm the information I provided you in our chance conversation last week on the competence of the Defense Planning Committee. In that conversation, I reminded you that I was the Dean of the NATO Permanent Representatives before, during, and following the time when France withdrew from the Alliance's integrated defense structure. You might also wish to know that I chaired the group of "fourteen" charged with working out a basis for negotiations with France and which then conducted these negotiations with France to an agreement.

Since France intended to cease participation in discussions and decisions on NATO's integrated defense structure, it became necessary to agree upon a way to reach final decisions on these matters at the highest levels. A number of possibilities were considered, with French participation in the search for solutions. Fortunately, a body

which could serve the purpose was already at hand—the Defense Planning Committee. In 1963 the Council had made a decision to constitute itself as a Defense Planning Committee for the purpose of carrying out the decisions of the 22-24 May 1963 Ministerial meeting in Ottawa, which "directed the Council in Permanent Session to undertake . . . further studies of the inter-related questions of strategy, force requirements and the resources available to meet them." The DPC so established was open-ended and chaired by the Secretary General. All that was needed was a Council decision giving the DPC full competence in all matters pertaining to NATO's integrated defense structure. The North Atlantic Council, in which, of course, France is a member, took this decision, with French agreement, the 3rd of November 1966. Thus the DPC is, in effect, the Council when it deals with matters upon which it alone is competent.

Force goals have a long history within the Alliance. Council communiques from the very first years of the Alliance suggest that the Alliance expected member nations to bend their efforts to meet defense requirements in the most effective way. These suggestions find specific expression in the 20-25 February 1952 communique from Lisbon, which refers to decisions on the "building-up of balanced collective forces to meet the requirements of external security," and the 23-25 April 1953 communique from Paris explicitly mentions "force goals." I must add, however, that force goals ceased being a matter for the Council once the DPC became competent for the integrated defense structure.

Sincerely yours,

ANDRE DE STAERCKE,
Honorary Ambassador for His Majesty, the King of the Belgians.

EXCERPT FROM SECRETARY GENERAL CARRINGTON'S PRESS CONFERENCE OPENING HALIFAX NORTH ATLANTIC COUNCIL MEETING, MAY 28, 1986

CHEMICAL WEAPONS MODERNIZATION NAC VERSUS DPC

Q: (A question was asked in French that did not pertain to chemical weapons. Secretary General Carrington apparently misunderstood the question and made the following statement.)

Carrington. "When the French left the integrated military structure of NATO in 1967, it was decided that the defense aspects of NATO would be hived off to the Defense Planning Committee (DPC). And the Defense Planning Committee is in no way subordinate to the Council (North Atlantic Council—NAC). The Council doesn't bless what the Defense planning Committee does. How could it, when it has one nation which does not partake in those discussions: so there is no question whatever here of having a re-run of anything that we may have done in the DPC. Oh, I'm sorry I misunderstood you. I thought you were talking about something a little bit different in the context of the DPC."

Q. (From Paul Taylor, Reuter) "Mr. Secretary General, last week the NATO Defense Planning Committee adopted force goals which included one from the United States on the production of binary chemical weapons. Some of the sticklers for detail in Congress are saying that their legislation actually required that this should be adopted by the North Atlantic Council. Is there any way that this could be done at this meeting and do you expect it to be discussed in any way?"

Carrington. "Is this your final, awkward appearance? It is, is it? This is your last one?"

Q. "I think you do have a news conference scheduled for Friday as well." (Outburst of laughter.)

Carrington. "I think there really is no way in which that could be done. I mean, as I said, the DPC is not a subordinate body to the Council and there is no way that the Council could take cognizance of what happened in the DPC. Nor, I think, would it be prepared to."

Q. "Lord Carrington, to return to the question of chemical weapons and resumed production by the U.S.: Given that the North Atlantic Council does not appear to be the competent body to approve force goals, could you say how you think this came to have been written into Congress conditionally (SIC) in the first place; and secondly, if Congressional opponents insist on this point, does it not suggest that it's going to be rather difficult to get it through Congress at all?"

Carrington. "Well, I've found it very difficult all my life to understand my own Parliamentary system and you really mustn't ask me how this got into Congress. I haven't the smallest idea how it got there. Perhaps it got there by mistake. I really don't know. But, to be frank, that isn't my business. My business is to operate this organization on the only basis on which it can operate, which is the legality of what it does, and there is no way, I think, in which the NATO Council can take cognizance of something which is the business of the DPC."

Q. "Getting back to chemical weapons, how would you characterize the deliberations on that issue last week in Brussels? Was that approval of the U.S. Force goals or was it merely recognition of it? And, getting back to your first answer on this question, are you saying that you do not expect any delegation here to raise the issue again, or, as chairman, would you rule them out of order?"

Carrington. "I don't think one would do that, but I don't think that there's anything that this body can do about it. The mechanics of these things are extremely difficult. What we did in the DPC last week was to adopt the American force goals, and adopt means adopt."

U.S. DEPARTMENT OF STATE,
Washington, DC, June 13, 1986.

Hon. BARRY GOLDWATER,
Chairman, Committee on Armed Services, U.S. Senate.

DEAR MR. CHAIRMAN: I am pleased to report that NATO has adopted the U.S. chemical weapons force goal. Although a few nations expressed reservations about the force goal, the vast majority of NATO countries recognized the need for and supported the production of binary chemical weapons.

On May 15, the Defense Planning Committee (DPC) in Permanent Session, composed of the Permanent Representatives to NATO of the 15 countries participating in the Alliance's integrated military structure, adopted the NATO force goals for 1987 to 1992, including the binary chemical weapons (CW) modernization force goal addressed to the United States. Defense Ministers, meeting as the DPC in Ministerial Session on May 22, according to normal NATO procedures "noted" the Permanent Representatives' action.

The Defense Ministers' action completes the etablished NATO procedure for adopting force goals for the Alliance. Further, since all authority of the North Atlantic Council related to NATO's integrated military structure developed by agreement of the NAC to the DPC, and since force goals are a central element of defense planning for the integrated military structure, the DPC, not the NAC, is the competent Alliance authority for the adoption of force goals by NATO.

I would like to call to your attention that some critics have asserted that we at NATO have through procedural means sought to downplay the significance of NATO's decision. This is simply not correct. That would be impossible in the context of the free and open political debate customary in NATO nations. As I am sure you are aware, Allied Governments have expressed intense interest in this matter. NATO's decision has been the focus of parliamentary debate and government attention at the highest levels in NATO countries. The instructions to Permanent Representatives and Defense Ministers at the DPC were cabinet-level instructions.

In this context of free and open debate, and because representatives of Norway and Denmark asked that I relay personally the positions of their countries to the Congress, I want to report each of the dissenting views. I must, however, stress that there was no attempt to block the adoption of the CW modernization force goal.

Of the 15 nations represented in the DPC, the Netherlands, Norway, and Denmark made it clear that their positions could not be interpreted as meaning that they supported the production of chemical weapons. Although the only issue before the DPC for decision was adoption of force goals, these three nations took the opportunity to make statements on national positions concerning other chemical weapons issues. They stated that chemical weapons could not be stored or based on their territories. One other Ally, Greece, citing the Protocol of Geneva of 1925, said it is against the production, modernization and storage of chemical weapons.

A point that may not be well understood, however, is that unlike the United States, Denmark, Greece and Norway signed the Protocol of Geneva of 1925 without reservation. While the United States reserved the right to use chemical weapons in retaliation to a chemical attack, Denmark, Greece and Norway formally renounced the right to do so. Thus, their actions with regard to the CW force goal are consistent with long-standing national positions.

The Allies who support the CW force goal constitute an impressive majority of the Alliance, in sheer numbers and in terms of their population, size of military forces, and proportion of contribution to NATO's defense. A number of these nations made especially forceful statements in support of the CW force goal.

As compelling arguments for the production of binary munitions, they cited the large and growing Soviet CW threat and the need for NATO to maintain its CW retaliatory capability to deter Soviet CW attacks. Without an effective chemical retaliatory capability, NATO's only response to Soviet use of chemical weapons will be nuclear. Several nations pointed to the Soviets' continued production of CW in the face of U.S. unilateral restraint. Clearly, U.S. restraint has not produced corresponding Soviet restraint, and the decision to adopt the CW force goal may be a new incentive for the Soviets to conduct fruitful negotiations in Geneva. Secretary General Carrington aptly

concluded the discussion on the CW goal by describing the arguments made in favor of the force goal as weighty.

Sincerely yours,

DAVID M. ABSHIRE,
Ambassador.

Mr. COHEN. Let me conclude, Mr. President, to say that the Senator from Oregon has cited three countries that disapproved the action taken. Who were those countries that dissented? Norway, our great ally Greece and Denmark. Three countries who in fact decided long ago in their interpretation of Geneva protocol to not allow any chemical retaliation by their forces if they are attacked with chemical weapons. These are the same countries who have had a long history of opposing any placement of any chemical weapons on their territory. So these are the three countries who could have been expected to dissent.

It comes as no surprise, but the fact of the matter is that the overwhelming majority of those countries represented in the DPC have approved the force goals outlined in Ambassador Dave Abshire's letter to us.

So I submit, Mr. President, that what we are doing here is seizing upon an ambiguity in order to strangle this particular program. I would try to draw some sort of an analogy. If, for example, the NATO countries were to say, "We have a treaty in mind; we would like to have the U.S. Congress give its ratification. Let us have the U.S. Congress in this particular document give the ratification of this treaty." Everybody in this body would say that is a mistake. The U.S. Congress does not include for this purpose the House of Representatives. That is something that the U.S. Senate does under the Constitution. It is the U.S. Senate that ratifies treaties, not the U.S. Congress. I would say the same position applies here. It is the DPC which has the authority. It is the body of competent jurisdiction. It has in fact approved the force goals outlined by the United States and for anyone to challenge that now, it seems to me, is seizing upon this ambiguity in order to kill the program.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I yield myself 3 minutes.

Mr. President, the only ambiguity that we are talking about is the ambiguity of the administration and the committee trying to cover the tracks of their mistakes. They did not really recognize the mistakes at the beginning, but this language was clearly understood by Mr. Abshire. He raised no objections against it at the time. Now Mr. Abshire says that it was probably a mistake on his part for not interpreting it. There is no ambiguity. The Committee on Appropriations knew precisely what it was doing.

If we are going to get into a debate here trying to define who is ambiguous, let me quote from a document published by the House of Representatives Committee on Foreign Affairs. They asked for a legal opinion on this issue in case a question of ambiguity arose. I quote from page 25 of that document:

> A further difficulty with Ambassador Abshire's interpretation of the act is that according to his own testimony the type of action taken by the Defense Planning Committee on force goals is to note the force goals. The word "note" of course implies a perfunctory review.
>
> While Congress instead required formal adoption on this point as well, the Ambassador's interpretation disregards the expressed language of the act and established NATO procedures.

Here is a legal opinion. There is no ambiguity about what the Congress intended or at least the Appropriations Committee approved. Where were the members of the Armed Services Committee? Why did they not object then if they had a different view? I assume they read those sections of the continuing resolution that had to deal with their particular area of responsibility. Why did they go to such pains to redraft the whole thing to comply with something after the fact? Because they knew very well that the administration is not in compliance now. No ambiguity in that. That is very straightforward. If they thought there had been ambiguity—they would have come in here, argued the ambiguity, and left it out of their bill.

Mr. President, this is pretty clear. The clarity is such that the committee has felt constrained to try to mend the situation after the fact.

Mr. President, I yield 3 minutes to my colleague from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished Senator from Oregon for yielding. I am proud to be a cosponsor with him on this amendment.

I would like, Mr. President, to make reference to the comments my distinguished friend from Maine made a few moments ago about the attempted explanation of how this law has been actually, in my opinion, circumvented, and in my opinion, a raw circumvention of the intention of the Congress of the United States.

There is a quote from last year's appropriation bill adopted by this body, basically leading up to this point, saying that we could not produce the new binary chemical warfare "until said force goal has been formally adopted by the North Atlantic Council."

That is the law. That is not the committee report. And I do not know of one case in the history of this Republic when a committee report has superseded the law. I do not know of one case, Mr. President, when a letter from Lord Carrington in Great Britain has superseded a law passed by the Congress of the United States.

Mr. President, I do not know of one case where an interview or a letter with an Ambassador has superseded the law of the United States. It is clear. It is evident. It is right here on page 4 in the appropriations bill of last year, the North Atlantic Council. The President has now certified that we can go forward based on not the North Atlantic Council as this body explicitly informed and mandated the President to do, but something called the Defense Planning Committee. That is the basic issue in the Hatfield amendment. It is an issue about the integrity of the Congress of the United States mandating and putting requirements on a program that the President has circumvented.

Mr. COHEN. Will the Senator yield?

Mr. HATFIELD. Mr. President, will the Senator yield for just a moment for a matter of business that they have asked me to take care of? Mr. President, this should not be chalked against my time.

IMPEACHMENT OF JUDGE HARRY E. CLAIBORNE

CONSIDERATION DATE TO BE SET LATER

Mr. HATFIELD. Mr. President, this is a unanimous-consent agreement cleared on both sides of the aisle.

I ask unanimous consent notwithstanding provisions of rule III of the Rules of Procedures and Practices of the Senate when sitting on an impeachment trial that the Senate not proceed to consideration of the articles of impeachment presented on Wednesday, August 6, 1986, until a time to be fixed later by the Senate.

Mr. BYRD. Mr. President, there is no objection on this side. I join with the distinguished Senator in presenting the request.

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

□ 1300

Mr. PRYOR. Mr. President, I ask unanimous consent if I have any time remaining from my 3 minutes, that the time may be yielded back to the distinguished Senator from Oregon, Senator HATFIELD.

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

Mr. HATFIELD. Mr. President, I yield another 2 minutes for a colloquy, if the Senator wishes that, to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1987

Mr. COHEN. Mr. President, will the Senator tell me who are the representatives who serve on the North Atlantic Council?

Mr. PRYOR. The foreign ministers of all the 15-member NATO nations.

Mr. COHEN. Can the Senator tell me who are the members who serve on the Defense Planning Committee?

Mr. PRYOR. The defense ministers of the same countries.

Mr. COHEN. Mr. President, I might mention to the Senator that the DPC is the North Atlantic Council without France. The same permanent representatives serve on both bodies with the exception of the French representative to the NAC. We are talking about the same people, with the exception of France.

I do not want to be in the position, and I hope the Senator from Arkansas does not want to be in the position, of saying——

The PRESIDING OFFICER. The time of the Senator from Arkansas has expired. There are 11 minutes remaining to the Senator from Oregon and 15 minutes remaining to the chairman of the committee.

Mr. PRYOR. Mr. President, I am not arguing with what the Senator from Maine or the Senator from Arkansas says is the law. I am stating explicitly what the law is. The law says the North Atlantic Council. It has no mention of the Defense Planning Committee. That is the reason that Senator HATFIELD, myself, and others are bringing this matter to the attention of the Senate today, because it is an issue of the integrity of the U.S. Senate, the Congress of the United States.

Mr. COHEN. Mr. President, I will respond to my colleague that notwithstanding his denigration of the report language, there is inconsistency in the language by way of its reference to the North Atlantic Alliance. The fact of the matter is that the DPC is the body of competent jurisdiction which deals with these issues.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COHEN. Mr. President, I ask if I may have 1 more minute.

Mr. GOLDWATER. Mr. President, I yield 1 additional minute.

Mr. COHEN. Second, it has been suggested that the DPC did not formally adopt the force goal but simply noted it. I will submit for the Record, Mr. President, a letter from Ambassador David Abshire, which I would like to read.

On May 15, the Defense Planning Committee in Permanent Session, composed of the Permanent Representatives to NATO of the 15 countries participating in the Alliance's integrated military structure, adopted the NATO force goals for 1987 to 1992, including the binary chemical weapons modernization force goal addressed to the United States.

That is very clear language. They adopted formally the force goals as proposed by the United States. Ambassador Abshire's letter continues:

Defense ministers, meeting at the DPC in Ministerial Session on May 22, according to normal NATO procedures "noted" the Permanent Representatives' action.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD at this point.

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

U.S. DEPARTMENT OF STATE,
Washington, DC, June 13, 1986.

Hon. BARRY GOLDWATER,
Chairman, Committee on Armed Services, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to report that NATO has adopted the U.S. chemical weapons force goal. Although a few nations expressed reservations about the force goal, the vast majority of NATO countries recognized the need for and supported the production of binary chemical weapons.

On May 15, the Defense Planning Committee (DPC) in Permanent Session, composed of the Permanent Representatives to NATO of the 15 countries participating in the Alliance's integrated military structure, adopted the NATO force goals for 1987 to 1992, including the binary chemical weapons (CW) modernization force goal addressed to the United States. Defense Ministers, meeting as the DPC in Ministerial Session on May 22, according to normal NATO Procedures "noted" the Permanent Representatives' action.

The Defense Ministers' action completes the established NATO Procedure for adopting force goals for the Alliance. Further, since all authority of the North Atlantic Council related to NATO's integrated military structure devolved by agreement of the NAC to the DPC, and since force goals are a central element of defense planning for the integrated military structure, the DPC, not the NAC, is the competent Alliance authority for the adoption of force goals by NATO.

I would like to call to your attention that some critics have asserted that we at NATO have through procedural means sought to downplay the significance of NATO's decision. This is simply not correct. That would be impossible in the context of the free and open political debate customary in NATO nations. As I am sure you are aware, Allied Governments have expressed intense interest in this matter. NATO's decision has been the focus of parliamentary debate and government attention at the highest levels in NATO countries. The instructions to Permanent Representatives and Defense Ministers at the DPC were cabinet-level instructions.

In this context of free and open debate, and because representatives of Norway and Denmark asked that I relay personally the positions of their countries to the Congress, I want to report each of the dissenting views. I must, however, stress that there was no attempt to block the adoption of the CW modernization force goal.

Of the 15 nations represented in the DPC, the Netherlands, Norway, and Denmark made it clear that their positions could not be interpreted as meaning that they supported the production of chemical weapons. Although the only issue before the DPC for decision was adoption of force goals, these three nations took the opportunity to make statements on the national positions concerning other chemical weapons issues. They stated that chemical weapons could not be stored or based on their territories. One other Ally, Greece, citing the Protocol of Geneva of 1925, said it is against the production, modernization and storage of chemical weapons.

A point that may not be well understood, however, is that unlike the United States, Demark, Greece and Norway signed the Protocol of Geneva of 1925 without reservation. While the United States reserved the right to use chemical weapons in retaliation to a chemical attack, Demark, Greece and Norway formally renounced the right to do so. Thus, their actions with regard to the CW force goal are consistent with longstanding national positions.

The Allies who support the CW force goal constitute an impressive majority of the Alliance, in sheer numbers and in terms of their population, size of military forces, and proportion of contribution to NATO's defense. A number of these nations made especially forceful statements in support of the CW force goal.

As compelling arguments for the production of binary munitions, they cited the large and growing Soviet CW threat and the need for NATO to maintain its CW retaliatory capability to deter Soviet CW attacks. Without an effective chemical retaliatory capability, NATO's only response to Soviet use of chemical weapons will be nuclear. Several nations pointed to the Soviets' continued production of CW in the face of U.S. unilateral restraint. Clearly, U.S. restraint has not produced corresponding Soviet restraint, and the decision to adopt the CW force goal may be a new incentive for the Soviets to conduct fruitful negotiations in Geneva. Secretary General Carrington aptly concluded the discussion on the CW force goal by describing the arguments made in favor of the force goal as weighty.

Sincerely yours,

DAVID M. ABSHIRE,
Ambassador.

Mr. GOLDWATER. Mr. President, what is the situation on time?

The PRESIDING OFFICER. The Senator from Arizona has 13 minutes remaining and the Senator from Oregon has 10 minutes remaining.

Mr. GOLDWATER. Mr. President, this has been a very interesting debate. We have had this debate for so many years that I forget the number.

Mr. President, I am not a lawyer and I do not want to stand here and argue a legal matter. I know it is very proper and easy to say that we cannot do anything on this floor that is construed to be illegal. But, Mr. President, as chairman of the Armed Services Committee, I feel a great responsibility to making sure that our troops have the necessary equipment to defend themselves and to act in aggression, if that is needed.

Gen. Bernard Rogers, the chief of forces in Europe, puts this at the very top of his list of what he wants us to provide him with. This and the airborne, forward-looking radar are the

things that he keeps calling me about, talking to me about, that he has to have them.

Why? The fact, Mr. President, is that we had chemical weapons in World War II, which prevented the Germans from using the weapons they also had. We recall in World War I chemical weapons were used because the allies did not have any.

One might say, are the Russians using chemical warfare in Afghanistan? Yes, our Intelligence Committee has ample proof of that.

But the thing that bothers, Mr. President, is raising an objection to this particular item that we are talking about that in no way endangers the lives of anyone except the enemy. It is not a dangerous weapon until it is fired or dropped as a bomb, whichever may be the case.

Mr. President, I would hate to see our forces in Europe be faced with a chemical threat from the Soviets and we not have a better defense than we now have. Many of us have seen the demonstration put on by the Air Force, the Army, and even the Navy, pointing out how weak we are in this area of chemical weapons.

I can well understand the interest of my friend from Oregon because he has a long reputation, a well-earned reputation, of being opposed to this type of weapon. This is not something you carry around in a bottle or something you carry around in a box. It is a weapon that, when fired, becomes a weapon of chemical warfare that can be used and would be used against the enemy.

I have to merely repeat to my friends in the Senate that the top of the list in the eyes of Gen. Bernard Rogers are chemical warfare items.

I would hope that the Senate would once again overrule what I understand to be a basic feeling against this type of weapon and provide our troops with the ability to prevent the Soviets, or any other enemy, from ever using this type of weapon against the United States.

Mr. HATFIELD. Mr. President, I yield myself 3 minutes.

Mr. President, I find the debate getting into some very interesting interpretations now. To say that the Defense Planning Committee is the North Atlantic Council when it comes to dealing with defense matters would be like saying that the House of Representatives taking certain action is equivalent to the Senate taking action because we are both part of the Congress.

I have here, Mr. President, a number of letters from members of the North Atlantic Council who are for and against nerve gas production. Each one says there was no action taken in the North Atlantic Council on that issue. I have here, as I say, letters from representatives of Italy, Belgium, West Germany, the Netherlands, Greece, and other countries.

So if we are getting confused on what constitutes the North Atlantic Council, certainly the members of that Council are not confused. They said very clearly: "Nerve gas was not considered in our Council."

The argument offered by the Senator from Maine—that the requirement was fulfilled—is odd. Why did the committee even take action by noting this in the bill? Why did they go to that extent to try to correct something if they were so convinced that it had already been complied with?

Mr. President, it still comes back to a simple understanding of the English language. There is nothing complex about it at all. The bill stated two things very clearly: formally adopting—not noting, not being aware, not observing—formally adopting. And it said who shall formally adopt it: the North Atlantic Council. Bill language is precise.

Mr. President, there is no ambiguity here. I think there may be an attempt to correct something. That is certainly legitimate. I do not fault that. But for the committee to come here and say there was a lack of clarity as to what the Appropriations Committee meant or what Congress meant is wrong. I think what we have here may be a whole series of errors, but not a question of ambiguity.

All my amendment attempts to do is restore the integrity of Congress; the law stated the requirement clearly enough that it ought to be observed.

Mr. President, again I emphasize that of which everyone is fully aware: I am opposed to production. But research and development are going to continue. We are going to continue the money for that, and we are going to continue the money to develop the protective devices for our military personnel against nerve gas if, God forbid, it were ever used.

Though I would like to delete all production money, the issue here is simply that production money shall not be made available until the language in the CR is complied with. We restate that language of the amendment: Once true compliance is certified, production money can go. I do not know why people are so fearful of the Council not adopting chemical weapons production. This does not end the bill; this does not end the argument. With certification on the basis of the bill language, production money can proceed. That is all. Production money can proceed. A vote for this amendment is a vote to sustain the integrity of a government of law and the integrity of the Senate as well.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GOLDWATER. Mr. President, I believe I have 9 minutes left.

The PRESIDING OFFICER. The Senator from Arizona has 9 minutes left, the Senator from Georgia has 5.

Mr. GOLDWATER. Mr. President, I yield to the Senator from South Carolina 5 minutes.

Mr. THURMOND. Mr President, I rise in opposition to the amendment offered by my distinguished friend from Oregon [Mr. HATFIELD]. The United States does not possess a credible deterrent to chemical attacks against United States and allied troops today. This lack of a credible chemical deterrent is probably the single most serious deficiency in our conventional defense posture.

According to the former Chief of Naval Operations, Adm. James Watkins:

> I no longer consider our 25-year old stockpile of unitary chemical weapons a credible deterrent. Today's stockpile is as much a liability as an asset. Were it not all that we had, I can not think of a single item in it I would wish to retain. In comparison to the Soviet's offensive chemical warfare capability, our posture almost invites the use of such weapons against us.

By undermining the multibillion dollar investment we are making to improve our conventional forces, the lack of a credible chemical deterrent increases the likelihood that we will be forced to resort to an early use of nuclear weapons.

According to Gen. Charles Donnelly, the Commander in Chief of the U.S. Air Forces in Europe:

> The gross imbalance that presently exists, in their favor, effectively negates our conventional force improvements, and places dangerously inappropriate reliance on our nuclear forces.

Mr. President, 72 percent of the administration's request for the Chemical Deterrent Program—$814 million—funds protective measures like defensive clothing. However, this is no substitute for an effective retaliatory capability. According to Gen. Fred Kroesen, the former Commander in Chief of the U.S. Army in Europe:

> There is no defense measure that alone can do anything more than delay the success of the enemy, not prevent it.

The United States has consistently taken a leading role in seeking effective chemical disarmament. In February 1984, Vice President BUSH tabled a U.S. draft proposal for a complete ban on chemical weapons before the Committee on Disarmament in Geneva.

The Soviets have been more serious in their approach to chemical disarmament as a result of last year's action by the Congress approving the Binary Chemical Modernization Program. To reverse this decision now would constitute a serious set-back to our negotiating efforts, and would eliminate the incentive that lead to this indication of seriousness on their part. Mr. President, I urge all of my colleagues to oppose this amendment.

71-059 O-87-15 (Pt. 14)

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. Mr. President, I yield myself 4 minutes.

The Senator form Oregon, my esteemed friend, has placed in the RECORD a number of letters from organizations, organizations that really do not have much to do with fighting wars—political organizations that we have many of in our country. I just wonder, Mr. President, standing here, what the GI in Europe must be thinking, if they are paying any attention at all to what we are attempting to do. I think he must be wondering whether it is more important for us to dot the "i" or allow him, a member of the service, to be able to fight for our freedom.

Mr. President, I can understand the noble intentions of anyone opposed to chemical warfare. It is a hideous type of weapon. But our potential enemy uses it today without any censure from anyone and the man who has the weapon always has one up on the man who does not have it.

I repeat that because we were equipped to retaliate with chemical weapons in World War II; there were none used. There were none used by the Japanese, although they were well prepared to use it, because we had the defense for it and we could have retaliated. So, Mr. President, I am not standing here on the floor today trying to argue a legal question, I am trying to argue the question of whether we are going to listen to the men's leader General Rogers in Europe, who says that this is the most needed weapon he has and he does not have anything over there now in the way of modern weaponry in chemical wartime.

We bring this up, Mr. President, every year. It has been up every year and it will go on and on in the years after I have gone. But I do not want to leave this body with the idea in my mind and other people's minds that I did not stand up and try to see that our uniformed man in service, wherever he is, is supplied with the proper weapons. That is what this amendment would do. It would deny him a weapon that he might be called upon to use and he does not have it.

□ 1320

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. GOLDWATER. Mr. President, I am willing to yield back my time.

The PRESIDING OFFICER. The Senator from Oregon has 5 minutes remaining.

Mr. HATFIELD. Mr. President, does the Senator from Arizona yield the floor? I do not want to intrude.

Mr. GOLDWATER. Senator NUNN might come back and I am sure he would like to talk on this.

Mr. HATFIELD. Mr. President, just breifly I do not want the Senator from Arizona to misunderstand what I have introduced into the RECORD. Mr. President, what I did introduce in the RECORD was only the letters and statements of Ambassadors. I have not introduced any political organization letters. The letters I introduced express the political position of several governments on this issue and whether or not the issue raised in the North Atlantic Council.

Mr. President, I yield a minute to my colleague from Arkansas.

Mr. PRYOR. Mr. President, I thank my colleague for yielding. This debate has taken a very unique turn. It has taken a very unique turn because the name of the GI has been invoked, and if the name of the GI out there has been invoked, I wonder what our American GI in Europe thinks about unilaterally disarming ourselves pursuant to this force goal agreement which I think is not even valid, has not been approved by the right body. We are unilaterally disarming chemical warfare by removing our stockpiles from Europe while the Russians will have theirs in Europe. Now, how does that make our GI feel? What sort of transportation capabilities, Mr. President, are we going to have in a time of crisis when we have to call those foreign ministers or call those defense ministers and say, "We are in a situation we need to bring some nerve gas to your soil; will you let us?" And if so, maybe 16 days later, working 24 hours around the clock, we might get some of those munitions there.

Mr. President, I think we should certainly reexamine what we are doing today, and I very much hope the Hatfield amendment will pass.

● Mr. HATFIELD. Mr. President, I am pleased to be a cosponsor of the amendment by the distinguished Senator from Oregon.

Opponents of this amendment will remind the Senate of the Soviet's activities in the chemical weapons area. And they do so for good reason. In Afghanistan, and in South East Asia, we've seen repeated evidence of Soviet use of toxins. We've seen the appalling deaths and injuries those gases inflict. Soviet behavior in this area is repugnant; the Senate stands united in our condemnation.

Decisions on defense policy arise from a variety of factors including, but not limited to, the depths to which the other side sinks. But there is a higher standard, at least in the judgment of this Senator: our national interest.

But in at least four respects, the committee recommendation has failed that test.

First, it is not in our interests to build a weapon we don't need. The United States possesses a large and useable chemical stockpile sufficient to meet our requirements. In testimony, Secretary Weinberger has said that procurement of additional chemical artillery shells is not needed to redress existing military deficiencies. While the Defense Department states repeatedly that only a small portion of the stockpile is militarily useful, the current arsenal is so enormous that a small fraction could force Soviet soldiers into protective gear for 60 days of continual engagement.

Second, it is not in our interests to build a weapon which cannot be positioned effectively. The rationale for the new weapon assumes a Soviet attack against Europe. Many of our allies will not accept new deployments of chemical weapons on their soil. And while the Government of West Germany may be willing to accept binary chemical weapons, Chancellor Kohl adds that existing supplies of chemical weapons must be removed from German soil and, in peacetime, that binary chemical weapons must be stored elsewhere.

Third, binary chemical weapons have never been tested in the field. American combat forces should not be asked to stake their lives on untested munitions. The technical problems which have plagued the development of the Bigeye bomb since the program's inception have only exacerbated concerns about the reliability of these new weapons, and increasingly called into question the wisdom of basing our deterrent upon them.

Fourth, the production of binary chemical weapons will be expensive. Cost estimates run as high as $2 to $3 billion over the next decade. Unless a better case can be made suggesting this weapon is either necessary or justified, we'd do well to invest these scarce defense resources elsewhere.

Mr. President, the Soviet program in chemical warfare represents a serious threat because we are not prepared to face a chemical weapons attack or conduct military operations in a contaminated environment. So long as Soviet forces are better prepared to fight once chemical weapons have been used, our troops will be an inviting target on the field.

To meet this challenge, we must improve substantially our capabilities to defend our soldiers against a chemical attack. We can do so by meeting our existing goals for improvements in defensive measures, developing new and more effective protective equipment, enhancing early warning capabilities, and improving the training of our troops to cope with operations in a chemical environment. If the DOD pursued the advancement of defensive capabilities with the same dedication it applies to increasing our stockpile,

our forces would be better protected than they are today.

Mr. President, when we last addressed this issue, Congress conditioned the production of new chemical weapons on the formal approval of the North Atlantic Council. Senators were informed that the specific language which exacted that commitment was acceptable to Administration officials. But this spring, the administration ignored the law and instead consulted NATO's Defense Planning Committee, a body which regularly rubber stamps hundreds of recommendations at a time. We put that requirement in the law for a very important reason.

Our own military, and the military branches of our alliances, must not operate in a political vacuum, for the military itself is but a means to political ends. To ignore the political implications of the deployment of chemical weapons on European soil will surely lead us into a swamp of political debate.

The intent of Congress was not to ignore the debate that lingers beyond the horizon. The goal of Congress was to bring on that debate, to engage now in political discussions about chemical weapons—long before we commit ourselves to billions of dollars in expenditures. This administration should recognize that the development of new weapons systems is not just a military decision but a political decision as well. That is why Congress instructed the administration to handle the issue with sensitivity. But it failed to do so.

But fundamentally, this amendment is not offered in response to the administration's arrogance; it is offered with more important objectives in mind. Our security will be better protected by relying on existing stockpiles, by spending more on defensive capabilities, and by operating in concert with our allies. These policies are embodied in the Hatfield amendment. I urge its adoption.●

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. I will yield to the Senator from Georgia my remaining time.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 2 minutes.

Mr. NUNN. Mr. President, I was unable to be here for the whole debate, but I do think I understand the dilemma. The Senator from Oregon is exactly right in saying that the words used last year in terms of the North Atlantic Council were what they intended. I think the question for us today is, is that the right choice? Because if we are going to use the North Atlantic Council to make decisions that are vital to the national security of the alliance on which we depend for our own frontline security in the world, NATO, we are going to be using the wrong council, because they are going to be people who do not participate in the military organization of NATO.

So the question is not in my view whether the Senator from Oregon is correct in what his intention was, and I regret I have not heard the debate. The real question is what do we intend now. I submit to the Senate that the North Atlantic Council is the inappropriate body to make military decisions for NATO because they are not the body that is represented in terms of the military command in NATO. That is the question. I think what we have to do is remedy the mistake that was made. It was not a mistake with some people because they certainly intended what they drew up and the words were chosen as to what they intended, but it is a mistake in terms of running NATO that way. I do not believe the U.S. Senate should impose on NATO a structure where the North Atlantic Council makes decisions when there are people who sit on that council who have nothing to do with the military structure of NATO.

So that is the long and short of what we have to decide today. I think it is an enormously important decision. It goes beyond just the question of chemicals. It goes to the question of what the U.S. Senate says about the structure that governs the military of NATO. That should not be the North Atlantic Council.

The PRESIDING OFFICER. All time of the opponents has expired. The Senator from Oregon.

Mr. HATFIELD. I have one more statement. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. HATFIELD. Mr. President, let me just say that this is not the question before us. I respectfully disagree with the Senator from Georgia. The question before us today, Mr. President, is very obviously whether or not the requirement this Congress enacted, what it enacted last year, was met by the President's certification. The Senator has in effect perhaps implied that maybe this was the wrong way to go, but it was before this body. No one raised the question then. It was considered by the committee. It was considered by this body. It was signed into law. Now after the game is started, we want to come back and change the law, change the rules.

Mr. President, I think it is very important to note that the Council, whether we agree with whether that is the right body or not, is the body that was established in law and it has not been complied with. That is the simple question. I would challenge the Senator from Georgia on that. He said the Defense Planning Council is the proper body. The Military Review Committee has already adopted it, and the Defense Planning Council has noted the adoption. But it is both a military and a political issue and the Council is therefore an appropriate body. We are just saying let us force the politicians to take a position. The United States is so often put in a situation in which we have to confront the anti-American demonstrations because the politicians are hiding, afraid to admit that they let the defense ministers and military people approve some new weapons system. They take a hands-off approach. We must force the politicians to take a stand. That is what I suggest and that is what this amendment will do. Moreover, it will restore the integrity of the Congress.

Mr. GOLDWATER. Mr. President, I have no time to yield back but I will yield something.

Mr. President, I ask for the yeas and nays.

Mr. HATFIELD. I know of no one else who wants to speak. I yield back my time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Oregon. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 43, nays 57, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—43

Andrews	Harkin	Mitchell
Baucus	Hart	Moynihan
Biden	Hatfield	Packwood
Bradley	Heinz	Pell
Burdick	Inouye	Proxmire
Byrd	Kassebaum	Pryor
Chafee	Kennedy	Riegle
Cranston	Kerry	Sarbanes
Danforth	Lautenberg	Sasser
Dodd	Leahy	Simon
Durenberger	Levin	Specter
Eagleton	Mathias	Stafford
Evans	Matsunaga	Weicker
Ford	Melcher	
Grassley	Metzenbaum	

NAYS—57

Abdnor	Glenn	McConnell
Armstrong	Goldwater	Murkowski
Bentsen	Gore	Nickles
Bingaman	Gorton	Nunn
Boren	Gramm	Pressler
Boschwitz	Hatch	Quayle
Broyhill	Hawkins	Rockefeller
Bumpers	Hecht	Roth
Chiles	Heflin	Rudman
Cochran	Helms	Simpson
Cohen	Hollings	Stennis
D'Amato	Humphrey	Stevens
DeConcini	Johnston	Symms
Denton	Kasten	Thurmond
Dixon	Laxalt	Trible
Dole	Long	Wallop
Domenici	Lugar	Warner
Exon	Mattingly	Wilson
Garn	McClure	Zorinsky

So the amendment (No. 2606) was rejected.

□ 1340

Mr. GOLDWATER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. GOLDWATER. Mr. President, as I remarked earlier, the administrative branch of our Government does not get their things down here in time. I just received, about 5 minutes ago, a letter from the Secretary of State endorsing our position on chemical weapons.

I ask unanimous consent that it be printed in the RECORD.

Mr. NUNN. Mr. President, I ask my chairman, the Senator from Arizona, should we also stipulate that the letter made a profound difference in the outcome of the vote?

Mr. GOLDWATER. Oh, it made it.

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

THE SECRETARY OF STATE,
Washington, DC, August 6, 1986.

Hon. BARRY GOLDWATER,
U.S. Senate,
Washington, DC.

DEAR BARRY: The United States faces a serious challenge to our national security and that of our allies on the issue of chemical weapons modernization. The threat is real and growing. The Soviet Union has persisted in its build-up of chemical weapons far beyond any defensive need. There are only two effective responses to this threat: arms control—a total and verifiable ban on chemical weapons—and, in the absence of such a ban, maintenance of an effective U.S. deterrent capability.

The foremost objective of this Administration remains a comprehensive, effectively verifiable, global ban on all chemical weapons. We have been pressing the Soviets since 1977 to negotiate a ban, without result, and the Soviets have not yet constructively addressed critical verification issues in response to our 1984 Draft Treaty in Geneva. The Soviets lack any real concrete incentive to negotiate seriously on a chemical weapons ban as long as they retain a vast superiority in chemical munitions and face an aging and deteriorating U.S. chemical weapons retaliatory capability. Unilateral restraint for the last 17 years has not been reciprocated.

After last year's authorization by Congress to begin the modernization of our retaliatory chemical weapons stockpile, the Soviets, in their characteristic manner, at first refused to participate in chemical weapons treaty negotiations and then immediately attacked the action with polemics and posturing. Since that initial reaction, however, the Soviets have negotiated more seriously, even though they have yet to address all relevant issues.

Until a comprehensive ban on chemical weapons is achieved, we must maintain deterrence through a strong defensive posture and a credible retaliatory capability. Our aging unitary chemical weapons stockpile is deteriorating. Only a small percentage is militarily useful. The production of new binary munitions will provide the U.S. with the strong and effective deterrent. The threat of chemical weapons attack against U.S. forces is not limited to a Soviet attack in NATO Europe; it is a world-wide threat. Binary munitions which are safer and easier to transport than unitary weapons will provide the United States with the flexibility necessary to deter the threat of chemical weapons attack against U.S. forces wherever that threat may occur.

As you know, the President has certified to Congress that certain conditions required by Congress for the release of Fiscal Year 1986 funds for the binary chemical weapons modernization program have been met. NATO adopted the chemical weapons modernization force goal addressed to the United States. The U.S. has also developed a contingency deployment plan for binary munitions, and we have consulted NATO Allies on that plan.

The unitary chemical munitions currently in Europe provide an extremely limited deterrent and retaliatory capability. These munitions and the rest of the current unitary CW stockpile will be destroyed in conjunction with the acquisition of binary munitions by September 30, 1994, as directed by the Congress. We appreciate the concerns some have expressed regarding a chemical retaliatory capability in Europe, and we have weighed such considerations carefully in proceeding with discussions with our NATO Allies. We are convinced that even without peacetime deployment in Europe, the new binary munitions will provide a CW deterrent clearly superior to what we now have. Binary munitions will effectively protect our forces and the forces of our allies not only in NATO but throughout the world.

The production of binary munitions is crucial to U.S. security, and supports our arms control efforts. On this issue, so critical to our Nation's safety, I sincerely welcome your support.

Sincerely yours,

GEORGE P. SHULTZ.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas, Senator PRYOR, is recognized to offer an amendment on the Bigeye bomb, on which there shall be 30 minutes' debate equally divided with no amendments thereto in order.

Mr. PRYOR. Mr. President, before we start the time running could we have order in the Chamber?

The PRESIDING OFFICER. The Senator is correct. The clerk will not start the time.

Mr. GOLDWATER. Mr. President, will the Senator yield for an insertion charged to my time?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. NUNN. Mr. President, may we have order, please?

The PRESIDING OFFICER. Will all Senators in the Chamber clear the aisle in back of the room and remain silent so we can hear the distinguished chairman of the committee?

□ 1350

The PRESIDING OFFICER. The Senator from Arkansas will suspend until we can maintain order in the Chamber.

Mr. NUNN. Will the Senator yield?

Mr. PRYOR. I am glad to yield, if it does not count against my time.

Mr. NUNN. Mr. President, before the Chairman leaves the floor, I am going to propound another unanimous-consent request on another amendment that I would like to make sure is acceptable to both sides.

Mr. President, I ask unanimous consent that, following disposition of the Pryor amendment on Bigeye, which I understand is or will be the pending amendment in a moment, that the recurring Wilson amendment be temporarily laid aside for the consideration of a DeConcini amendment on the Stinger missile; that 40 minutes of debate be held on the DeConcini amendment, equally divided; and that no amendment to the DeConcini amendment be in order.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

AMENDMENT NO. 2612

(Purpose: To restrict procurement in connection with the BIGEYE binary chemical bomb program.)

Mr. PRYOR. Mr. President, on behalf of myself, Senator GORTON and Senator HATFIELD, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for himself, Mr. GORTON and Mr. HATFIELD, proposes amendment numbered 2612.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment reads as follows:

On page 4, line 13, strike out "$6,121,657,000" and insert in lieu thereof "$6,093,124,000".

On page 6, line 20, strike out "$10,374,848,000" and insert in lieu thereof "$10,346,448,000".

On page 10, between lines 16 and 17, insert the following new section:

SEC. 110. RESTRICTIONS ON THE BIGEYE BOMB PROGRAM

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds appropriated pursuant to an authorization contained in this or any other Act may be used for procurement or assembly of the BIGEYE binary chemical bomb, for the procurement of any component or subcomponent for such bomb, or for the procurement of any construction facilities or equipment associated with the production of such bomb until specific, subsequent legislation has been enacted authorizing the obligation and expenditure of funds for production of the BIGEYE binary chemical bomb.

(b) EXCEPTION FOR RESEARCH, DEVELOPMENT, TESTING, AND EVALUATION.—The requirements of this section shall not apply to funds obligated solely for the purpose of carrying out research, development, testing, and evaluation in connection with the BIGEYE binary chemical bomb program.

(c) LIMITATION ON FISCAL YEAR 1986 FUNDS.—Except as provided in subsection (b), the funds appropriated to carry out the BIGEYE binary chemical bomb program in fiscal year 1986, and which remain unexpended on the date of the enactment of this Act, may not be used to carry out such program.

Mr. PRYOR. Mr. President, this amendment is not, and I repeat, not another amendment just about chemical warfare nerve gas. In fact, the two sponsors of this amendment at the desk, myself and the Senator from Washington, have voted differently on the production of chemical weapons in the past. But today, on this particular amendment relative to taking that nerve gas ultimately to the target, the Senator from Washington and the Senator from Arkansas are in agreement.

We agree that we should not pay for the production of thousands of Bigeye bombs that do not work. We agree that we must not put our own pilots of those planes carrying that Bigeye bomb with the nerve gas in jeopardy. And we agree that we have consistently failed, in the Bigeye Test Program, the most elemental test of delivering nerve gas to its ultimate target. Therefore, Mr. President, we think, or at least the Senator from Arkansas thinks we are making a mockery of the theory of deterrence in this issue of chemical warfare.

We have before the Senate today, Mr. President, another Divad on our hands. We remember that debate last year. How in the world did we ever reach the point, when we had a gun that would not shoot, where we had spent billions of dollars on a weapon that would not work, how in the world did we ever get in the position of funding all of that money all of these years? The answer was simple. A procurement mentality. A procurement mentality that said to the Congress, "Go ahead and give us the money for the Divad and we will fix it later."

Mr. President, that is precisely the issue today. The Bigeye bomb has not met the test and we are here today to talk about authorizing the beginning of the production of Bigeye bombs that do not work.

Mr. President, this amendment has four parts. First, it removes from the bill the $57 million that has been requested for Bigeye production in 1987. Second, it prohibits expenditure for production of the $104 million that Congress appropriated last year, but which was fenced, and fenced for a good reason, but not spent. Third, Mr. President, our amendment allows research, development, and testing of Bigeye to continue. But, fourth, it prohibits any production of Bigeye bombs except solely for testing purposes until the Congress approves production by specific legislation.

Mr. President, this amendment would not terminate the Bigeye Program. It merely insists that we have a design and a bomb that works before we produce it and before we spend a billion dollars, ultimately to wake up someday and see that it does not work.

Mr. President, I am honored today to be joined in this amendment by the distinguished Senator from Washington, Senator GORTON. I notice he is on the floor. Mr. President, at this time, I yield the floor and I yield the Senator 4 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized for 4 minutes.

Mr. GORTON. Mr. President, I thank my distinguished colleague from the State of Arkansas. He has both eloquently and succinctly outlined the reasons for this amendment. He has also pointed out that we were on opposite sides of this issue 1 year ago.

The Senator from Arkansas has consistently opposed the production of this type of chemical weapon. I did, for my first several years as a Member of the Senate, on the ground that we should attempt to negotiate a prohibition against such weapons with the Soviet Union. I changed my mind last year because those negotiations seemed to have been unsuccessful and, because of Soviet production, that some kind of American counterforce was needed.

I must confess, Mr. President, that I probably differ from the Senator from Arkansas in that in each case on which I have voted on this issue, I regarded it as an extremely close question with very, very good arguments on both sides.

This year, I can enthusiastically join with the Senator from Arkansas, however, in connection with a crusade on his part which is certainly not limited to this weapon but simply is a demand that, before we go into production on expensive and controversial weapons systems, we have reasonable assurance that they will work and that they do not threaten those who use them more greatly than they deter aggression on the part of the other side, a potential aggressor. It is precisely for that reason that this amendment is proposed.

The General Accounting Office has indicated a wide range of problems with this weapon, a wide range of failures in the testing of the weapon, a very significant risk to those who deliver it by air and otherwise, so that it would be improvident, in my view, to go ahead with production until that set of problems is solved.

The Senator from Arkansas is not attempting to bar all work in this connection. The amendment continues to allow research, it continues to allow development, and it continues to allow testing and then say, simply, because of the attitude of the Department of Defense, before there is production, that the Department of Defense satisfy the Congress of the United States that those tests have been successful and that we have a weapon which provides a true deterrent.

It is obviously as a deterrent that this weapon was conceived in the first place. It is not something which we intend to use on a first-use basis by the wildest stretch of the imagination. But a deterrent is only a deterrent to the extent that it is believable, to the extent that it is operational, to the extent that it works.

The Defense Department has criticized the General Accounting Office tests and recommendations on the basis of being out of date, but has refused to the GAO the kind of information which would be necessary to completely bring that report up to date, and yet, in addition, internal memoranda within the services indicates the same kind of failures which the GAO report found.

So this is a cautious and simple amendment. It can be joined in by those who feel that this deterrent is appropriate as a part of our NATO defense, as well as those who, like the Senator from Arkansas, have not felt it to be appropriate at all, because it makes the most fundamental and simple demand, which we should make across the board with all weapons systems, that testing show that a weapon is effective and not an overweening danger to those who utilize it before it goes into production.

For that reason I join with the Senator from Arkansas and ask for the approval of the amendment.

□ 1400

Mr. PRYOR. Mr. President, I thank the very distinguished Senator from Washington for his very eloquent comments on this issue. I would like to just remind our colleagues of this point. Since 1963, the Bigeye bomb has been researched, developed, tested, and now 23 years later and six Presidents later the Bigeye bomb still does not work. Who says it does not work? The General Accounting Office, after years of study, says so. They said it does not work because of several areas: One, pilots and aircraft delivering Bigeye will be more vulnerable to air defenses than is desirable; two, the bomb fuse failed many times. Mr. President, some of these concerns and some of these findings are agreed on by the Department of Defense.

Third, the device to mix the binary chemicals have failed many times. The shelf life requirement has not yet been met. Five, at certain temperatures the Bigeye bomb is not usable.

Mr. President, this program is riddled with problems. But the Defense Department today still wants to go ahead with the production and the purchase of Bigeye bombs. They want

to do it now. They want to do it before the problem is fixed, not after the problems are fixed. They want their money now.

This is almost like going down to an automobile agency and buying an automobile and the dealer says this is a $20,000 automobile I am trying to sell you. You say, well, is there anything wrong with it?

"Yes. The drive shaft may come undone. It may break. It has two flat tires. It may blow up on you. But you buy it, you pay me cash, and we will fix it later."

That is precisely or very similarly, Mr. President, the situation we are in with the Bigeye bomb.

The DOD talks very little about the most serious problem involved. The technical nature makes pilots and aircraft trying to deliver extremely vulnerable to enemy air defense. And to deliver the Bigeye normal bomb delivery cannot be used. Instead, under computer control the pilot must come in low on the target, put his aircraft into a steep climb close to the target and then loft or lob the Bigeye bomb in an arching trajectory so the bomb's chemicals have time to mix.

Mr. President, unfortunately this whole scenario gets worse and worse. By exposing themselves to enemy defenses our own pilots delivering this bomb will probably deliver duds. In its chemicals and developmental test, the Bigeye has experienced numerous failures and the GAO has stated in other instances to allow for the illustration of test success criteria have been relaxed and removed altogether, and in still other instances no test whatsoever has been conducted on the Bigeye bomb.

In the most recent report, Mr. President, by the General Accounting Office of May 1986, the General Accounting Office made some very devastating statements relative to the production of the Bigeye bomb.

One, it is stated that the Bigeye bomb is not ready for production. It is that simple. It is that clear. And this amendment will simply fence those funds, Mr. President, until we have a bomb that works, and until the Congress is satisfied that the bomb works, and until the Congress has specifically appropriated and authorized the money for those bombs to be produced.

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

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER (Mr. PRESSLER). The Senator from Maine.

Mr. COHEN. Mr. President, I agree with almost every point the Senator from Arkansas and the Senator from Washington have made. I say almost, because there are some critical points of disagreement, plus the fact that I ultimately come to a different conclusion than the two distinguished Senators do. Let me point out some of the things that I agree with.

Number one, the statement by the Senator from Arkansas that we do not want to buy a Bigeye that does not work—I agree. That we do not want to put our pilots at risk, this Senator agrees with that as well. That we do not want to purchase a system that consistently fails, I agree with that as well. We do not want to produce another Divad. No one would want to dispute that particular proposition.

Then we come into something that diverges quite seriously from what the Senator is arguing. The Senator from Arkansas said we are about to produce thousands and thousands of these weapons. Wrong. This is a limited initial production for the purpose of continuing the testing itself. It is far less than a thousand bombs we are talking about, not thousands upon thousands, but a very low initial rate for the purpose of conducting even more tests to make sure we do not produce a system that does not work, that does not put pilots at risk, and that does not consistently fail.

The Senator from Arkansas has cited the GAO analysis. Again, I think he is at least partially correct. The GAO did make an analysis of the testing of the Bigeye bomb, but they made their analysis based upon old data. They made their analysis upon the initial research phase of the testing, which showed a number of deficiencies. They did not have access to the first phase of the developmental testing which corrected a number of those deficiencies. So this is something that GAO was not able to address. So, for that reason, the GAO study itself is somewhat deficient. It is no fault of GAO. They did not have that information available.

For example, there were some problems with the fusing of the Bigeye. That was a major deficiency. Since then, it was corrected so that in 14 out of 15 tests, the operational tests proved successful. So we have a substantial body of evidence that the fuse problem has been dealt with. That was one type of fuse, the so-called fuse 37 electrical generator. There was another fuse problem. That too had some failures. They corrected that during their operational testing. Now we have 39 out of 40 tests conducted successfully.

There was another problem which I believe the Senator from Arkansas addressed in terms of creating a problem for the pilots. There was in fact a problem created for the pilots. When they tested it to the extreme, they found out the pilots would be at risk under certain conditions. They changed the entire operational method so that now the pilots are not at risk. There is no mixing of the chemicals until such time as the bomb is actually released. It has a time of release to target of about 30 seconds. There is absolutely no way the structure can rupture at least until 5 minutes under the new testing standards.

So the tests that were conducted initially were designed to find out what the flaws were. Many of those flaws have been corrected to date.

I would also like to cite a statement from John Krings. I believe the Senator from Arkansas is familiar with John Krings, Director of Operational Test and Evaluation. As I recall—the Senator from Arkansas can correct me if I am wrong—the Senator was the primary motivating Senator behind establishing this office. And, as I recall, the Senator really wanted to put Congress in the position of having this kind of access to information. I want to commend the Senator for it. I think we all supported it. Let me read what John Krings said. He said:

> We do not totally agree with the recent GAO report on Bigeye. Bigeye has demonstrated feasibility but has not demonstrated satisfactory operational effectiveness. At this point in the procurement cycle only Low Rate Initial Production (LRIP) is being addressed. Bigeye has shown progress and capability warranting LRIP.

So we have the director of the very office the Senator from Arkansas helped to establish saying we should go forward at this point, that some of the deficiencies have been addressed. There may be more. We are addressing them, but it would warrant low-rate initial production.

Mr. PRYOR. Will the Senator yield for me to make a comment? I did support, and I hope I helped create the office. I did not support Mr. Krings. I really like Mr. Krings. I talk to him every now and then. But, in fact, I voted against his confirmation hearing in this body. I thought he was too close to the industry and I thought he would be on tap from the Department of Defense.

Mr. COHEN. I can only say to my good friend he was right in creating the office, and wrong in the assessment of the ability and objectivity of Mr. Krings.

Mr. President, the Senator from Arkansas has suggested we do not want another Divad. I agree with that. But we do want some more M-1's, HARM's, and Harpoons and those are the very systems which also had some initial problems that were resolved.

I would suggest that, rather than associating this particular system with the Divad, he ought to compare it to the M-1 tank, HARM, and Harpoon which have evolved through their operational tests to become very effective fighting systems.

So for all of the reasons I have indicated that the deficiencies have been addressed, most of them, and it would warrant a low rate of initial production, I urge my colleagues to reject the

amendment of the Senator from Arkansas.

□ 1410

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. I yield such time as required to the Senator from Georgia.

Mr. NUNN. What time remains?

The PRESIDING OFFICER. Eleven minutes 20 seconds to the opponents and 3 minutes and 11 seconds to the proponents.

Mr. NUNN. Mr. President, I oppose this amendment but I oppose it reluctantly. I say reluctantly because in most circumstances, the problems with the Bigeye would be sufficient to warrant the steps that the Senator from Arkansas advocates. They are advocating we continue a test program, that we not go into what we call low-range or low-intensity production. The low-range intensity production is to avoid going into major production, to avoid committing to the system.

The committee's position is that the program has sufficient problems that we should not commit to major production lines.

The problem with the position of the Senator from Arkansas is this: The problem is, we have neglected updating our chemical capability for years and years and years. What would the pilot of an F-4 aircraft be charged with doing if we had to retaliate with chemical weapons now or if we had to get into some kind of chemical response to a chemical attack?

I am told that an F-4 aircraft pilot would have to fly directly over the target, just like a crop duster, and he would have to spray the chemicals on whatever the target was. Presumably, the target is going to be shooting back.

That is an outmoded delivery system. It is a suicide mission.

Most F-4 pilots I know of would not really relish that opportunity. Some of them are brave enough to probably do it.

What is our other alternative? Suppose we have a chemical attack. Our other alternative is to do what NATO hopefully will never have to do, and that is, to respond to a chemical offensive attack—the Soviets and Warsaw Pact have chemicals all over Europe—to respond with nuclear weapons. In other words, escalate up the nuclear ladder in response to a chemical attack.

That is not what we should be postured to do. We want nuclear weapons to be the absolutely last resort. To be in a position to have to use nuclear weapons in response to a chemical attack is an intolerable position.

That is why I support, with a great deal of reluctance, going into chemical production, going into binary production which is much safer.

What does the Bigeye do? The Bigeye bomb is not the most modern system. Technology goes back quite awhile. It is supposed to allow the pilot to come out of the low-flying pattern, to go up and to toss the weapon far enough so that it lands on the target. At least he has a chance. He is not having to come right in on top of whatever the target is.

That may seem somewhat hypothetical here on the floor of the Senate. It is not hypothetical if you are charged with flying those aircraft.

What is the justification for the Bigeye that has had a lot of problems? The Senator from Arkansas and the Senator from Washington have documented the problems. The General Accounting Office has. I think some of the information is based on out-of-date information but some is accurate. We know there are some real problems with it.

The problem with not going on with the committee position is that even if they ironed out the problems with the test, you are going to have probably 1½ to 2 years or maybe longer in delay. We are going to be in the continuing intolerable, untenable situation of having an outmoded delivery system for chemical weapons. We are going to continue to have a very weak deterrent and we are going to continue to rely, frankly, on having to escalate right up the nuclear ladder in response to a chemical attack. That, to me, is an intolerable position for NATO.

It is my opinion that the committee's position is not as safe a position as what the Senator from Arkansas is advocating in terms of wise use of the taxpayers' money.

If we were judging this simply on what is the safest way we can proceed with the taxpayers' money, I would vote for the amendment. But we have to look beyond that. We have to say, can we afford another year, 2 years, 3 years—I do not know how long it would be—to iron out all of these problems, or should we go ahead with a very low-range program on production, taking some risk, admittedly being willing to cancel if we cannot get the weapon to work properly, but then not having to restart and reinstitute a production line, thereby taking a lot of time?

What we are really asking our colleagues to do, as I see it, is to take a chance with this program. It might end up not being a bomb. It might end up being a bomb. We are not sure. I am not going to guarantee that on the floor of the Senate.

I believe in this case, taking a higher risk with the taxpayers' money that may not prove to be absolutely wise 2 years from now is worth the risk because the risk of continuing in a position where we do not have a credible deterrent with chemical weapons is a risk that I am not willing to take.

I am willing to explain to my constituents and the American people that we are paying a higher premium here of risk than we would like to pay in terms of purely looking at weapons procurement. But we are looking beyond simply the question of weapons procurement in this debate today.

I congratulate my friend for bringing this to the attention of the Senate. We have to continue to scrutinize this program. We may get to the point where it is a failure, where we have to start over. I would hope that would not happen because I believe the consequences would be adverse not only to our military posture but to our hopes for securing some type of arms control agreement on chemical weapons. That is the ultimate hope, to do that.

I would urge my colleagues to vote no on the Pryor amendment.

Mr. KERRY. Mr. President, last year, Secretary of State George Shultz affirmed that, and I quote, "The sad fact is that a half-century of widely accepted international restraint on the development of chemical weapons is in danger of breaking down." End quote.

The sad fact, Mr. President, is that the same administration which Mr. Shultz serves is in danger of unilaterally breaking down that restraint. Today, the possession of chemical weapons resides in only a handful of nations. Tomorrow, if the United States is to terminate its 17-year mortorium on nerve gas production we will set an example for all the world that nerve gas—in the form of the Bigeye bomb or other binary projectiles—is a critical weapon for every nation's arsenal. U.S. production may well directly encourage the same proliferation of chemical weapons over which Secretary Shultz expressed such deep remorse in his statement just 1 year ago.

There are an abundance of reasons to oppose the production of chemical weapons. I will be brief, and outline just three of the arguments: First, that the production of chemical weapons is destabilzing. Second, that the General Accounting Office report on the Bigeye bomb concludes incontestably that the weapon is inherently dangerous to its carriers and ineffective. And third, that many of our allies in NATO have expressed grave reservations about U.S. production of chemical weapons.

The rhetoric that chemical weapons form a credible deterrent is actually incredible—because the fallacy simply ignores so many basic and valid deterrence arguments.

First, the building of allegedly safer binary weapons will create a new conception that chemical weapons are acceptable, ordinary, and, in fact, conventional. The logical integration of

binaries into our conventional arsenal may then appear to the Soviets as a preparation for offensive first use.

Second, with the production of chemical weapons contingent upon storing binaries in the United States, and removing unitary chemical weapons from their bases in Europe, it is easy to see a logistical nightmare in store for this country. Where are these poison gases going to be kept? In what facilities? I must stress to my colleagues that the horrors of Bhopal and Chernobyl are fresh in the minds of the American people—and of Europeans as well. Regardless of the outcome of the Senate's vote on this amendment, opponents of binary weapons production will continue to remind the American people—including the men and women in this chamber—of the dangers which these inhuman weapons present—even under the ostensibly "safe" conditions of binary separation.

This storage proposal also creates a strategic nightmare for this country. It has been estimated that it would take the entire Air Force fleet of C-141 transports up to 6 weeks to move the binary arsenal from the United States to Europe. Try to picture what the Soviets would think of such an act, and how they would react to this destabilizing initiative. What the production of binaries is intended to prevent—Soviet first use of chemical weapons—may become more likely if this new policy is implemented.

The deterrence argument for renewed chemcial weapons production fails on a third count, Mr. President. The Department of Defense claims that the ability to retaliate with chemical weapons will raise the threshold of nuclear war as high as possible, when the contrary is true. The production and potential use of chemical weapons in fact lowers the threshold of mass devastation through lethal binary nerve gas. In the event of a chemical weapons exchange, there is no telling what the "losing side" might do to avoid a defeat of such magnitude. By hastening the deployment of destabilizing weapons of last resort—such as chemical or tactical nuclear weapons—we are escalating the arms race, killing real efforts toward arms control, and ensuring that the day of reckoning is drawing ever closer.

Mr. President, one of the principal means of employing nerve gas in the military's force structure is with the Bigeye bomb, which is supposed to be capable to spreading noxious gases deeper into enemy territory than ever before. Recently, the GAO evaluated the Defense Department's chemical and developmental tests of the Bigeye bomb and found it to be an ineffective and dangerous method of propelling binary artillery projectiles. According to the GAO report, not only were the Defense Department's tests "inconsistent," "skewed," and "ambiguous" in their results and methodology, but the data reveal that the Bigeye bomb just doesn't work.

The report also provides evidence that the testing "fails to demonstrate the feasibility and effectiveness of the Bigeye" and that "intractable problems" still exist. One of these intractable problems is that the aircraft's only means of delivering the bomb successfully is by lofting it and, in so doing, exposing the aircraft to ememy defenses. This is no way to conduct a military operation. an inherent danger is created for the pilot and crew because the Bigeye simply does not function properly. Finally, the GAO report concludes that "the Bigeye bomb is not ready for production."

Last year, Congress issued a directive specifying that authorization of funds for chemical weapons production was contingent upon approval of the program by the NATO political body. In May, NATO Defense Ministers—rather than the government leaders—halfheartedly approved resumed production of binary nerve gas weapons. The Reagan administration has presumed that the NATO Defense Ministers' approval satisfies the directive. As a result, opposition to NATO's quasi-approval has mounted. In late May, Dutch Foreign Minister Hans van der Broek stated that he "profoundly regretted" the development of chemical weapons, and that any suggestion—by the Reagan administration or others—that the program had received the "benediction" of the NATO alliance would be an "enormous embarrassment" to his and other governments.

In addition, many other officials from NATO countries—including Norway, Denmark, the Netherlands, Luxembourg, Iceland, and Greece—dissented from general NATO approval, expressing grave reservations about the production of binary nerve gas weapons. Clearly, the Reagan administration's twisting of congressional intent and the disapproval shown by many of the NATO governments casts a dark shadow of uncertainty over NATO's supposed approval of the chemical weapons program.

Mr. President, in 1969, 17 years ago, President Richard Nixon wisely imposed a voluntary moratorium on the production of chemical weapons. The strategic result was that the United States response to Soviet first use would be an effective conventional antipersonnel counterattack, but not one in kind. The political result was that the United States gained international prestige and was perceived as a nation committed to controlling arms which undermine strategic deterrence. If the U.S. Senate is to approve the renewed production of these Godawful weapons, then we are taking a great leap backward. It will be an irrevocable step—one which can only worsen America's image and destabilize Europe militarily. For 5 years now, the only major weapons system that this Congress has denied the Reagan administration is the binary nerve gas program, and for good reason. We must not alter our course now.

When I served in Vietnam nearly two decades ago, I witnessed the use of chemical weapons on our own troops—by our own troops. Today, we are still recording the costs of this human tragedy. It is my hope that we will never witness the use of such weapons again. I urge my colleagues to oppose funding chemical weapons and the Bigeye bomb.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Will the Chair state the amount of time remaining on this side?

The PRESIDING OFFICER. The proponents have 3 minutes and 11 seconds. The opponents have 2 minutes 28 seconds.

Mr. PRYOR. Mr. President, I will submit to my friend from Maine that we have been told on many, many occasions that this part has been fixed, this has been done, and now we are ready. Then we see when those areas do not quite get tested properly, they change the criteria for testing.

This is the deep concern I have, Mr. President, overall, and I say this respectfully.

In the Navy, their latest operational test says "In a high threat, well-defined target environment, all delivery modes would result in high aircraft vulnerability."

What does that mean, Mr. President? It simply means that our pilots have a great opportunity to get killed while delivering the Bigeye bomb to its target.

I am saying that we should keep the testing, we should keep the ongoing program of research, but we should not go into the production, because even the Director stated that the low rate of production we are talking about means 1988 when we will see the first production of Bigeye bombs come off the assembly line.

Another interesting development as a result of the vote on the Hatfield amendment a few moments ago is we have removed or will remove all of our chemicals in Europe, all of our nerve gas from Europe, while the Russians will keep theirs in Europe.

Now we are saying to the Soviets there is a great deterrent in the chemical warfare area. We are saying to the Soviet Union, "We are getting ready to put all of our eggs in one basket. That is the basket of delivering ultimately nerve gas to the target with a flawed and unworkable Bigeye bomb that the General Accounting Office has testi-

fied in a May 1986 report is not ready for production."

It is the procurement mentality, Mr. President. It is the buy now, test later mentality that concerns me that the amendment addresses.

At this point, Mr. President, I will reserve the remainder of my time.

Mr. COHEN. Mr. President, let me just respond briefly to the statement concerning the delivery profile of the Bigeye, the high risk.

Every mission flown by the Navy is high risk. The delivery profile for the Bigeye is no different than the delivery profile for any conventional type of system. As a matter of fact, the same delivery profiles were flown in Libya. We saw that as a high-risk environment. So I hope he would not cite the delivery profile as being a greater risk than the pilots currently encounter.

□ 1420

Mr. PRYOR. Mr. President, will the Senator from Maine yield for a question?

Mr. COHEN. On the Senator's time. I have limited time.

Mr. PRYOR. I do not think the Senator from Arkansas has any time, but the Senator from Maine brought up a very critical point.

Mr. COHEN. Mr. President, the critical question is the delivery time for the weapon. I would hope the new Bigeye would have a lower delivery risk. We do not want to have to fly directly over the target in order to lay these weapons onto a particular target.

John Krings agrees to some extent with the Senator from Arkansas. He said:

> Bigeye delivery profiles, survivability, and weapons effects remain a concern. Full production will not be recommended unless satisfactory results are achieved during upcoming Operational Tests.

So we do not want to go forward with full production yet. The Office of Operational Testing and Evaluation does not want to go forward with it. We will reserve that judgment until a later time.

I yield the remainder of my time to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I thank the Senator very much.

First, I want to say that we do not have a deep-strike capability. That is important. This will allow the United States to deter chemical use by threatening to retaliate against targets at long-range airfields and supply depots.

Admiral Crowe, chairman of the Joint Chiefs of Staff, feels this is very important. He says one of the key elements in reestablishing a credible deterrent is the need for establishing a deep-strike credibility. This is what we are trying to get here.

Recent testing of the Bigeye binary bomb demonstrated it will meet this requirement.

Mr. President, the committee has approved the administration's plan to enter into a low-rate initial production. That is all this does. This low-rate initial production is designed to determine the adequacy of their production facilities and to produce additional test assets.

How can you do it other ways? It is the only possible way he can proceed.

The committee has not indulged and has not funded full-scale Bigeye production. Instead, it has made clear that it will decide whether full-scale production is warranted based on the results of the second phase of operational testing, which is scheduled for this summer.

So, Mr. President, we think it is important to go ahead. We need deep-strike capability and by testing this, we find out the situation. We can find out the adequacy of the production facilities and also the additional test assets.

I hope the amendment will be defeated. The chairman of the Joint Chiefs of Staff is extremely anxious for the bill to be passed, the administration wants it to be passed, and we should not delay.

The PRESIDING OFFICER. The time of the opponents has expired.

Mr. PRYOR. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PRYOR. Mr. President, I appeal in the name of commonsense for the Members of this body to recognize that we have a flawed weapon that is dangerous to our pilots, that is not going to serve the purpose of acting as a deterrent until we get it fixed. If we get this weapon fixed, if it can prove or if they can prove that this weapon is fixed, then, Mr. President, maybe we should buy them. But, please, I urge my colleagues in the Senate not to go forward on a $1 billion procurement program until we have the assurances and the guarantees that this weapon will work.

I thank the Chair for recognizing me. I yield the floor.

The PRESIDING OFFICER. All time has expired. The yeas and nays have been ordered.

Mr. COHEN. Mr. President, I move to lay the amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Arkansas. The motion is not debatable. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—49

Abdnor	Goldwater	Nickles
Armstrong	Gramm	Nunn
Bingaman	Hatch	Pressler
Boren	Hawkins	Quayle
Boschwitz	Hecht	Roth
Broyhill	Heflin	Rudman
Chafee	Helms	Simpson
Chiles	Hollings	Stevens
Cochran	Humphrey	Symms
Cohen	Kasten	Thurmond
D'Amato	Laxalt	Trible
Denton	Long	Wallop
Dole	Lugar	Warner
Domenici	Mattingly	Wilson
Exon	McClure	Zorinsky
Garn	McConnell	
Glenn	Murkowski	

NAYS—50

Andrews	Gore	Melcher
Baucus	Gorton	Metzenbaum
Bentsen	Grassley	Mitchell
Biden	Harkin	Moynihan
Bradley	Hart	Packwood
Bumpers	Hatfield	Pell
Burdick	Heinz	Proxmire
Byrd	Inouye	Pryor
Cranston	Johnston	Riegle
Danforth	Kassebaum	Rockefeller
DeConcini	Kennedy	Sarbanes
Dixon	Kerry	Sasser
Dodd	Lautenberg	Simon
Durenberger	Leahy	Specter
Eagleton	Levin	Stafford
Evans	Mathias	Weicker
Ford	Matsunaga	

NOT VOTING—1

Stennis

So the motion to lay on the table was rejected.

□ 1440

Mr. DOLE. 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.

□ 1500

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

The PRESIDING OFFICER (Mr. GORTON). Is there objection? Without objection, it is so ordered.

ORDER THAT TIME TO VOTE ON CLOTURE BE POSTPONED UNTIL 7 P.M.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXII, the cloture votes for today on the Byrd amendment No. 2414 and the Dole amendment No. 2417 be postponed until 7 p.m. in the hopes that an agreement can be reached for the Senate to consider both issues separately.

The PRESIDING OFFICER. Is there objection to the unanimous-con-

sent request? Hearing none, it is so ordered.

Mr. GOLDWATER. 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.

□ 1510

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

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

All time for debate has expired.

The question is on agreeing to the amendment of the Senator from Arkansas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The VICE PRESIDENT. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—50

Andrews	Gore	Melcher
Baucus	Gorton	Metzenbaum
Bentsen	Grassley	Mitchell
Biden	Harkin	Moynihan
Bradley	Hart	Packwood
Bumpers	Hatfield	Pell
Burdick	Heinz	Proxmire
Byrd	Inouye	Pryor
Cranston	Johnston	Riegle
Danforth	Kassebaum	Rockefeller
DeConcini	Kennedy	Sarbanes
Dixon	Kerry	Sasser
Dodd	Lautenberg	Simon
Durenberger	Leahy	Specter
Eagleton	Levin	Stafford
Evans	Mathias	Weicker
Ford	Matsunaga	

NAYS—50

Abdnor	Goldwater	Nickles
Armstrong	Gramm	Nunn
Bingaman	Hatch	Pressler
Boren	Hawkins	Quayle
Boschwitz	Hecht	Roth
Broyhill	Heflin	Rudman
Chafee	Helms	Simpson
Chiles	Hollings	Stennis
Cochran	Humphrey	Stevens
Cohen	Kasten	Symms
D'Amato	Laxalt	Thurmond
Denton	Long	Trible
Dole	Lugar	Wallop
Domenici	Mattingly	Warner
Exon	McClure	Wilson
Garn	McConnell	Zorinsky
Glenn	Murkowski	

□ 1530

The VICE PRESIDENT. The Senate being equally divided, the Vice President votes in the negative and the amendment is rejected.

Mr. DOLE. I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

□ 1540

The VICE PRESIDENT. Under the previous order, the Senator from Arizona (Mr. DECONCINI) is to be recognized.

The Senate is not in order. The Senator is asked to suspend until the Senate is in order.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator will suspend. He cannot be heard at this point.

AMENDMENT NO. 2617

(Purpose: To prohibit the sale, donation, or other transfer of STINGER antiaircraft missiles to democratic resistance forces unless certain conditions are met)

The PRESIDING OFFICER. The Senator from Arizona.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 2617.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

RESTRICTION ON THE SALE OF STINGER ANTIAIRCRAFT MISSILES

SEC. . Notwithstanding any other provision of law, no STINGER antiaircraft missiles may be sold, donated, or otherwise provided, directly or indirectly, to democratic resistance forces unless the President certifies to the Congress that the proposed recipient has agreed to the following conditions:

(1) Physical security of such missiles shall consist of the following:

(A) Magazines of reinforced concrete, arch-type, and earth-covered whose construction is at least equivalent in strength to the requirements of the Chief of Engineers (Department of the Army) drawings, 652-686 through 652-693, 27 Dec 1941 as revised 14 Mar 42, shall be provided.

(B) Lighting shall be provided for exterior doors and along perimeter barriers.

(C) Exterior doors shall be class 5 steel vault doors secured by two-key operated high security padlock and hasp (mil spec P-43607), and keys shall be secured separately to insure effective two-man control of access.

(D) Fencing shall be 6-foot (minimum) steel chain link on steel or reinforced concrete posts over firm base, and clear zones shall be established inside and outside fencing.

(E) A full-time guard force or combination guard force and intrusion detection system shall be provided.

(2) Such missiles shall be accounted for as follows:

(A) A 100 percent physical count shall be taken monthly with two-man verification, and records shall be available for United States inspection.

(B) A United States Military Training Mission shall conduct the United States inspection and inventory annually, and weapons expended outside of hostilities shall be accounted for.

(C) When missiles are deployed and assembled, the recipient shall be responsible for a daily accounting of such missiles. Records shall be maintained by the recipient and, upon request, shall be available for United States Government review, United States representatives, shall have the right, upon request, to inspect the missiles at the deployed sites.

(3) Movements shall meet United States standards for safeguarding classified material in transit.

(4) Access to such missiles and to classified information relating thereto shall be as follows:

(A) Access to hardware and related classified information shall be limited to military and civilian personnel who have the proper security clearance and who have an established need-to-know. Information released shall be limited to that necessary for assigned functions or operational responsibility and, where possible, shall be oral or visual only.

(B) No maintenance shall be authorized which required access to the interior of the operational system. Such maintenance shall be performed under United States control.

(5) The recipient shall report to the United States by the most expeditious means any instance of compromise, loss, or theft of any material or related information. This report shall be followed by prompt investigation and the results provided to the United States.

(6) The recipient shall agree that no information on Basic STINGER shall be released to a third government or any other party without United States approval.

(7) The security standards applied by the recipient to protection of Basic STINGER information and material shall be at least equivalent to those of the United States at the identified security classification.

(8) The recipient shall use the information on Basic STINGER only for the purpose for which it was given.

(9) United States officers shall be allowed to inspect and assess physicial security measures and procedures established for implementation of these security controls on an announced random access basis.

(10) Damaged launcher shall be returned to United States Armed Forces for repair or demilitarization prior to disposal by United States authorities.

(11) Two principal components of the STINGER system, the gripstock and the missile in its disposable launch tube, shall be stored in separate locations. Each location shall meet all physical security requirements applicable to the STINGER system as a whole. The two locations shall be physically separated sufficiently so that a penetration of the security at one site shall not place the second at risk.

(12) The principle components of the STINGER system, the gripstock, missile, and launch tube, may be brought together and assembled only under the following circumstances:

(A) In the event of hostilities or imminent hostilities.

(B) For firing as part of regularly scheduled training (only those rounds intended to be fired shall be withdrawn from storage and assembled).

(C) For lot testing (only proof round(s) shall be withdrawn and assembled).

(D) When STINGER systems are deployed as part of the point of defenses of high priority installations or activities.

(13) Field exercises or deployments where-in the use of STINGER system is simulated shall not create conditions for the assembly of the system.

Mr. GOLDWATER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The junior Senator from Arizona has the floor.

Mr. GOLDWATER. I ask a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the parliamentary inquiry.

Mr. GOLDWATER. Is there a time agreement on this amendment?

The PRESIDING OFFICER. There is a time agreement on this amendment of 40 minutes equally divided.

Mr. GOLDWATER. I thank the Chair.

Mr. DECONCINI. Mr. President, I ask unanimous consent that I may yield the floor to the senior Senator from South Carolina to take up a routine matter and that time not be charged on this amendment.

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

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I thank the distinguished Senator from Arizona.

AMENDMENT NO. 2620

(Purpose: To provide funds for Air Force One maintenance facilities to support White House operations)

Mr. THURMOND. Mr. President, I send to the desk an amendment that has been agreed to on both sides and ask the clerk to report.

The PRESIDING OFFICER. The Senator will have to ask unanimous consent that the pending amendment be temporarily laid aside. Does the Senator make that request?

Mr. THURMOND. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

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

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment No. 2620.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 241, line 7, strike out "$2,950,806,000" and insert in lieu thereof "$2,949,746,000".

On page 241, line 24, strike out "$131,640,000" and insert in lieu thereof "$130,580,000".

On page 260, between lines 19 and 20, insert the following new item:

Andrews Air Force Base, Maryland, $25,000,000.

On page 263, strike out line 8.

On page 264, strike out "$12,800,000" and insert in lieu thereof "$9,400,000".

On page 268, line 12, strike out "$670,057,000" and insert in lieu thereof "$695,057,000".

On page 268, line 15, strike out "$329,543,000" and insert in lieu thereof "$321,243,000".

On page 268, line 17, strike out "$218,320,000" and insert in lieu thereof "$210,280,000".

On page 268, line 20, strike out "$124,860,000" and insert in lieu thereof "$117,260,000".

Mr. THURMOND. Mr. President, I rise to offer an amendment in support of a maintenance and support facility at Andrews Air Force Base in Maryland. This facility is needed to support the wide-bodied 747 which the Air Force has been authorized to procure for use as the new Air Force One. Mr. President, Members may recall that last year we appropriated money to purchase these new planes, subject to authorization. Earlier this year, when the Congress acted on the question of a supplemental authorization, we approved the authorization.

The planes have been bought and the first is scheduled for delivery in November 1988. This amendment would provide facilities to support these aircraft. The current facilities at Andrews are not large enough to support the 747 aircraft.

We need to provide the money now in order to have the facility when the aircraft arrives. When our committee originally acted on this issue, the design status of the project was too low. It is now close to 35 percent. I am advised that the Appropriations Committee has included $25 million to fund the first phase of this $45 million project. My amendment would authorize that same phase one.

This amendment will not add any additional funds to the bill as the Air Force has identified any equal amount in offsets, which are included in the amendment, and outlined in my statement. Mr. President, I urge adoption of the amendment.

Mr. President, the Defense Department approves the amendment. The Air Force approves the amendment. I believe we have acquiescence on it.

Mr. GOLDWATER. Mr. President, we have no objection to this amendment.

Mr. NUNN. Mr. President, we have talked to the Senator from South Carolina about the amendment. We urge its adoption.

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

The amendment (No. 2620) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2617

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Arizona, who is recognized.

Mr. DECONCINI. Mr. President, I thank the Chair.

Mr. President, the security measures on arms control which we establish today will determine the safety of Western democracies into the next century. My amendment seeks to protect, safeguard, and secure Stinger missiles from falling into the hands of terrorists. This amendment will hopefully prevent the Stinger from becoming a readily available shopping item on the black market. This legislation will limit the likelihood that Stingers, weapons of frightening power, could paralyze American airports or shoot down commercial and military aircraft.

In the book "Terrorism: How the West Can Win," Dr. Paul Johnson writes about a concern affecting all legislators, policymakers, and American citizens:

> There is the danger, frighteningly obvious to all of us, that terrorists will eventually possess nuclear weapons. But a more immediate risk is that they will secure—perhaps already have secured—the devastating modern equipment now moving into the inventories of official armies: high speed machine pistols firing 1,200 rounds per minute and almost soundless lightweight grenade launchers and mortars, flamethrowers, short-range portable anti-tank weapons, shoulder-fired rocket launchers, and most alarming of all, the new generation of portable missiles which have long ranges, are highly accurate, and can be carried and fired by one man or woman.

This is a thoughtful and careful man not given to exaggeration. Yet he has a way of concentrating one's mind—and in this case, it is on the point that we in the Western democracies do not have forever to counter the problem of terrorism. His voice is urgent. His argument is compelling. His facts are conclusive.

Mr. President, the Stinger has been accurately labeled as the ideal terrorist weapon. It is now considered to be the crown jewel of democratic resistance efforts. It seems nonchalant and cavalier, almost automatic, that democratic resistance efforts ask for Stingers—and we provide them. We provide little thought as to safety and totally neglect foreign policy goals. How will these top-of-the-line items be protected from terrorists, Cubans, Libyans, Russians, and fanatics? How do these weapons influence regional politics; the possibility of escalation and heightened conflict; and do we then provide even more sophisticated weapons after the Stinger?

I take a back seat to no other Member of this Senate Chamber or

any Congressman as to my tenacious support for the Afghan rebel fighters. I deplore and condemn the Soviet invasion and their widespread combat which cripples Afghan children. I heartily endorse U.S. efforts to assist the Afghans in their efforts to preserve their religious safety and their political freedom.

I have met in my office with several Afghan people fighting in this effort. The United States reportedly provides close to $500 million in covert assistance to those resistance fighters. They already have sophisticated surface-to-air SA-7's and have told me that they would like the Stinger, but it will not win or lose the war by itself. They have told me that they would like our best technology, but they will carry on in their struggle and effectively use the SA-7's.

Mr. President, I am all for resistance efforts that sustain and promote freedom and safety for people of different political struggles. But we cannot afford to nonchalantly provide weapons which subequently endanger American freedom and safety. We cannot afford to let Qadhafi's and Khomeini's secure this weapon. We cannot afford to give terrorists the power to wipe out airplanes and paralyze airports. I do support resistance efforts but by their very definition they are meant to resist, retaliate, and rebuff the aggressor. By supplying our most sophisticated weapons cavalierly we endanger our own citizens. Americans traveling are not safe. Our allies' military planes are not safe. American airports are not safe. Reportedly, Stingers have been delivered to Angola and Afghanistan. This was leaked by a source in the Reagan administration, who was consequently fired.

The situation in Nicaragua might be the next sight for Stinger missiles. Mr. Calero, one of the Contra leaders, recently said after the House passed the administrations aid request, that all they needed now were Stingers. Mr. President, Stingers in Central America will severely escalate the involvement of all outside parties. Stingers could easily end up disrupting the fragile Central American democracies and wrecking havoc on the regional progress we have achieved. Stingers could easily find their way up through Mexico into California, Arizona, and Texas. This would only contribute to the drug and weapons running problem that already exists. Some of these Contra leaders are closer in philosophy to the drug runners and terrorists than to American democratic ideals.

Some argue that this issue should not be discussed on the Senate floor. The Reagan administration, in deciding recently to provide these missiles to guerrilla fighters, made two key assumptions. One, the news of the decision would not lead to the public and secondly, that none of the Stingers would fall into the hands of terrorists. The first assumption has already failed. It is with the second assumption in mind that I seek to address this issue. Ideally, I would not want to discuss this sensitive issue or legislate a solution. But we have no choice, now that the first assumption has failed, we must seek to prevent the second from happening.

President Reagan is very concerned about the implications of the Stinger. The administration removed the Stinger from the Saudi Arabia arms package due to congressional concern and fear that these would fall into the wrong hands. The President wrote to Majority Leader ROBERT DOLE discussing "the particular sensitivity of Stingers being transferred to any country." This legislation seeks to safeguard these missiles and prevent the terrorist scenario from happening. Supplying our best technology without safeguards is not in the national interest.

As a colleague of mine stated when the Stinger was to be transferred with safe security conditions; if the Stinger falls into the wrong hands, there will not be an airplane or airport in the civilized world that will be safe. I urge the adoption of this legislation to protect Americans and our allies. The rush of sophisticated technology without adequate safeguards, drastically changes the rules and boundaries for terrorists. It escalates the war effort on the part of outside parties, as it did in Afghanistan and Angola. After the reported introduction in Angola, the 6-year peace effort negotiated by the United States went out the window.

In Afghanistan, the Pakistani's are reportedly seeking to encourage a Soviet withdrawal and consequently prevent Stingers from exacerbating this conflict. We need to prevent this type of policy. Different support including less sophisticated surface-to-air weapons might be the answer. But right now we need to clarify our policy with wise and prudent safeguards.

Mr. President, imagine the scenario with one of these weapons systems that can be held on the shoulder, that can be fired a distance of 3 to 5 miles. And this is not classified information. It has been reported in the press. It is only 34 pounds in weight. It is only 5 feet long. It can be carried in a compact sense. It has an infrared heating device that homes on the target.

□ 1550

Put this scenario together: That it falls into the hands of terrorists like Qadhafi or Khomeini or Arafat and is used at one of our major international airports. What kind of chaos are we going to have?

What if it developed that it was given to the Contras, fighting the Nicaraguan Sandinistas? How safe would it be to have that weapon there? I question that.

The purpose of this amendment is not to outlaw by any means that these weapons go to democratic resistance groups. It only says that the President certifies to Congress that the proposed recipient has agreed to the following conditions—and they are listed in this amendment.

These conditions are the conditions we place on this missile now, that we have transferred to a number of countries, particularly Saudi Arabia. Why should we not impose the same type of conditions and ask the President to certify that they are being upheld?

Mr. President, this is a serious matter, and I hope the Senate will join me in putting on some restrictions, and yet not tying the hands of the President to use these weapons where he feels that certification can be made. Failing to do this, we are inviting the misuse of this weapon by international terrorists.

Mr. LUGAR. Mr. President, will the distinguished chairman of the Armed Services Committee yield me 5 minutes?

Mr. GOLDWATER. I am very happy to yield 5 minutes to my friend.

Mr. LUGAR. I thank the chairman.

Mr. President, the amendment before us is a foreign policy issue. It has arisen in different contexts before, but I simply say, once again, that it is a foreign policy issue and has to do with the success of our country in our ability to help freedom fighters. We are attempting to help freedom fighters in a number of places. The President of the United States and those who are attempting to work with the freedom fighters have to have the latitude to give the freedom fighters and equipment required to get the job done.

Mr. President, I note the descriptions from time to time of the Stinger missile. There are even pictures of a single individual of normal size carrying the missile, with the thought that almost any one of us—apart from such unusual persons as Arafat or Khomeini or what have you—could use a Stinger missile.

Mr. President, it is an effective weapon. The country is proud of the development of this kind of weapon. But it requires an extraordinary amount of training. The ordinary terrorist carrying a Stinger missile is not going to be any more effective than you or I would, without tens of hours of training and a very great deal of support in the use of this particular weapon.

The intent of this amendment is to kill the use of the Stinger missile in the foreign policy of our country, insofar as we help other countries. I say that advisedly, because the drafters of this amendment have listed an impossible set of conditions that literally render this particular option, the

Stinger missile, out of the question in helping freedom fighters in Angola or in the Nicaraguan situation and wherever else we may be trying to help people.

Mr. President, this is an option that we ought not deny in the course of an armed services authorization bill. This is a foreign policy option we ought to be able to retain in our country.

Beyond that, Mr. President, I suggest that it would be useful, before we got into these kinds of amendments—this is the second time around the track in this particular session. The same amendment was defeated by a vote of roughly 2 to 1, when it applies to certain instances before, and not what has been redrafted to apply to all instances.

We really ought to have an opportunity to discuss this in the Foreign Relations Committee, in the Intelligence Committee, and other forums which have something to do with the foreign policy of the country.

I know that the distinguished chairman of the Armed Services Committee, Senator GOLDWATER, has addressed himself pointedly to the subject. This is a foreign policy question, and the chairman is weary of seeing this appear again in this form, and so am I.

Mr. President, I think it is important to settle this issue once and for all. Let us simply defeat the amendment. Let us get it back into the foreign policy arena, back into a discussion of what is useful in the foreign policy of our country, without all the phobias usually attached, that somehow the Stinger, unlike all the other types of weapons we might provide people, is an exceptionally destructive weapon.

Conflict is always destructive. If one is going to argue philosophically, one could argue that we ought not provide anything to allies, whether they be freedom fighters, members of NATO, or what have you. There is always a risk in doing that. But I submit that it is no more with the Stinger than with a half-dozen other objects.

This is the wrong time and the wrong place to be discussing the issue.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. I yield the Senator 2 minutes.

Mr. DURENBERGER. Mr. President, I appreciate the opportunity to speak on this issue and to speak in opposition to the amendment, particularly to speak in favor of the argument made by my colleagues, the chairman of the Senate Foreign Committee.

Basically, this is a foreign policy issue. In which committee it is to be resolved is not clear to me. I am convinced that it is not to be resolved on the Defense authorization bill, nor is it the kind of issue that lends itself to resolution on the floor of the Senate.

Sometime next week, we are going to be debating another foreign policy issue in which the elements of the implementation of an element of foreign policy are going to be openly debated on the floor of the Senate.

Today, we are offered the opportunity, though, to vote for or against one particular armament, committed to one broad category of indigenous forces. I urge my colleagues to consider the fact that this really is not a very good place for our country to make foreign policy, regardless of how we personally may feel about the weapon involved or the application of the weapons to a particular circumstance.

So I support the chairman of the Foreign Relations Committee and the chairman of the Armed Services Committee in opposition to this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. Mr. President, I yield myself such time as I may require.

Mr. President, unfortunately, I must rise in opposition to the amendment being offered by my colleague from Arizona. This subject was dealt with in May when a similar amendment was debated during the Senate's consideration of the DOD reorganization bill. At that time it was tabled by an almost 2 to 1 margin. I am hopeful that the pending amendment will also be defeated.

This amendment deals with the most sensitive of subjects—possible U.S. covert operations. The questions raised by this amendment can only be thoroughly examined and debated in a classified setting—most appropriately in the Intelligence Committee. The Senate floor is certainly not the proper forum for such a debate.

However, I will try to outline my opposition to this amendment as well as I can in an unclassified context.

□ 1400

First, and most importantly, the net effect of this amendment would be to prohibit even the possibility of our providing this vital equipment to freedom fighters throughout the world whose causes we have traditionally supported. The stringent conditions required by this amendment are clearly incompatible with the nature of guerrilla warfare and would be virtually impossible for rebel groups to meet. Therefore, a vote for this amendment is tantamount to a vote against freedom fighters throughout the world.

By adopting this amendment, we would be placing severe restrictions on the President's freedom of action in this very important and volatile arena. This is the type of micromanagement that I believe the Congress should avoid.

Second, one of the main goals of the proponents of this amendment is to prevent shoulder-fired antiaircraft weapons such as the Stinger from falling into terrorist hands. While this is a worthwhile goal, it will not be achieved by this amendment. The fact is that most terrorist organizations already have a wide variety of man-transportable SAM's. Soviet SA-7's are readily available on the world arms market and have been acquired by the vast majority of terrorist groups.

Mr. President, this type of weapon is made by almost countless countries and they can be purchased almost everyplace. I cannot tell you where, but you can buy them retail in the United States.

I am not saying that this is reason to let down our guard in the fight to keep sophisticated weaponry out of the reach of terrorists. But we should acknowledge the situation as it is and not get into the business of arbitrarily choosing to severely restrict the possible supply of one weapon system to specific groups.

I would suggest to my colleague from Arizona that the best way to proceed on this issue is to introduce this amendment as freestanding legislation and allow the relevant committees to fully examine its ramifications. This is the only way to ensure that the many important and complex issues raised by this amendment are given the careful and thorough consideration that they deserve.

The chairman of the Intelligence Committee and the chairman of the Foreign Relations Committee have spoken against this amendment.

Mr. President, I yield to the Senator from New Hampshire how much time he needs.

Mr. HUMPHREY. Three minutes I think will be sufficient.

Mr. GOLDWATER. Three minutes.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, others opposing the amendment covered the point I intended to address.

Let me point out to my colleagues before we have a vote on this matter just explicitly what it is the Senator from Arizona is proposing.

Let me just read from the amendment what he would require of recipients of this kind of weapon and my colleagues should think of this in the context of these freedom movements which are essentially guerrilla operations on whose mobility their survival depends.

Here are the physical requirements that the Senator from Arizona would require before these groups could possibly receive these weapons. The amendment reads:

Physical security of such missiles shall consist of the following:

Magazines of reinforced concrete, archtype, and earth-covered whose construction is at least equivalent in strength to the requirements of the Chief of Engineers (Department of the Army) drawings, 652-686 through 652-693, 27 Dec 1941 as revised 14 Mar 42, shall be provided.

Lighting shall be provided for exterior doors and along perimeter barriers.

Exterior doors shall be class 5 steel vault doors secured by two-key operated high security padlock and hasp (mil spec P-43607), and keys shall be secured separately to insure effective two-man control of access.

Fencing shall be 6-foot (minimum) steel chain link on steel or reinforced concrete posts over firm base, and clear zones shall be established inside and outside fencing.

These requirements might be OK and indeed are OK and necessary to require of our established allies, but for Heaven's sake, can you imagine the freedom fighters in various countries trying to produce these kinds of safeguards?

What the DeConcini amendment means bottom line is that these freedom movements could never be considered for this kind of assistance from the United States.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Mr. President, I would like to respond to some of the arguments.

First, the distinguished chairman of the Foreign Relations Committee indicates that this affects foreign relations policy. It seems to me that that argument is indeed very appropriate for the defense authorization bill.

I do not know anybody who looks on close to $300 billion of defense authorization that does not affect our foreign policy.

In his committee, the Foreign Relations Committee, the last vote we had, though, we were defeated in this amendment. Nine members of the Foreign Relations Committee voted in support of this amendment, eight opposed it.

So there is already a good bellwether right there that the Foreign Relations Committee thinks something should be done.

I hope the Senator from Indiana intends to hold hearings. I think that is very, very good.

The Senator from New Hampshire just read the requirements. I am glad he did. I did not want to take all the time because of the limited time on this subject matter to read the requirements.

No better argument can be given than those requirements that we impose on allies, NATO allies, Saudi Arabia, countries that we now share this weapon with. Should we not require the same security for a guerrilla group out in the jungle, in the desert, in the mountains of Afghanistan?

It seems to me like that argument is clear that if we do not do this, we are asking for someone to abuse or lose or sell to the black market some of these weapons.

Our own military has great reservations about what we are doing, and I think everybody here who is involved in this argument, certainly the Intelligence Committee, certainly the Armed Services Committee, knows that so well.

I want to quote Gen. John Wickham, who is the Army Chief of Staff, on this subject matter of the Stinger missiles.

Wickham reported on June 21, in the Washington Post, saying on the subject matter in an interview with the Washington Post yesterday that "we anguish over decisions of which allies should get the weapon because of U.S. concern that it will fall into the wrong hands."

I am glad they anguish over it because they rightly should anguish.

What have they done? They have imposed some very, very severe security restrictions before we hand that weapon over, and I am glad they have done it.

The only thing that the amendment of the Senator from Arizona says is that those same restrictions be applied if you hand those weapons over to a democratic resistance group.

For the likes of me, I can see no reason not to impose those same conditions here because with failure to do that we are asking and we are inviting a disaster.

I am glad to yield to my colleague from Kansas.

Mrs. KASSEBAUM. Mr. President, I just briefly wish to comment why I am supporting the Senator from Arizona's [Mr. DECONCINI] amendment.

It has already been argued and debated here before and, as has been stated, I do not know whether this is the right place to have it as an amendment. Certainly before when it was offered on the military reform, it was not the right vehicle. Maybe the debt ceiling extension is a better one. But I think, frankly, it does fit into the whole question of defense.

It is to me and certainly in my mind not a vote against freedom figthers. It is in my mind a whole question of really how we do account for our highly sophisticated technologies.

We have taken such great precautions in the transfer of our technologies, but today with the Stinger missile, which is highly effective and has been a very successful antiaircraft missile, we more or less just say that we are going to turn it over to be used by those without the same conditions that we impose on our allies.

I think that this is something that is of importance for us to argue, whether it is today, or tomorrow, and I think it is something that for the success of our future transfer of technologies and our feeling of security in that transfer of technologies we should be willing to debate and be responsible in those transfers.

Mr. President, I find the reports about our Government's decision to send Stingers to rebel forces a very dangerous proposition. This decision runs directly counter to our vigorous efforts over the past several years to control technology transfer and to ensure that our advanced technology whether military or civilian does not fall into the hands of the Soviet Union.

Even more importantly, supplying Stingers to rebel forces also runs directly counter to our concern about curtailing terrorism. This Chamber has fully discussed the danger of sending Stingers to sovereign nations.

Only just a couple of months ago, there was overwhelming concern expressed on this floor about having Stingers as part of the arms package to Saudi Arabia, largely because of the fear that these weapons would fall into terrorists' hands.

Mr. President, the danger of this weapon system falling into terrorist hands or into the hands of unfriendly nations is only escalated in the case of sending these weapons to rebel groups.

There is no certainty that the Stingers will remain in the hands of the rebel forces. We have already seen that captured Soviet surface-to-air missiles have turned up in rebel hands in Angola and Central America. And we have also seen numerous reports that any arms sent to Afghan rebels end up in the black market in Pakistan.

Mr. President, it is paradoxical to me that we would require sovereign nations to have stringent security controls on sophisticated weapon systems such as the Stinger, and yet we would just transfer these systems to rebel forces with no precautions.

Mr. President, I believe that at a minimum, if this sophisticated technology is going to be transferred, we should require the same rigid security requirements that we have imposed on our sale and transfer of this technology to sovereign nations.

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. How much time does the Senator from Indiana want?

Mr. QUAYLE. Three minutes.

Mr. GOLDWATER. Go ahead.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I want to just very briefly state my opposition to this amendment.

I think the chairman of the Armed Services Committee, the chairman of the Foreign Relations Committee, and the chairman of the Senate Intelligence Committee have all brought out

that this is a very sensitive matter. It is a very sensitive matter because of certain classifications. We are not even going to be able to go into some of the discussions about what in fact is going on with any kind of these potential transfers.

I believe that the junior Senator from Arizona has a very valid concern, and that valid concern is that he is worried about, rightfully so, the Stinger missile being put into the hands of terrorists. I think that is a valid concern and, believe me, everybody that deals with this issue is certainly very sensitive to that possibility and equally as concerned as the junior Senator from Arizona.

□ 1610

Unfortunately, as the chairman of the Senate Armed Services Committee has already pointed out, terrorist organizations already have the SA-7. It is a very comparable weapon to the Stinger missile.

What I believe that this amendment would do, even though the sponors of the amendment do not want it to do so, is it would place a disadvantage, a great disadvantage on some of the freedom fighters around the world.

Terrorist organizations and those who would not like to see democracy survive have a very comparable weapon. If we place these restrictions, and they are not unreasonable restrictions for Saudi Arabia, for all of our allies who do not have the guerrilla-type environment, but it is really an unreasonable restriction in any kind of guerrilla, freedom fighter resistance type of movement. To have them comply with certain military specifications, a certain amount of Army Corps of Engineers specifications, is simply inappropriate.

Therefore, it would be a disadvantage out there. You have comparable military weapons on both sides, unfortunately. And the terrorists, the ones that are against freedom, already have the SA-7.

We need to put in some equilibrium and allow the President the flexibility. I think, to do this at this time, even though the sponsor of the amendment does not want to do that, it would unfortunately tie the hands of the President.

This is a very sensitive matter, as the chairman of the committees have pointed out. I believe, in my good judgment, that we should readily dispatch this amendment and go on to other things. But I do think that the junior Senator from Arizona has a legitimate concern. I just think that the amendment is way off base. I do not think it is appropriate here and I hope it is resoundingly defeated.

Mr. DECONCINI. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. EVANS). The junior Senator from Arizona has 9 minutes and 7 seconds, and the Senator from Arizona has 4 minutes and 47 seconds.

Mr. DECONCINI. Mr. President, let me wind up by saying that I appreciate the concern of the Senator from Indiana that this is a sensitive matter. We know that. There are subject matters that we cannot talk about on the floor.

The so-called Stinger missile is not sensitive. What is sensitive is where it has been deployed and how many and in what kind of action. That has already been disclosed, too, by Dr. Pillsbury, by the way, who lost his job for that disclosure in the Washington Post.

The fact of the Stinger missile and the requirements, that is not a sensitive disclosure or nondisclosure matter. What is really sensitive here is: Do we want to risk this missile in the hands of people who cannot provide the security?

My good friend just suggested—and I wish I had thought of it—how would you like to see, in equal size and proportion, a foreign airplane like the British Airways sitting right up here in relation to where this weapon could knock it down being in the hands of some terrorist? That is what we are talking about—at the Athens Airport, 2 or 3 miles from the airport; at the Leonardo da Vinci Airport, 2 or 3 miles from it, or one of our own airports, if one of these weapons come up through Mexico into Texas or Arizona and somebody sits 2 or 3 miles away and wants to take down an airplane. That is what we are talking about.

That weapon now is not in the hands, that we know of, of any terrorist. We do not think anybody has that weapon yet. And there is a great difference, as I am sure my senior colleague will agree, between this weapon and the SA-7, a great deal of difference for the freedom fighters. They want the advanced technology, but they will tell you that is not going to win or lose the war for them.

So I hope we will use some common sense and apply the same security to freedom fighters as we apply to other allies. By the way, once those Stingers are deployed, then you have a different set of security and you are not bound by the ones that are listed in this particular amendment. I think it is paramount that we apply the same standards here. I hope the Senate will support this amendment.

I thank the Senator from Kansas for her support.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment offered by my distinguished colleague from Arizona. The net effect of this amendment would be to seriously hamper implementation of the Reagan doctrine. Without a doubt this amendment should be defeated.

In the first place, the amendment we are considering should not even be discussed in open session because it involves possible U.S. covert activities. The Senate floor is not the proper forum for this discussion.

The conditions set forth in the amendment are not compatible to guerrilla warfare. Guerrillas do not construct secure armories in the bush, nor should they, given the mobile nature of such conflicts. No rebel group could meet these restrictions.

I must ask my colleagues what would have happened to our forebears in their struggle against England had Lafayette's government imposed such restrictions on the transfer of arms to the colonists.

Mr. President, this amendment should be addressed in the Intelligence Committees and not here. The Senate should oppose the amendment.

Mr. LEVIN. Mr. President, I regret that I cannot support Senator DECONCINI, amendment to condition the sale or transfer of Stinger antiaircraft missiles to democratic resistance forces. As I stated May 7, 1986, in the CONGRESSIONAL RECORD, I share Senator DECONCINI's deep concern and fear that Stinger missiles may end up in the hands of terrorists and enemies of the United States. However, the conditions which would be established by this amendment would require U.S. servicemen to enter areas of hostilities to inspect and repair these missiles, a most unwelcome prospect. I also find this language too broad and inflexible. There may be circumstances where we would want to allow these missiles to be used where these stringent security conditions could not be met. The conditions for maintaining security over Stinger missiles in the amendment would be unachievable for virtually every situation in the world except our NATO allies, and therefore, the reach of this amendment is overly broad and I must oppose it.

Mr. MITCHELL. Mr. President, today I am pleased to support the DeConcini amendment prohibiting the sale, donation, or other transfer of Stinger anti-aircraft missiles to democratic resistance forces until and unless the President certifies in advance that the proposed recipient has agreed to a specified set of security conditions.

The Stinger has been called "the ultimate terrorist weapon," and rightly so. Accurate and highly portable, it is an ideal weapon for small, mobile guerrilla bands. Unfortunately, it can also be, in the wrong hands, an instrument of wanton destruction, easily capable of downing a civilian or military aircraft.

Even the remotest possibility of such a weapon falling into irresponsible hands impels us to take exceptional precautions. In making Stingers avail-

able to our NATO partners and to Saudi Arabia, we have always insisted on rigid security safeguards, including steel vaults, 24-hour armed guards, and separate storage of launchers and missiles. We have also required the right to conduct inspections of these safeguards at any time.

It appears perfectly obvious that comparable safeguards would not be possible were we to supply Stingers to the Afghan mujaheddin, Savimbi's UNITA forces, or the Contra rebels in Nicaragua. It appears equally obvious that in making Stinger missiles available to these or similar groups, we would be giving up virtually all control over these weapons. Lacking both adequate security and close American supervision, these weapons would then be highly vulnerable to theft, capture, or illegal diversion, and could end up in the hands of individuals or groups who might not hesitate to employ them in ways contrary to American interests. It is this concern that impels me to support the DeConcini amendment.

Earlier this year, during Senate debate on reorganization of the Defense Department, an amendment very similar to this one was brought to the floor. At that time I believed that this issue was an important one and deserved consideration on its own merits, not as an afterthought to a major bill on an altogether different issue. As a consequence I voted then to table the amendment, in the hope that the matter could subsequently receive full-scale committee hearings and be considered on its own merits.

Since then, alarming reports have surfaced to the effect that both UNITA and the mujaheddin have received covert Stinger shipments. As a consequence I will now support the DeConcini amendment, before further Stingers are sent overseas.

In addition, this amendment differs from the earlier one in that it also applies to the Contras. Keeping these dangerous weapons out of the hands of the Contras seems to me another compelling reason for supporting this amendment. I plan to do so and I urge my colleagues to do so as well.

DR. MICHAEL PILLSBURY AND THE STINGER MISSILE

(Later the following occurred:)

Mr. HUMPHREY. Mr. President, earlier this evening during the debate on the DeConcini amendment relative to the Stinger missile, a Washington Post story based on anonymous sources was cited. In that connection, the name of Dr. Michael Pillsbury was raised. Certainly without any criticism intended for the Senator from Arizona, I want to point out that the story quoted was based on anonymous sources. Dr. Pillsbury has denied disclosing the information cited in that story. An investigation is under way to determine who really did leak the information.

I want to point out further that Dr. Pillsbury now works for four Senators, one of which is the Senator from New Hampshire. I would not like the comment of the Senator based on the Washington Post to pass without mentioning for the Record that there is another side of this story that is yet to be fully told.

(Conclusion of later proceedings.)

Mr. GOLDWATER. Mr. President, I know of no other Senator on this side who cares to speak. I am perfectly willing to yield back my time, if my colleague is, and we can proceed to a vote.

Does the Senator want a yea or nay vote?

Mr. DECONCINI. Yes.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GOLDWATER. Mr. President, I yield back my time.

Mr. DECONCINI. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Arizona [Mr. DECONCINI]. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 37, nays 63, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—37

Biden	Hatfield	Mitchell
Bingaman	Hollings	Packwood
Bradley	Inouye	Pell
Burdick	Johnston	Proxmire
Chafee	Kassebaum	Pryor
Cranston	Kennedy	Riegle
D'Amato	Kerry	Sarbanes
DeConcini	Lautenberg	Sasser
Eagleton	Leahy	Simon
Ford	Mathias	Specter
Gore	Matsunaga	Weicker
Harkin	Melcher	
Hart	Metzenbaum	

NAYS—63

Abdnor	Exon	McConnell
Andrews	Garn	Moynihan
Armstrong	Glenn	Murkowski
Baucus	Goldwater	Nickles
Bentsen	Gorton	Nunn
Boren	Gramm	Pressler
Boschwitz	Grassley	Quayle
Broyhill	Hatch	Rockefeller
Bumpers	Hawkins	Roth
Byrd	Hecht	Rudman
Chiles	Heflin	Simpson
Cochran	Heinz	Stafford
Cohen	Helms	Stennis
Danforth	Humphrey	Stevens
Denton	Kasten	Symms
Dixon	Laxalt	Thurmond
Dodd	Levin	Trible
Dole	Long	Wallop
Domenici	Lugar	Warner
Durenberger	Mattingly	Wilson
Evans	McClure	Zorinsky

So the amendment (No. 2617) was rejected.

□ 1630

Mr. GOLDWATER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I will just take a moment. I have been having a brief discussion with the chairman of the Appropriations Committee. I would like to yield to him for the purpose of his extending a parliamentary inquiry.

Mr. HATFIELD. Mr. President, I thank the majority leader.

I would like propound to the Chair a series of parliamentary inquiries relating to the bill that is now pending before the body.

Mr. President, I do not intend to make a point of order if these are valid points that could be made. I want to make that clear statement from the beginning. I merely want to raise the application of the Budget Act to the total legislative proceedings of this body. I suppose being extraordinarily sensitive to the fact that appropriations bills which have been frequently the target of points of order as they may violate or appear to violate the Budget Act.

I do want to make these inquiries of the Chair now, if I could.

Under section 302(c) of the Budget Act, as amended by Gramm-Rudman-Hollings, it is not in order for this body to consider legislation that provides new direct spending authority or new entitlement authority if reported by any committee which has received an allocation under 302(a) of the Budget Act with respect to the most recently agreed to budget resolution for the coming fiscal year and that committee has not filed the 302(b) report required by the Budget Act. That is, the committee's report subdividing its allocation among its subcommittees or programs over which it has jurisdiction.

Mr. President, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. Mr. President, is it not true that the Senate Armed Services Committee has received an allocation pursuant to section 302(a) of the Congressional Budget Act with respect to the budget resolution for fiscal year 1987, Senate Concurrent Resolution 120?

The PRESIDING OFFICER (Mr. QUAYLE). The Senator is correct.

Mr. HATFIELD. Mr. President, is it also correct to say that the Senate Armed Services has not yet filed the

report required by section 302(b) of the Budget Act? Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Now, Mr. President, the bill we are considering, S. 2638, the National Defense Authorization Act for fiscal year 1987, has been reported by the Senate Armed Services Committee. It is my understanding that the bill, as reported and further amended by the committee, provides new direct spending authority.

□ 1640

For example, section 1214 of the bill provides for an increase in capitalization of the special defense acquisition fund and affects direct spending in functions 050 and 150 according to the Congressional Budget Office. Am I correct in saying that this bill provides new direct spending authority?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Given this, along with the fact that the Senate Armed Services Committee has not yet filed its required report under 302(b) of the Budget Act, this bill violates section 302(c) of the Budget Act which prohibits consideration of such legislation until the committee has filed its required 302(b) report. Am I correct that this bill is subject to a point of order under section 302(c) of the Budget Act?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. To take this one step further, Mr. President, section 302(f) of the Budget Act say that it is not in order to consider any bill that provides for budget outlays or new budget authority in excess of the appropriate allocation of such outlays or authority reported by any committee in its section 302(b) report in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year. Can the Chair please advise this Senator how this body is to know if such a point of order is available to its Members under this provision of the Budget Act if a committee has not yet filed its required 302(b) report under that act?

The PRESIDING OFFICER. Under those circumstances, the point of order would not lie under section 302(f) because there is no way to measure whether any of the amounts provided are in excess of the calculations.

Mr. HATFIELD. I thank the Chair.

Can the Chair please advise this body which of the 16 Senate committees receiving a section 302(a) Budget Act allocation with respect to the fiscal year 1987 budget resolution have not filed their section 302(g) reports?

The PRESIDING OFFICER. The Chair announces the Chair does not have any such list.

Mr. HATFIELD. I thank the Chair.

Mr. President, another provision of the Budget Act, as amended—section 401(a)—prohibits the consideration of any measure providing new contract authority or new borrowing authority which is not limited by appropriations.

Is the legislation before us not also subject to a point of order under section 401(a) of the Budget Act?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Mr. President, these are the points I wanted to raise relating to the particular application of the Budget Act to the defense authorization bill. As I indicated earlier, having been a Member of this body when the Budget Act passed and also when the Gramm-Rudman-Hollings provisions were passed, I have been on this floor trying to make certain that every appropriations bill measured up to the Budget Act requirements. We have gone through various exercises of tabling, referring, and all the other procedural motions members are quite familiar with. I merely want to point out that we are in violation here today of the Budget Act. I would like to know what the Budget Committee's views are on this.

Also, if the majority leader would permit me to do so, having yielded the floor merely for a parliamentary inquiry, the chairman of the Budget Committee has indicated that he has an amendment to correct one of this bill's provisions relating to contract authority that violates the Budget Act. I wonder if there are any thoughts that could be expressed at this moment or shared that could clarify the situation as to the other violations of the Budget Act this particular bill represents.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Oregon, the chairman of the Appropriations Committee. I wonder if we might have an agreement that the Senator from New Mexico and the Senator from Florida might be recognized for 5 minutes each if they desire, not to exceed 5 minutes each.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the distinguished majority leader. I do not need 5 minutes.

I say to my friend from Oregon the Senator from New Mexico is aware of what I consider to be a very serious violation of the Budget Act with reference to new spending authority as defined in section 401(c)(2) of the Congresssional Budget Act.

I am aware of the fact that provisions of the bill are out of order if indeed they are construed to be entitlements, contract authority, or direct spending. I have an amendment pending at the desk that I filed 2 days ago. I have not called it up because I would like to see more of the bill evolve, but basically, I have checked it through with the manager and the ranking minority member. I intend to offer it. They said they did not intend to object to it.

Basically, it provides that any new spending authority, as defined in section 401(c)(2) of the Budget Act, provided by specified sections of this bill, shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation acts. My amendment lists the various sections of the bill which the amendment applies to—611, 625, 631, 635, 636(f), 931 1006, 1214, 2175, and 2183. Those are the sections where this Senator has found in this bill either direct spending authority or contract authority or entitlements.

If not amended, they would be construed to be direct expenditures in violation of the Budget Act. I am prepared to offer the amendment. The managers know it. I will furnish my friend, the chairman, with a copy of it.

As to the section 302(c) contention he made, it is true there are no crosswalks filed by this committee. I assume if someone desires to make a point of order under section 302(c) they could. I hope the committee would file a 302(b) allocation. I do not believe it is very difficult, not like the appropriations crosswalk.

I will assist the committee if they desire to comply on the technical matters. If they do not, I will consult with them. If it appears to the Senator from New Mexico as one Senator and chairman of the Budget Committee that they violate the Budget Act as it operates to get things under control, I shall raise appropriate points of order.

Mr. HATFIELD. I state again, Mr. President, that I raise these points at this time as the bill is under consideration so there will be opportunity to correct them. I wanted to make certain that, again, we do not go through the whole exercise up to third reading without some kind of action.

Again, I think if we are going to observe the Budget Act in any one area of legislation, it ought to be observed in all areas. Usually, the Budget Committee has been very helpful in reminding the rest of us where we have been in violation or potential violation of the Budget Act. I am glad to know the chairman has taken action on at least one of these violations. I am hopeful the committee will comply enough so that when we get to third reading, we will not have any technicalities on violations of the Budget Act.

If I had to vote for a question of waiving the Budget Act in order to get to this bill, I would even consider that. I want to point out that the Budget Act ought to be applied to every bit of

legislation we enact, not just the appropriations bill where the Budget Act has had so much careful scrutiny. I just wanted to point out there are also questions here.

Mr. DOMENICI. Let me add that I am prepared, at a point in time when I am informed by managers that we are getting close to the end of amendments that have real significance in point of dollars, to engage in an exchange with the managers with reference to the level of authorization in this bill versus the limitations on budget authority and outlays that are imposed under the appropriations process. Clearly, this is an authorizing bill and we will discuss thoroughly with the Senate before we leave the floor the fact that if those who are proponents of this bill expect that everything within it will indeed be funded by the appropriators in its present form—it has not gone to conference yet and we are not finished yet, but if it did, clearly there is more authority and more outlays than we can accommodate in the appropriation process.

□ 1650

But everyone knows that that is the case. The Armed Services Committee has discussed it with me and we will discuss it in detail so that everyone knows how much it is over. But that does not make it subject to a point of order. That merely means you can expect the appropriators to fund this much.

Mr. NUNN. Mr. President, I am trying to understand here whether we are talking about something really substantive or whether we are talking about a technicality. In either event, I think we ought to comply with the budget. I hope the Senator from New Mexico and the Senator from Oregon could give us a little more guidance on this. It is my understanding we have been working all week with the staffs of the Senator from New Mexico and the Senator from Florida to get the entitlement question, which I understand and believe is a substantive question, worked out.

Mr. DOMENICI. It is.

Mr. NUNN. My understanding is that that was one of the points of order that the Senator from Oregon pointed out. Is it not true that we had already basically agreed to accept that amendment? Will the Senator correct that?

Mr. DOMENICI. I indeed indicated and I will repeat, the floor managers indicated their willingness to accept an amendment which makes the entitlement and direct spending that is in this bill subject to appropriations. They had agreed to that.

Mr. NUNN. The second question I would ask on the 302(b), is that the form 302(b)?

Mr. DOMENICI. They are more than B's. He is referring to some others and I believe we can help the floor managers with that and we will do that before the day is out.

Mr. NUNN. I would be delighted from our side to do everything we could to make sure we are in technical compliance, but I have to raise the question, we brought our bill out, it was already out of committee long before we had a budget resolution. That meant that we had already gone through the subcommittee markups, the subcommittees had already reported to the full committee. The full committee had already acted. The full committee reported to the Senate. The bill is pending on the Senate floor. Now, what substantive sense would it make to go back after we got a budget resolution and give subcommittees direction when we had already gone through the whole process? That would have been a useless exercise. And again I want to comply technically, but I see that as no substantive meaning at all.

Mr. HATFIELD. Will the Senator yield at this point? The Senator is enunciating the very frustration that beset the Appropriations Committee from the very beginning and I am glad to welcome the frustration.

Let me just say we cannot draw a distinction between technical and substantive violations for the simple reason we had to go through the process——

The PRESIDING OFFICER. Under the unanimous-consent agreement, the time of the Senator from New Mexico has expired. The Senator from Florida is now recognized for 5 minutes.

Mr. GOLDWATER. Parliamentary inquiry.

Mr. CHILES. I yield back my time.

The PRESIDING OFFICER. The Senator from Florida yields back his time?

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Under section 300 of the Budget Act, on what date is the action on the concurrent resolution due to be completed?

The PRESIDING OFFICER. April 15.

Mr. GOLDWATER. April 15. One more question, Mr. President. Let me write that down before I forget it. Under the Congressional Budget Act, what effect upon the points of order discussed here today does the failure to complete the concurrent resolution on the budget on April 15 of this year have?

The PRESIDING OFFICER. It has no effect.

Mr. GOLDWATER. It has what?

The PRESIDING OFFICER. It has no effect.

Mr. GOLDWATER. Well, Mr. President, I raise those points because I am getting a little bit tired, as the chairman of the committee, of year after year after year completing our work when we are supposed to complete it and the Budget Committee never is ready.

Now, I think we ought to change the budget setup because we are not getting anything done under it. We have been ready since May, late May. Then we had to change everything because the Budget Committee said we were wrong. We changed everything. Then we had to change it again because they said we were wrong again. We are either going to straighten this out or you are going to have the Budget Committee running the Senate. I just repeat I am getting a little tired of this committee working its tail off and other committees sitting down doing nothing.

AMENDMENT NO 2627

(Purpose: To provide for a report by the Secretary of Defense on the impact of the new interpretation of the Administration concerning the Anti-Ballistic Missile Treaty)

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. I send an amendment to the desk on behalf of myself, Mr. QUAYLE and Mr. WILSON and ask it be stated.

The PRESIDING OFFICER. Does the Senator ask unanimous consent to set aside the pending amendment?

Mr. WALLOP. The Senator regrets that oversight and does.

Mr. DANFORTH. Reserving the right to object——

The PRESIDING OFFICER. The Senator from Missouri reserves the right to object.

Mr. DANFORTH. Mr. President, I am not going to object but I was wondering, if I could have the attention of the managers of the bill, if they have any intention with respect to a unanimous-consent request perhaps putting in sequence some future amendments so that Senators could be alert when their time at bat will come.

I and several Senators will have an amendment relating to defense spending for the NASA Program, and I think there are about four or five Senators who would like to speak on behalf of the amendment. I was wondering if we could have some idea of a time agreement when they would be on the floor.

Mr. GOLDWATER. If the Senator will yield, the Senator can have the next opening for the amendment. As soon as the Senator from Wyoming is through, get your act on the road.

Mr. DANFORTH. All right. I wonder if the Senator would yield for a unanimous consent request?

Mr. NUNN. Mr. President, will the Senator yield? It really does not matter to me what amendment comes next, but I do think we have an opportunity—the Senator from Massachusetts talked to us a few minutes ago about bringing up the comprehensive nuclear test ban amendment that he has, and he has, I believe, advised that he would be willing to take 1 hour with equal division. Is it my understanding the Senator from Missouri would be willing to take 1 hour equally divided also on his amendment?

Mr. DANFORTH. That is correct. Would the Senators decide which one would go first because if we could set both of those up we would be able to move very rapidly.

Mr. DANFORTH. It would be fine with me if the Senator from Massachusetts would go next after the Wallop amendment and if we can be recognized after that.

Mr. LAUTENBERG. Mr. President, reserving the right to object to that unanimous-consent request, there are others of us waiting with amendments as well, and to stand here while time is divided between two Senators is in my view not an appropriate way to distribute the time. We are looking for recognition. People are waiting on the floor. I have been prepared, as the Senator from Georgia knows, since last night to claim my time. But I do not want to stand by here while it is divided by others.

Mr. NUNN. I understand the point of the Senator. That is why we have the Chair and every Senator will have to get recognition. We cannot recognize any Senators. We would like to get unanimous consent if it is possible on both of those. Does the Senator from New Jersey have any time in mind for a possible unanimous consent on his?

Mr. LAUTENBERG. I would be content to have a half an hour, 15 minutes on each side.

Mr. NUNN. I would say to the chairman, we have three possibilities of unanimous consent agreements here. If we can work them out, as far as I am concerned, the sooner the better.

Mr. DANFORTH. Mr. President, I would be prepared to go third in that sequence. That is fine with me. All I wanted to know is if we could get some idea of where we are in the sequence so that the Senators who are concerned with the NASA amendment could be prepared. If we could lock up a unanimous-consent request now, which would include the NASA amendment, I would be most appreciative. One hour equally divided would be sufficient.

Mr. NUNN. I would suggest while we have the Senators on the floor that we propound each unanimous consent request without regard to which one would take priority and the Chair will have to decide that matter or the Senators can decide themselves. The Senator from Missouri is at least willing to have unanimous consent for 1 hour equally divided.

Mr. DANFORTH. Yes.

Mr. NUNN. Mr. President, I ask unanimous consent that the amendment of the Senator from Missouri concerning NASA allocations——

The PRESIDING OFFICER. The Chair will announce that there is a unanimous-consent request from the Senator from Wyoming pending to lay aside the pending amendment so we can consider the amendment of the Senator from Wyoming.

Mr. NUNN. I have no objection to that.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from Wyoming?

The Chair hears none, and it is so ordered.

□ 1700

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] for himself, Mr. QUAYLE and Mr. WILSON, proposes an amendment numbered 2627.

Mr. WALLOP. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object, I might not object if the Senator could give us the basic substance of the amendment.

Mr. WALLOP. I will be happy to respond.

My amendment deals with asking the Defense Department to file a report with the Senate by the 1st of February of next year asking them to tell us——

Mr. KENNEDY. I have no objection.

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

The amendment is as follows:

At the end thereof, add the following:

SEC. . REPORT ON THE ANTI-BALLISTIC MISSILE TREATY.—The Secretary of Defense shall, not later than February 1, 1987, transmit to Congress a report concerning the impact of the less restrictive interpretation of the Anti-Ballistic Missile Treaty. Such report shall include, but not be limited to the following:

(1) an analysis of the ramifications of the less restrictive interpretation on the development under the Strategic Defense Initiative program, of strategic defenses, including comprehensive strategic defense systems, and more limited defenses designed to protect vital U.S. military and command and control assets, based on "other physical principles". This analysis should compare research and development programs pursued under both the restrictive and less restrictive interpretations of the ABM Treaty, including a comparative analysis of—

(A) the overall cost of the research and development programs

(B) the schedule of the research and development programs, and

(C) the level of confidence attained in the research and development progams with respect to supporting a full-scale engineering development decision in the early 1990's; and

(2) a list of options under the less restrictive interpretation of the ABM Treaty that meet one or more of the following objectives: (a) reduce the overall development cost, (b) to advance the schedule for full-scale engineering development decisions, or (c) to increase the level of confidence in the results of the research by the original full-scale development date.

Mr. WALLOP. Mr. President, I ask unanimous consent that it be in order that the unanimous-consent request on the three amendments that have been mentioned, if possible, be propounded now.

Mr. NUNN. I thank the Senator from Wyoming.

Mr. President, I ask unanimous consent that the amendment of the Senator from Missouri concerning NASA funding be given a 1-hour time limit, with the time equally divided.

Mr. DANFORTH. And no amendments.

Mr. NUNN. And no amendments thereto.

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

Mr. NUNN. Mr. President, I ask unanimous consent that the amendment of the Senator from New Jersey be allocated 30 minutes, 15 minutes on each side, equally divided, with no amendments thereto.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Mr. President, I may withdraw that objection if the Senator will tell us what the context of the amendment is.

Mr. LAUTENBERG. It has to do with the wearing of religious apparel in the military.

Mr. WARNER. Mr. President, would the Senator from New Jersey and the ranking minority member consider adding time? There are speakers on our side who wish to address this issue. I do not know how many there are and what time would be consumed. I would think an hour would adequately protect the interests on this side.

Mr. LAUTENBERG. I have no objection.

Mr. NUNN. Mr. President, I propound another unanimous-consent request; that the amendment of the Senator from New Jersey be allocated 1 hour, with time equally divided between the proponents and the opponents, with no amendments in order thereto.

The PRESIDING OFFICER (Mr. MCCONNELL). Is there objection?

Mr. LEVIN. Mr. President, reserving the right to object, will the Senator

modify that to allow for one germane amendment that I may wish to offer?

Mr. NUNN. I defer to the minority leader.

Mr. LEVIN. On the same subject.

Mr. BYRD. Mr. President, there is a little difference between germaneness and relevancy. I am just stepping into this. I do not know anything about the amendment, the identification of it. I simply want to be sure that the managers have some identification of the amendment, so that all Senators will realize what they are entering into.

I merely suggest to my distinguished friend that if we can get identification of the amendments and if he can continue, as he is doing, to get agreements that no amendments be in order, unless they are identified or germane, it would be fine.

Mr. LEVIN. The amendment I would offer would be on the same subject and would be germane.

Mr. NUNN. It would be about religious apparel?

Mr. LEVIN. Yes.

Mr. NUNN. Does the Senator from Virginia have any objection?

Mr. WARNER. No.

Mr. NUNN. Mr. President, I amend my request so that one amendment would be in order, and that would be the amendment by Senator LEVIN, which would be germane and on the same subject.

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

Mr. NUNN. Mr. President, I seek the attention of the Senator from Virginia on the next request. There might be a problem with this request.

The Senator from Massachusetts has an amendment—and I understand the Senator from Massachusetts will confirm this—which has to do with the comprehensive test ban, ratification of the Threshold Test Ban Nuclear Explosion Treaty.

Mr. President, before I propound a request, it would be my intention to propound a unanimous-consent request for 1 hour, equally divided, with no amendments being in order.

Mr. WARNER. Mr. President, we would have to object. However, I wish to consult the distinguished chairman of the Foreign Relations Committee, who will handle the debate, instead of the Armed Services Committee. So we will endeavor to consult them. My understanding is that he would object to any time agreement.

Mr. NUNN. Perhaps we could find out what the content of the amendment would be; and if the Senator from Massachusetts would not object and there were no objections, we could agree on one amendment and specify what the amendment would be.

Mr. WARNER. My suggestion is that the staff work with the staff of the Foreign Relations Committee and see if they can contact the chairman.

Mr. KENNEDY. Mr. President, I hope we can work something out on this. I will be glad to enter into whatever time agreement we can.

I indicated to the ranking minority member last evening that we are prepared for an hour of consideration, evenly divided. At that time, there appeared to be no objection to it. But I understand that Members might want to be assured of adequate time to discuss the issue.

While unanimous-consent requests are being made, I hope the manager and the minority floor manager would recognize that on the amendment I will offer on Davis-Bacon and the service contract provisions that are in the bill, which have little if anything to do with the defense authorization, I also would be prepared to enter into a time agreement of an hour, so that we could expedite the whole consideration of the defense authorization bill. I want to make that public.

There may be some objection to it, but I want to indicate a willingness to work with the floor managers of this bill, to see if we can get this agreed to in a timely fashion.

Mr. NUNN. I think it would be very helpful if we could get a time agreement of an hour on both of those, and I will work toward that end. I will withhold any unanimous-consent request at this time.

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

Mr. WALLOP. Mr. President, I believe the Senator from Wyoming has the floor and yielded——

Mr. NUNN. I yield the floor.

Mr. GRAMM. Mr. President, will the Senator from Wyoming yield to me briefly, to respond to the Senator from Massachusetts?

Mr. WALLOP. The Senator yields for the purpose of one response. The Senator from Wyoming does not wish it to take place over his amendment.

Mr. GRAMM. I thank the distinguished Senator from Wyoming.

I would be happy to enter into a unanimous-consent agreement on an amendment relating to Davis-Bacon and a separate unanimous-consent agreement on an amendment relating to the Service Contracting Act. I would be happy to allow the distinguished Senator from Massachusetts to set any time limit he sought.

I will not enter into a unanimous-consent agreement and will object to any unanimous-consent agreement with respect to a time limit on an amendment that considered both items at once.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. DANFORTH. Mr. President, will the Senator yield for about 15 seconds?

Mr. WALLOP. I yield 15 seconds to the Senator from Missouri, without losing my right to the floor.

Mr. DANFORTH. Mr. President, I ask the Senator from Georgia and the Senator from Virginia, with respect to the two amendments on which there are time agreements, is there any possibility of determining—I would have to come second. In other words, after the Wallop amendment is disposed of, would it then be in order to recognize the Senator from New Jersey, let him deal with his amendment, and then deal with the NASA amendment, in that sequence, so that we will not have to sit around the floor, scrambling for recognition?

Mr. NUNN. That is fine. I hesitated to propound that unanimous-consent request, because then we would have to see who was recognized. I hope the Senators can work that out.

Mr. DANFORTH. Mr. President, I ask unanimous consent that after the disposition of the Wallop amendment, Senator LAUTENBERG be recognized; that his amendment be disposed of; that subsequent to the disposition of the Lautenberg amendment, I be recognized, and that the NASA amendment be in order.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. We have no objection, except that I understand there may be an amendment to the amendment of the Senator from New Jersey, in which case that should be incorporated in this unanimous-consent request.

Mr. DANFORTH. I think it is incorporated. That is understood.

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

□ 1710

The Senator from Wyoming.

Mr. WALLOP. Mr. President, the amendment which I sent to the desk is really simple and I believe noncontroversial. It has been cleared with the distinguished managers of the bill.

The amendment would simply require the administration to report to Congress by February 1, 1987, on how current SDI programs would be impacted by or reconstructed under the new interpretation of the ABM treaty.

My colleagues are all certainly aware that in October of last year, the administration announced that after a thorough review of the ABM Treaty negotiating history, their judgment was that a broader interpretation of what is permitted in the area of research and development and testing of ABM systems or their components was justified. They then decided that even though this new, broader interpretation was legally valid; the United States would adhere strictly to the narrow interpretation.

My amendment does not prejudice in any way the question of which interpretation is more valid or whether

the United States should be adhering to one or the other. It is simply informational, designed to see what we would do differently under the new interpretation, specifically, how the new interpretation might effect the cost and time schedule of and technical confidence in the SDI Program.

Mr. President, it seems to me that we in Congress need to know how this new interpretation effects the SDI Program, and more important, that the American people have a right to know. I expect that this amendment will not require a rollcall vote and I hope that all Senators will support it, particularly since we have had a letter at DOD since last October requesting precisely this information. If they have not examined the issue they should. How else can we make policy decisions if the consequences of choices remain unknown to us?

Mr. President, it is my understanding that the distinguished floor managers of the bill have reviewed and accepted this amendment and I would ask them if that understanding is correct, and, if so, I am prepared to ask for the question on the amendment.

Mr. WARNER. Mr. President, I apologize for being away from my desk momentarily.

I say to my distinguished friend from Wyoming that his amendment is acceptable to this side and I wish to commend him for it.

It is a subject which we have dealt with from time to time in the Armed Services Committee hearings and it is an important body of fact which should be brought to the attention of the Senate within the time frame as provided in the amendment.

Mr. WALLOP. I appreciate that.

It is my understanding that the distinguished minority floor manager is of the same view.

I thank him and his staff for working with me on the language of the amendment in addition to that of the majority.

Mr. WARNER. Mr. President, I apologize to my colleagues. I was looking for a copy of the amendment which I had not received.

Mr. NUNN. I intend to support the amendment. We have a couple of copies floating around here and I want to make sure that the one at the desk is the one we have.

The amendment in front of me has section (A) which reads "the overall cost of the program including the research program and future development programs."

Mr. WALLOP. The Senator is correct.

Mr. NUNN. That is the correct amendment.

Mr. WALLOP. It is the last one the manager and majority staff had.

Mr. NUNN. The cost is in there.

Mr. WALLOP. Yes.

Mr. WARNER. Again we indicate acceptance on this side.

Mr. NUNN. Mr. President, I am sure I have been given this amendment from the desk, and I believe that perhaps inadvertently, I am sure inadvertently the word "deployment" cost has been left out.

Mr. President, I am told the amendment at the desk is the amendment we have looked at and, therefore, I urge its adoption.

Mr. WALLOP. Mr. President, I call for the question on the amendment.

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

The amendment (No. 2627) was agreed to.

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

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, I particularly thank the distinguished floor managers and their staff. They have been cooperative in trying to seek the information which the Senate approved.

AMENDMENT NO. 2628

(Purpose: To permit members of the Armed Forces to wear, under certain circumstances, items of apparel not part of the official uniform)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] for himself, Mr. D'AMATO, Mr. KERRY, Mr. WILSON, Mr. SIMON, Mr. BOSCHWITZ, Mr. SPECTER and Mr. GRASSLEY proposes an amendment numbered 2628.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 229, between lines 14 and 15, insert the following new section:

SEC. 1221. WEARING RELIGIOUS APPAREL NOT PART OF THE OFFICIAL UNIFORM.

(a) IN GENERAL.—Chapter 45 of title 10, United States Code, is amended—

(1) by redesignating section 774 as section 775; and

(2) inserting after section 773 the following new section:

"§ 774. Wearing religious apparel

"(a) Except as provided in subsection (b), a member of the armed forces may wear an item of religious apparel if—

"(1) the wearing of that item of apparel is part of the religious observance of the religious faith practiced by the member; and

"(2) the item of apparel is neat and conservative.

"(b) The Secretary concerned may prohibit a member from wearing an item of religious apparel if the Secretary determines that the wearing of such item significantly interferes with the performance of that member's military duties.".

(b) CONFORMING AMENDMENTS.—The table of chapters at the beginning of such chapter is amended—

(1) by redesignating the item relating to section 774 as 775; and

(2) by inserting below the item relating to section 773 the following new item:

"774. Wearing religious apparel.".

Mr. LAUTENBERG. Mr. President, today I am offering an amendment to permit the wearing of neat and conservative religious apparel in the military. Under my amendment, such apparel would be permitted only if it does not significantly interfere with the performance of military duty.

This amendment tracks S. 2269, legislation I introduced earlier this year with Senator D'AMATO in response to the Supreme Court's 5 to 4 decision in Goldman versus Weinberger. Language identical to this amendment has already been incorporated into the House version of the Department of Defense authorization bill. In Goldman, the Court held that the military's perceived need for uniformity of dress, and for discipline, overrode the first amendment right of an Orthodox Jewish serviceman, Dr. Goldman, to fulfill his traditional Jewish obligation by wearing a skullcap. Our amendment would permit Dr. Goldman to serve his country while at the same time allowing him to remain true to his religion. And it would permit others like him, of whatever faith, to do the same.

This amendment, and this issue, is broader than any one religion. It concerns the right of people of all faiths to serve their country without having to forsake their religious beliefs and practices. It would affirm the religious and ethnic diversity that have made America strong, not weak.

The primary philosophical objection to this amendment has been that wearing visible items of religious apparel may threaten the military uniformity necessary in building unit cohesion. While I appreciate and agree with the importance of unit cohesion and esprit de corps in the Armed Forces, I do not believe that wearing neat, conservative and unobtrusive religious apparel threatens this principle.

To the contrary, it would strengthen morale by affirming that the military is a humane and tolerant institution. And as Justice Brennan made clear in his moving dissent to the majority opinion in Goldman, allowing religious apparel to be worn with a U.S. military uniform is an eloquent reminder that the shared and proud identity of U.S. servicemen embraces and unites religious and ethnic pluralism.

Although uniformity is claimed as an important value, the services easily permit other manifestations of reli-

gious diversity. Service members attend Christian, Islamic, Jewish and other religious services. Barracks mates see Mormons wearing temple garments and Catholics wearing crosses and scapulars. It is obvious that our services are made up of people from different faiths and ethnic backgrounds and that diversity is America's greatest asset. It is no secret, nor should it be.

Further, I should point out that the record here and abroad on the wearing of religious apparel support my position. In the Goldman case, for example, it was established that Captain Goldman himself, as well as many other members of the armed services, had worn skullcaps for many years in the military service without any apparent disruption, difficulty, or adverse impact on military effectiveness.

□ 1720

And the dissenting justices—and I remind you that there were four—pointed out there was no evidence in the record that the discipline of the Armed Forces would be subverted if Orthodox Jews are allowed to wear skullcaps with their uniforms, nor did the Air Force offer any basis for such a contention as a general proposition.

Further, for years, our Army accepted Sikhs and allowed them to wear their turbans for decades. It still allows them to reenlist under those conditions. Would an Army that believed that the wearing of turbans impaired morale permit these Sikhs to enlist year after year? Obviously, I think not.

The Army has stopped enlisting Sikhs since its lawyers voiced concern that if the Army tolerated Sikh turbans, it would have to allow saffron robes as well. So in changing its enlistment policy toward recruits who wear turbans as a matter of religious practice, the Army was objecting not to turbans, but to saffron robes. It is my position that the wearing of robes might interfere with the performance of military duty, and would therefore probably not be permitted under the terms of this amendment. However, that would be a decision left for the services to make in the first instance, as would all decisions under this amendment.

There is ample evidence from other countries that wearing religious apparel does not interfere with the fighting spirit of the military unit. The Israeli Defense Forces, for example, have many servicemen who go into battle, distinguishing themselves, wearing skullcaps. After successes in four separate wars, it is hard to argue that the yarmulke in any way interfered with their ability to wage successful war.

Furthermore, research by the Congressional Research Service indicates that in Canada, New Zealand, and India, Sikh and Jewish soldiers are permitted to wear their religious headwear and their religious artifacts with other standard items of clothing.

In the United Kingdom, Sikh members of the services are permitted to wear turbans, and to keep their hair long, if they choose. And we are not advocating that. And the Queen's Regulations for the Royal Air Force, which generally require all personnel to remove their headdress while on duty before a judge or magistrate, specifically exempt members of the Jewish faith or other religions which require the head to be covered on solemn occasions.

Our own experience, and that of other countries on this question speaks for itself. There is simply no evidence that the wearing of visible religious apparel interferes with uniformity or unit cohesion.

Our citizens in uniform should not be deprived of their basic constitutional rights, such as the free exercise of religion, the minute they enter the military. There must be a compelling and supportable argument justifying such a prohibition. None has been made.

Some of the services have argued that the neat and conservative standard will be hard to apply, forcing them to make delicate and difficult distinctions between religious garb. But the services have a successful record of using the neat and conservative standard to distinguish acceptable from unacceptable jewelry. If we can make this distinction for neat and conservative jewelry, why can't we make it for religious apparel.

Certainly, the wearing of apparel central to the practice of one's religious beliefs is more important and worthy of review than the wearing of jewelry. The Air Force permits the wearing of up to three rings and one identification bracelet of neat and conservative but nonuniform design. This jewelry is permitted even if, as if is often the case with rings, it associates the wearer with a denominational school or a religious or secular fraternal organization. These items are not deemed to be unacceptably divisive. I cannot see why religious apparel that is neat and conservative would be.

In closing, I want to emphasize, once again, that this amendment is not confined to the wearing of skullcaps, but addresses the wearing of any item of apparel that is part of the member's religious observance. The amendment states, "In order to preserve constitutional rights to the free exercise of religion, a member of the Army, Navy, Air Force or Marine Corps may wear any neat and conservative item of apparel if the wearing of such apparel is part of the religious observance of the member, unless the wearing of such apparel significantly interferes with the performance of the member's military duties."

I urge my colleagues to approve this amendment so that the practice of religion and service to one's country need not be in conflict.

Mr. President, I ask unanimous consent to add Senator GRASSLEY as a cosponsor.

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

Mr. SIMON. Will the colleague yield?

Mr. LAUTENBERG. I yield to my distinguished colleague from Illinois.

Mr. SIMON. Mr. President, I simply want to rise and support this amendment. Back when I was in the Illinois general assembly, I found myself sponsoring the amendments that accommodated religious minorities—Seventh-Day Adventists, Christian Scientists, Jehovah's Witnesses. In the process, I learned a little more about the diversity that is America, that makes America rich.

One of the things we ought to do is to accommodate religious diversity and go out of the way to do that. I think this is a very, very small gesture in the right direction.

I strongly support the amendment. I commend my colleague from New Jersey for offering this amendment.

Mr. LAUTENBERG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. Mr. President, this is something that should never be allowed by the Congress of the United States. Now, the purpose of this is to permit military members to wear religious apparel in uniform if it is part of a religious observance of a faith practiced by the member and is neat, conservative, and unobtrusive.

Well, let us stretch that a little bit. Let us say the man is a Moslem. Would he be allowed to wear all the dress and gear of the Moslems? Suppose he is a Hopi Indian? They like to wear a red band around their head. That is religion, too. It may not be our religion, but it is religion.

The headdress, the feather headdress of many of the Indians in this country, that is religious. It is not just on there for ornamentation.

And then, if you are stretching it far enough, you might see someday a man in kilts. It is hard to relate that to religion, but it probably could be done.

Mr. President, one of the great things about the service is the uniform. It is the pride of the man who is wearing that uniform that does more to create the strong morality of our Armed Forces than anything else.

I might say, Mr. President, that when we allow uniforms to become sloppy, when we allow the shoes to be

unshined, when we allow them to disregard the uniform dress codes, then we begin to see the breakdown of morality and we begin to see the breakdown of the Armed Forces.

The Supreme Court, of course, has held in Goldman versus Weinberger, that the Orthodox Jewish Air Force captain had no first amendment right to wear the yarmulke in military uniform and that military uniform regulations do not violate constitutionally guaranteed rights.

Military uniforms have that name because they are to be uniform. That is why each of the services has a different uniform. The Air Force wears blue. The Army wears green. The Navy wears blue. This has been done down through the 200-odd years of our history. Never before has there been suggested the idea that we could have a difference in the way different members of the armed services dress.

The military uniforms have that name because they are to be uniform. And, as I said earlier, studies have identified failure to enforce and require uniform dress and appearance in military as being a major source of discipline problems. And, Mr. President, I can tell you, as one who has served, along with many other Members of this body, in the military, that this is one of the first things we recognize. You look at an outfit where they allow sloppiness, then it is a bad outfit. I am not saying the same thing would apply if a man wore a religious object.

□ 1730

What I am getting at is if you allow men or women in the services to wear one type of differentiation in their uniform, it is not going to be long before they are wanting to get in on the act. I probably will be criticized very loudly. I happen to be half Jewish. But I do not go around wearing half of this and half of that. I want to wear the uniform of my country. That is what I am proud of. I am proud of my religion. I happen to be Episcopalian. I am also proud of being half Jewish. I do not think this is any time or place for us to be arguing whether or not we allow differences in the uniform. The amendment would require military commanders to become judges of appropriate military apparel such as caps, armlets, turbans, beards, hair tufts, daggers, face coverings for females.

I think it will lead to endless unnecessary litigation involving Armed Forces and their individual members. A survey as part of the study indicate there could be a substantial negative response among Armed Forces members if visible uniform exceptions were to be made.

Mr. President, I have to oppose this as strongly as I can. I do not think to vote no would indicate any antireligious feeling. I do not think voting for it is voting for a strengthening of our Armed Forces. If you are not happy in uniform, get out of the uniform. Join something else. If you are unhappy because you cannot wear a red button, get out, join something else. If you are unhappy because you cannot wear a religious item, you do not have to stay in the outfit. Get someplace where you can be happy. I feel very strongly about this, Mr. President.

I devoted too many years of my life to the military to idly stand by and watch something like this start the deterioration of our uniforms. I also consider myself to be a rather religious man. But I can see no connection between religion and the wearing of a uniform.

I yield the floor.

Mr. SPECTER addressed the Chair.

THE PRESIDING OFFICER. Who yields time?

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I support the amendment on the grounds that it sets forth a reasonable and limited standard under which there may be a limited wearing of a religious item like the yarmulke without unduly interfering in any way with the military function. When the Supreme Court of the United States decided in a 5-to-4 decision that the conduct was not covered under the first amendment, that in no way reached the issue whether it would be appropriate for the Congress of the United States to consider the matter as a matter of public policy for legislation in this body.

The distinguished Senator from Arizona comments that this is not the time or place to consider the matter, and I disagree respectfully, but I disagree. I think that the decision by the Supreme Court of the United States is not a correct decision. When those nine Justices decide a case, five come up on one side and four on the other. It is a hairline difference of opinion as to whether the first amendment properly accepted this conduct within the ambit of freedom of religious expression.

But that is not at all the same issue as whether it is a matter of public policy that the Congress ought to say that the wearing of an item like the yarmulke is acceptable. It is, after all, for the Congress of the United States to establish the rules governing the military course of the United States. That is our promise.

We are today considering the Department of Defense authorization bill. We decide what the Department of Defense should do, what its numbers should be, what its organization should be, what its weapons should be, and what its dress should be. So this is particularly and peculiarly a matter within the ambit of congressional decision.

When the distinguished Senator from Arizona talks about a breakdown of morality, Mr. President, I suggest exactly the contrary. Where you have people who are religious and who care sufficiently about a religion to undertake a certain kind of dress or garb, that is a firm showing of morality. I think the morality of that individual would be enhanced, and to the extent that it is a concern for the discharge of military responsibility, it would be a plus and not a minus.

Mr. President, I do not believe that there would be any undue trend toward very extreme situations if this legislation were to pass. If there were to be a head dress, if there were to be a turban, that might not be so bad. Certainly, when you consider what is meant by the yarmulke, a very small skullcap, that does not interfere with the ability of some of the military to perform their service.

The case at hand which led to the Supreme Court decision involved a doctor who chose to wear a yarmulke under those very limited circumstances.

Mr. President, I think there is a feel, a tone, a sense that arises from this Supreme Court decision which really goes beyond the items which we have talked about today. And that is a feeling that for a limited dress and a limited item a man or a woman ought to have the latitude to have that particular item of apparel. I think it is a sound approach, certainly within the purview of the Congress, to make a decision. I do believe it is an appropriate action for us to take. That is why I support the amendment as offered.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER and Mr. LAUTENBERG addressed the Chair.

Mr. WARNER. Mr. President, I am happy to yield.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WARNER. At some point in time I would like to address this issue.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. I yield time.

Mr. LEVIN. I ask for 5 minutes if the Senator from New Jersey will yield.

Mr. President, I rise in support of the amendment of the Senator from New Jersey, and ask unanimous consent that I be added as a cosponsor.

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

Mr. LEVIN. Mr. President, this is obviously an issue of a sense of vision, one I think all people of good will would like to try to resolve. But the facts are that very few of our military people are of the Orthodox Jewish faith. We have a proportionate per-

centage of our military that are Jewish, but most of the members of the Jewish faith are reformed and conservative Jews or reconstructionist Jews. They do not have this requirement of wearing the small skullcap when they are indoors. But those of the Orthodox Jewish faith have this religious requirement. What is important for all of us to remember is that this requirement has always been accommodated in the American military. And I say this again because it seems to me that this is the critical fact.

This religious need has always been accommodated in the services. Orthodox Jews died in World War II with their skullcaps on; that is, if they were killed indoors and if they were the victim of a shelling. There is no requirement to wear the skullcap when outdoors. It is only indoors that there is a requirement to have your head covered. This skullcap has been so unobtrusive that it has not even been noticed by most people. I have checked with Jewish chaplains, and have checked with my own military adviser on my staff who is a retired Army colonel. They all say Orthodox Jewish soldiers indoors have always worn skullcaps. They have been unobtrusive, never noticed, and accommodated in a pluralistic society.

What is changed is not a sudden desire to wear the skullcap. That has not changed. That is thousands of years old. What has changed is that we have a Supreme Court opinion which says that the abstract prohibition on wearing skullcaps is constitutional. That is not the issue. The issue is whether we can accommodate something which has been traditional, which has created no problem and do so without doing a disservice to what my friend from Arizona correctly states is a requirement of military discipline. There is no doubt that we have to have discipline in the military. There is no doubt that we have to have uniforms.

□ 1740

We allow for minor deviations with rings. We allow for minor deviations with bracelets. This would not be a deviation from practice. The practice has been to allow the skullcap indoors because it has been unobtrusive and has created no problem.

The Defense Department did a study on this. That study, I think, is about 100 pages long. The one thing that it does not do is to ask people the very simple question: Has the wearing of skullcaps been allowed and, if so, has it created a problem? The answer is that it has been allowed and it has created no problem.

There is not a word in the study about common sense, practice, practicality, accommodation.

Has this been allowed? Have orthodox Jews in World War II, Vietnam, Korea, and in between been allowed to wear a skullcap which is unobtrusive when they are indoors?

The answer is yes. There has not been any problem.

We are creating a problem for ourselves, not because there is a new practice which is being sought, but because there is an abstract regulation which the Supreme Court has said is constitutional.

This can be accommodated without any violation of custom in the military, which has allowed it, and without any violation of the need for uniformity and discipline.

Our military services fight for a lot of causes, a lot of American ideals. One of those ideals that they fight and die for is American pluralism. That is one of the things our military is all about and that is one of the reasons they are there.

If my time has been exhausted, I might ask for 2 additional minutes.

Mr. LAUTENBERG. I would agree to that.

Mr. LEVIN. Mr. President, in a speech of President Reagan to a Baptist convention in 1984, he read from a letter from a Jewish chaplain who was present at Beirut when over 200 marines were killed. The chaplain described his experience. This was a chaplain who was wearing a small skullcap, took off his skullcap and used it to mop the brow of a wounded marine, and of his Catholic brother, a chaplain, who tore off a piece of his clothing, the Catholic chaplain's clothing, to replace the skullcap of the Jewish chaplain's head because the Catholic chaplain, Father Butarelli, wanted everybody to know that American soldiers were fighting for American pluralism. This demonstrates the pluralism of this society, this is what we were protecting in Beirut, and this is what is so different from what exists in many parts of the world.

That was a plus in Lebanon where they kill each other for religious differences. In this country, we fight to accommodate religious differences. My point is that we have done this for decades in the military; we have allowed these skullcaps to be worn in an unobtrusive way.

We have accommodated it, we have defended it, we have protected it, because this practice has been no problem. There has never been a problem.

We are creating a problem. We are creating a problem if we do not allow it. If we return to the draft, if we ever do, what do we say; Orthodox Jews cannot serve in the military? Do we want to say that, that Orthodox Jews cannot serve in their country's service? Does anyone here want to say it? I do not think anyone does.

The only way an Orthodox Jew can serve is if he is allowed to wear a skullcap indoors. It is his religion. We should not be excluding people unless there is a mandatory reason to do so. We do not have to exclude these people. We never have. I repeat. We never have. We have accommodated this religious difference without any difficulty. I yield the floor.

Mr. WARNER. Mr. President, it is with a great sense of reluctance that I stand in opposition to the amendment.

I first would like to recognize my two colleagues for having brought up a subject which I respectfully believe they feel very strongly about.

I have had opportunities in our enjoyable careers in the Senate to talk with the distinguished Senator from New Jersey about his military career during World War II, in the closing stages of that conflict when he was in Europe with the U.S. Army. I know he speaks not only from a sense of conviction that also a sense of pride, having served in uniform. He understands full well the practical difficulties that have been pointed out here today.

I would ask my distinguished colleague from Michigan about one point. I am searching my memory. This has been a learning experience for some of us here in the past half hour. I cannot recall whether or not the orthodox members of his faith wear that skullcap aboard ship, which technically is an enclosed area. I cannot recall in my Navy experience of having seen that. Does the Senator know that regulation?

Mr. LEVIN. I believe the practice is that if they are indoors, they do wear their skullcap.

Let me again assure my friend, who I know is extremely sensitive, who has shown sensitivity all his life, that this has been so unobstrusive, such a nonproblem, that it has never been noticed until the Supreme Court opinion approved an abstract regulation. Until then it was never a problem.

The Orthodox Jews have, on ship, indoors, worn either a hat or a cap. It does not have to be a skullcap. If they were not allowed under their military regulations to wear their military cap indoors, they have had a small skullcap, which was unobtrusive. No one has ever noticed.

Mr. WARNER. I point out to my distinguished colleague that while great emphasis was placed on wearing this particular issue of religious faith during a military career, would the Senator from Michigan wish to address other issues which have been raised here; namely, that other forms of religious issue could well be disruptive? Would the Senator care to address that question?

Mr. LEVIN. I think the critical issue here is the obtrusiveness. As the Senator from Arizona pointed out, and others have pointed out, it is important that we have a uniform. That is clear. And that any deviations from that uniform, such as a ring or brace-

let, be allowed. We allow for rings with religious insignia on them and we allow for bracelets, which are unobtrusive. The skullcap is so unobtrusive that very few people have noticed that it has been worn. And it only has to be worn inside.

Mr. WARNER. Indeed, the skullcap is unobtrusive. In my brief tenure in active service in World War II and Korea, I do recall seeing, even in the combat zone, the apparel described by the Senator.

However, being unobtrusive in that particular case, the commanding officer could presumably be faced with a series of requests and some of the religious apparel might not only be obtrustive but interfere with the conduct of military duties.

I recall so well one time in my experience in Korea an officer who had not been up to the frontlines came up and he was wearing a red scarf. He did it because he was of a high rank and he thought that would single him out.

It sure did. It brought in an incredible amount of battery fire on a lot of innocent persons who, fortunately, in this instance, were not hurt. I remember that particular man being tackled and thrown into a bunker and covered up by his comrades very quickly. That scarf was interpreted by the enemy looking to it that perhaps he was a generalissimo and they wanted to get him fast.

I point out that there are complications.

Mr. LEVIN. That is always true, that inaction can interfere with military duties. That is why the amendment does provide that this unobtrusive skullcap could be prohibited if it interferes with one's military duties. If this should be the case, there is no doubt that the military need must come first. There is no question about that, and you have to be able to prohibit even an unobtrusive skullcap if it interferes with one's military duties.

My friend from Arizona is correct. The military obligation and military duty have to come first. We have always accommodated this skullcap; that is my point. If it is inconsistent with discipline and duty, the skullcap has to go.

□ 1750

Mr. WARNER. Mr. President, if I may ask another question of the proponents. I go back to the prolonged and passionate debates on school prayer. I recall that certain Senators brought up the issue of peer pressure. I must confess, that was the most difficult issue I found in the debate on school prayer; namely, that members, and I think a lot of emphasis was put on the Jewish faith—would feel that they had to do certain things and that they would be singled out. In this instance, there would be a certain amount of peer pressure among the members of a religious group to conform to whatever one or two might have done. As such, they might feel obligated as an entire group or unit to wear the manifestation of their religious faith, perhaps against their better judgment, because of peer pressure. Am I raising the subject fairly?

Mr. LAUTENBERG. Mr. President, if I may respond to my friend and colleague from Virginia, I think they are unrelated for the most part because we talk about school prayer. Of course, we do not want to open up a debate on that.

Are we talking about something that says that all or the majority of the attendees have to observe?

In this case, the peer pressure, if any, would be on the individual who has the courage to wear that skull cap or to wear that unique identification that says, "Look, I am as good an American as anyone else is, I am proud of my religion and I do not think that wearing this, that, or the other, as long as it does not interfere with my duty, in any way detracts from my being a good soldier, a good sailor, or a good airman."

Both the distinguished Senator from Virginia and the very distinguished Senator from Arizona have great experience and I have too much respect for their concerns to deny that their observations would be significant. But what we have tried to do is make certain that there is ultimately a commanders decision someplace along the line that says, "If this interferes in any way with the performance of your duty, you are prohibited." The amendment clearly states that.

I also do want to respond very briefly. I served in World War II; I got to the rank of corporal. It took me a long time to get there. But I do remember, for the benefit of the distinguished Senator from Arizona, that there was an allowance even then for store-bought additions to the uniform. I could not afford it. I wore GI issue. I kept it neat, I kept it pressed, I kept my shoes polished. I was afraid of incurring the wrath of the platoon commander if I did not. I was very reserved.

I am not an Orthodox person and do not wear manifestations of my religion. But I served with those who did and they served as well as anybody in the unit. So I do not think it in any way breaks down morale, breaks down pride, eliminates the ability to have a cohesive fighting unit that knows what its job is.

As a matter of fact, as has been said several times here now, I think rather it asserts once again that we in America are of different lots. We have our uniform, we have our pride in our Nation; yet it never suggests at any time that we have to sacrifice our particular ethnicity or our religion.

I hope that we do not make decisions here based on a breakdown in the structure of the military units that we might be able to maintain discipline. I used the examples of other countries where they have good fighting people and they permit the obvious manifestations of religious affiliation. I hope that our colleagues will see this, as the Senator from Michigan has said, as a practice that has taken place over many years. It has never interfered with the performance of duty to our knowledge.

We preserve the right, again, for the field commander, for the service commander, for the Secretary to make those decisions and hope that we will be able to move ahead with this and assert that we support uniformity, cohesiveness, high morale, et cetera. At the same time, we believe that people have the right to see that their religious observance is carefully supported.

Mr. WARNER. Mr. President, we are all aware of the fact that our men and women in the Armed Forces serve throughout the world.

Regrettably, there are certain parts of this world that practice religious intolerance. My concern would be if we were to write this into law—I happen to believe there would be a certain amount of peer pressure connected with this were it to be written into law. We may have a disagreement, but I feel that way.

If members of a certain religious faith felt they were obligated, now that this would be a matter of law, to wear that religious apparel, it might well jeopardize that individual in certain parts of the world to bodily harm and injury and might very well associate that individual in the proximity of wherever he or she may be serving his position.

Does the Senator see that as a problem?

Mr. LAUTENBERG. I do not see that as a problem. I see it as a problem of the past, when we reinforce our belief that every one of our citizens is entitled to serve wherever we send them. We have had some unhappy moments when some of our purportedly friendly countries have said, "We don't want any American Jews sent here, whether they are members of the military or members of the diplomatic corps." There were some shameful moments when the United States agreed. But we had second thoughts. We have said time and again, "An American is an American is an American, whether he is a Jew or black or whatever, we are proud of them. If you want our friendship, you will take our citizens as 100 percent American citizens."

Frankly, I do not think it is a problem.

Mr. WARNER. If my friend will yield, I did not suggest it as a policy; I suggested it might be a problem. We have had young people going to parts of this world where there is religious prejudice and they might be subject to attack.

Mr. LEVIN. There are places where black Americans are not welcome in this world and nobody would tolerate our not sending black soldiers with white soldiers anywhere just because they might be subject to attack. That is not what we are all about in this country. We stand for something and our fighting people die for something. That is really what it is all about.

What is ironic here is that this is one of the rights that we are fighting to protect, the right to religious pluralism.

Mr. WARNER. Mr. President, I agree with the Senator on that point. I was not suggesting in any way——

Mr. LEVIN. Let me quickly say that I know the Senator from Virginia very well. The Senator is an extraordinarily sensitive person on this issue and however we resolve this issue, he is still a very sensitive person on this issue, as is our friend from Arizona and our other colleagues who have spoken or may speak. That is not the issue.

Mr. WARNER. Mr. President, I am prepared to yield back my time. My colleague from Georgia may wish to address this matter.

Mr. THURMOND. Mr. President, I would like a few minutes.

The PRESIDING OFFICER (Mr. HECHT). The Senator from South Carolina.

Mr. THURMOND. Mr. President, I have the greatest respect for the proponents of this amendment. However, I cannot agree with them on it. I rise in opposition to it.

The goal of this amendment is to overturn a Supreme Court ruling through legislation. The case in question is Goldman versus Weinberger, a 1986 decision.

If this amendment is adopted, we will be placing military commanders in a position of deciding which religions will have the benefit of the statute and which will not. This is wholly inappropriate.

The Department of Defense should never be put in the position of endorsing or rejecting specific religions, and this is exactly what will happen if this amendment is adopted.

Justice Stevens concluded in the ruling on Goldman versus Weinberger that the military services have "no business drawing distinctions between such persons of different religions when enforcing commands of universal application."

Mr. President, we may be opening the door for numerous more court cases because of the subjective manner in which this amendment would have to be applied should it become law. The military does not favor certain religions and the Congress should not force the military to do so. I urge my colleagues to oppose this amendment.

● Mr. D'AMATO. Mr. President, I rise today in support of the amendment offered by my good friend, the junior Senator from New Jersey.

This amendment corrects an injustice affirmed by a Supreme Court ruling in March of this year. The Supreme Court, in a 5 to 4 decision, ruled that the Department of Defense was within its rights in disallowing the wearing of a yarmulke indoors by military personnel. The case, Goldman versus Weinberger, involved an Air Force officer who, though serving as a psychologist, was an ordained Rabbi. As an Orthodox Jew, Capt. S. Simcha Goldman wore his yarmulke at all times. The Air Force insisted that this was not within regulations. The case eventually reached the Supreme Court. On April 8, we introduced legislation, S. 2269, to correct this situation.

Mr. President, the amendment offered today is a reasonable solution to this problem. It will amend chapter 45 of title 10 of the United States Code to allow the wearing of neat and conservative religious apparel. Specifically, the bill allows members of the Armed Forces to wear any neat and conservative item of apparel, if the wearing of such apparel is part of the religious observance of the member, unless the wearing of such apparel interfers with the performance of the member's military duties.

I note that there is similar language for the wearing of jewelry in the military.

I believe the Air Force and the Department of Defense interpreted too strictly the regulations that prevented Captain Goldman from wearing his yarmulke indoors. Indeed, the Supreme Court's less-than-unanimous decision on this case left much room for debate.

It is uncertain whether the Supreme Court would have affirmed the lower court's decision if Goldman had not joined the Air Force of his own choice.

This legislation would not only resolve cases involving the wearing of the yarmulke, but also allow military personnel of any religion to wear, within reason, appropriate religious apparel. I question whether we can afford to preclude a certain group within our society from voluntary military service because of their centuries-old legitimate religious beliefs concerning the wearing of certain type of religious apparel.

For this reason, Mr. President, I believe it is necessary for us to pursue a legislative solution. Obtrusive and possibly interfering apparel should not be allowed, especially if such apparel would hinder the effectiveness of the service man or woman. In addition, religious apparel should not hinder the effectiveness of other military personnel. This is straightforward legislation that further strengthens the right of freedom of religion in this country. Our Armed Forces should not be in the position of completely dictating what religious behavior is acceptable.

Mr. President, I urge my colleagues to support this important amendment.●

□ 1800

The PRESIDING OFFICER (Mr. QUAYLE). Who yields time?

Mr. WARNER. Mr. President, I yield to the Senator from Georgia such time——

Mr. LEVIN. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The Senator from Michigan does not control the time. Is the Senator from Virginia yielding?

Mr. WARNER. I failed to hear the remarks.

The PRESIDING OFFICER. The Senator from Michigan does not control the time.

Mr. WARNER. The Senator from Virginia controls the time of the opposition.

Mr. LAUTENBERG. Mr. President, I think I have time left on our side, is that so?

The PRESIDING OFFICER. The Senator is correct.

Mr. LAUTENBERG. How much time is there?

The PRESIDING OFFICER. The Senator has 6 minutes 48 seconds.

Mr. WARNER. Mr. President, I would be happy to yield to the proponents of the amendment such time as they may need from the time remaining of those in opposition.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. LAUTENBERG. The Senator from Virginia offered to yield time and if that is the case and the Senator from Michigan has asked for the floor——

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. I will take a moment as long as I have the floor.

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

Mr. LAUTENBERG. I ask unanimous consent that the senior Senator from New York [Mr. MOYNIHAN] be added as a cosponsor of this amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1810

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

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

Mr. LAUTENBERG. Mr. President, it is my understanding that the Senator from Virginia has agreed to yield time to our side, from the side of the opponents to the side of the proponents. Can we clarify that?

The PRESIDING OFFICER. The Chair states that the time allotted to the Senator from New Jersey has expired.

Mr. WARNER. Mr. President, the opponents are happy to yield such time as the proponents desire, to accommodate them.

The PRESIDING OFFICER. The opponents have 7 minutes and 25 seconds.

Mr. WARNER. Mr. President, I understand that there is a desire on the part of the Senator from Nevada to address this issue, and I would like to make certain of the amount of time he desires.

I ask the Senator from Nevada how much time he desires.

Mr. HECHT. Two minutes.

Mr. WARNER. I understand that the Senator from Georgia would like some time. Let us say 2 minutes to each Senator, and the remainder of the time, as a matter of courtesy, we yield to the Senator from New Jersey.

The PRESIDING OFFICER. Does the Senator suggest that as a unanimous-consent request?

Mr. WARNER. I do.

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

Mr. WILSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILSON. May I hear the request that is being propounded? I did not hear it.

The PRESIDING OFFICER. The unanimous-consent agreement has been entered into that allots 2 minutes to the Senator from Nevada, 2 minutes to the Senator from Georgia, and the remaining time to the Senator from New Jersey.

The Senator from Nevada is recognized at this time under that order.

Mr. WILSON. I wonder if the Senator from New Jersey might offer some of that time to the Senator from California.

Mr. LAUTENBERG. Depending on how much time.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 2 minutes, under the unanimous-consent agreement.

Mr. HECHT. Mr. President, I rise to speak in opposition to the amendment.

When one enters the Armed Forces of the United States, certain religious obligations are foregone—dietary laws, morning prayers, and the wearing of religious items. We adhere to the laws of our country and the Armed Forces. After duty, leave time, and so forth, are another situation.

I am Jewish. I served in the Army; I was proud to wear the uniform, which did not differentiate me from any other soldier of any other faith, and that is the way I always want it to be.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 2 minutes.

Mr. NUNN. Mr. President, I appreciate what my colleagues from Michigan and New Jersey are trying to do here.

This is one of those matters that never should have gone to court. Once you go to court, you get lawyers involved. Once you get lawyers involved, you have to define every word. Once you get a court decision that you want to overrule, you have to come to the legislative process. When you get to the legislature, which is Congress, you have to define every word.

We have an amendment here that has been thought out carefully. We have a phrase that says that the Secretary determines that the wearing of such items significantly interferes with the performance of the person's military duties.

Well, as a lawyer—and that is sometimes a disadvantage—let us strike out the word "significantly," and let us say that it does not significantly interfere with the duties but interferes with the duties. Where are we then?

We have the words "neat and conservative" here. I know what "conservative" means in the political context, although that is changing a great deal these days, but what does it mean with apparel?

Every time I go out of the house, I am critiqued by my daughter about my apparel. She may say it is not her style. I am not always sure about what young people are wearing—whether it is neat and conservative. To me, it is not.

We are putting the military commanders in the position of trying to make those judgments, and what we are asking for with this amendment is a tremendous amount of litigation. I would like to be able to accommodate this amendment, but it is difficult to do. I know it is a sensitive and tough subject, but I do not know how we can solve it with this amendment, and I have to reluctantly oppose the amendment.

The PRESIDING OFFICER (Mr. HECHT). The Senator from New Jersey controls 3 minutes and 10 seconds.

Mr. LAUTENBERG. Mr. President, I wish to address comments that have been made.

There is permission to continue to observe one's religious needs while one does serve in the service, including, on many occasions, the opportunity to have a dietary program that satisfies one's religious concern.

I cannot believe that it was the intention of either the Founding Fathers or those who today are in the administration of the military, those who command the troops, that one has to sacrifice one's religious beliefs, however that is manifested, to serve as a diligent member of the armed services.

I want that to be reflected in the RECORD; because it is a deep belief of mine that one can be a good, loyal, determined soldier, sailor, or airman without at any time having to make a decision between his belief and loyalty to his country and his belief and loyalty to his religion. They are never, in my view, in conflict.

I would like to respond to the comments of the Senator from Georgia. We know what conservative politics is; we do not know what neat politics is. But in the manuals, the reference to neat and conservative is just with reference to attire or appearance. That is a common term, as I understand it, in the military manuals, and there should be no problem defining that.

I have no further comments to make.

The Senator from California asked for some time.

How much time remains, Mr. President?

The PRESIDING OFFICER. One minute and 5 seconds remain.

Mr. LAUTENBERG. I am happy to yield 1 minute and 4 seconds to the distinguished Senator from California.

Mr. WILSON. I thank the distinguished Senator from New Jersey.

Mr. President, I do not think this imposes an insuperable burden on the service Secretaries. I think the standards are clear. They do give discretion. It is workable, and I think it is worth whatever effort is necessary on their part to assure that the fighting men and women of this country are permitted to be reminded of what they are fighting for in addition to their country, and it is the freedom of religious expression. It seems to me that that is worth whatever small burden attaches.

Mr. WARNER. Mr. President, with great reluctance, I move to table the amendment.

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

Mr. LAUTENBERG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is the e a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have

been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

□ 1820

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

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—51

Abdnor	Evans	McClure
Andrews	Exon	Murkowski
Armstrong	Garn	Nunn
Baucus	Glenn	Quayle
Boschwitz	Goldwater	Rockefeller
Broyhill	Gorton	Rudman
Burdick	Gramm	Simpson
Chafee	Harkin	Stafford
Cochran	Hatfield	Stennis
Cohen	Hecht	Stevens
Danforth	Helms	Symms
Denton	Hollings	Thurmond
Dodd	Kassebaum	Trible
Dole	Laxalt	Wallop
Domenici	Long	Warner
Durenberger	Lugar	Weicker
Eagleton	Mattingly	Zorinsky

NAYS—49

Bentsen	Hawkins	Mitchell
Biden	Heflin	Moynihan
Bingaman	Heinz	Nickles
Boren	Humphrey	Packwood
Bradley	Inouye	Pell
Bumpers	Johnston	Pressler
Byrd	Kasten	Proxmire
Chiles	Kennedy	Pryor
Cranston	Kerry	Riegle
D'Amato	Lautenberg	Roth
DeConcini	Leahy	Sarbanes
Dixon	Levin	Sasser
Ford	Mathias	Simon
Gore	Matsunaga	Specter
Grassley	McConnell	Wilson
Hart	Melcher	
Hatch	Metzenbaum	

So, the motion to lay on the table amendment No. 2628 was agreed to.

□ 1840

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The Senate will be in order. The Senate is not in order.

The Senator from Arizona.

Mr. GOLDWATER. Mr. President, it is now nearly 7 o'clock.

Mr. NUNN. Mr. President, the Senate is still not in order, and the Senator from Arizona is about to indicate some of the schedule for the evening. I think the Members would be interested if they would be a little cooperative.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. Will Senators please take their seats and staff take their seats in the back of the room?

The Senator from Arizona.

Mr. GOLDWATER. Some of those people in the back of the room ought to keep on moving back.

Mr. President, I want to try to help my colleagues decide about tonight. First of all, it is going to be a late night. It will be at least 11, and it will probably be past 12.

We had an opportunity to pass this bill today but once again, 1 more year, the military bill was made a catchall. We call it, out West, a hitching post for any rambunctious animal that wants to come along.

We have had today the Coast Guard, we have had drugs, and we still have labor provisions. We have not done much about the military of our country today. We do have, though, coming up next, an agreement to consider the NASA addition, which we only learned about this morning, and that has a 1-hour time limit. But that leaves us with antisatellite weapons, test ban treaty, labor provisions, independent director of operational tests and evaluation, and SDI-related amendments.

So, Mr. President, if we get to work, I think we might get through tonight. I would not bet a lot of money on it.

Let us move on to NASA.

□ 1850

Mr. NUNN. I concur. I think that we are making progress. We would like to get a very short unanimous-consent agreement on the remaining amendments. I have not talked to the junior Senator from Massachusetts about the antisatellite amendment, but I understand he is willing to enter into a time agreement. Perhaps during the next vote, we can make some arrangement on that one. That is one that could take a considerable amount of time. It would be very helpful if we can get a time agreement on that one.

I concur with the Senator from Arizona. I would hope that we could make a lot of progress tonight, if not finish.

Mr. DOMENICI. Mr. President, in light of the discussion that we had here on the floor about 1 hour ago with the distinguished chairman of the Appropriations Committee——

Mr. STENNIS. Mr. President, I am unable to hear the Senator. May we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, about 1 hour ago, we discussed here on the floor the pending bill and certain points of order under the Budget Act which might apply.

I would like to pose a parliamentary inquiry to the Presiding Officer about an amendment which I have filed.

Might I first ask, is the Chair familiar with the Domenici amendment which deals with limitations on new spending authority, entitlements, and direct spending in the Budget Act?

The PRESIDING OFFICER. The Chair is familiar with the amendment.

Mr. DOMENICI. Let me say to the Senate, the distinguished chairman of the Appropriations Committee quite appropriately asked about various points of order that might lie against this bill. At that point, I alluded to the amendment which the Chair indicated he was familiar with. I would like to pose a parliamentary inquiry to the Chair: If the amendment which the Chair is familiar with were adopted by the U.S. Senate, would there be any points of order under the Budget Act that lie against the pending measure?

The PRESIDING OFFICER. Since the amendment of the Senator from New Mexico would provide that direct spending authority provided in the bill be effective for any fiscal year only to such extent and in such amounts as are provided in an appropriations act, the adoption of that amendment would correct the defects under the Budget Act.

Mr. DOMENICI. I thank the Chair.

Let me say to the Senate that while I am certainly not the exclusive Senator in terms of making points of order, it is any Senator's privilege, I do intend at some point to offer an amendment to correct the Budget Act violations. It is my understanding that it would make the bill no longer subject to points of order. In the event the amendment is not adopted, I would clearly have to raise points of order.

While I have the floor, I want to insert one other thing in the RECORD.

We try our very best in the Budget Committee, and our staff does, to inform the various committees of a terribly complicated law requiring a lot of work by a lot of people.

I ask unanimous consent to insert into the RECORD a letter dated July 11, 1986, sent to the staff director of the Armed Services Committee by the director of the Budget Committee at my direction concerning sections 302(a) and 302(b). Attached to this letter was a committee printout to assist the committee in filing their 302(b) allocations.

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

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, July 11, 1986.

Mr. JAMES MCGOVERN,
Staff Director, Armed Services Committee, U.S. Senate, Washington, DC.

DEAR JIM: On Monday, July 14, the Budget Committee will file the allocations requried by section 302(a) of the Budget Act. These allocations are based on the budget resolution adopted on June 26, 1986. Generally, the section 302(a) allocations are included in the joint explanatory statement accompanying the conference report on the budget resolution. However, due to time constraints, the Committee obtained unani-

mous consent to file these allocations on July 14th.

As you know, the Budget Act also requires all Committees that receive an allocation under section 302(a) to file a section 302(b) allocation as soon as practicable after a resolution is agreed to. The purpose of this letter is to provide information that will help you prepare your section 302(b) allocations.

Section 302(b) requires Committees to subdivide their section 302(a) allocation for outlays, new budget authority, and new credit authority among subcommittees or programs within their jurisdiction. Under section 302(e), these allocations may be altered by the Committees at any time as long as the alterations are consistent with actions already taken by the Senate on legislation within the Committee's jurisdiction.

To assist you as you develop your section 302(b) allocation, I am enclosing a computer run that shows the conference agreement on the resolution for each budget account under your Committee's jurisdiction. These computer runs are provided for informational purposes only. Specific resolution assumptions regarding subcommittee or program allocations are not binding.

The Balanced Budget and Emergency Deficit Control Act of 1985 amended section 302 of the Budget Act with two new sections related to Committees' section 302(b) allocations.

Section 302(c) creates a point of order against any bill, resolution, or amendment that provides new budget authority, new spending authority, or new credit authority within the jurisdiction of a committee that has not filed its section 302(b) allocation. Section 302(f) creates another point of order against any bill, resolution, amendment of conference report that provides for budget outlays or new budget authority in excess of a committee's 302(b) allocation. A copy of section 302 as amended is enclosed along with the conference report on the FY 1987 budget resolution.

If you have any questions or if there is anything further we can do to assist you, please call me at 4-0769.

BILL HOAGLAND,
Staff Director.

Mr. DOMENICI. I do not make anything of this, other than I would like to have it in the RECORD so that at least my particular role would be shown here.

Having said that, I will not offer an amendment to cure the points of order until that point in time when the managers think it most appropriate. Then I will offer it and I hope they will support it.

Mr. NUNN. Mr. President, I want to respond briefly to the Senator from New Mexico. The Senator from New Mexico has been working very diligently with us trying to get these matters worked out under the Budget Act and we appreciate it very much. We think we are going to be able to work it out and we believe we are going to be able to accept the Senator's amendment which the Parliamentarian has acknowledged would eliminate the problems concerning the Budget Act and this bill.

We thank the Senator from New Mexico.

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri is recognized.

Mr. GOLDWATER. Will the Senator yield for a unanimous consent request?

Mr. DANFORTH. I yield.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that notwithstanding the provisions of rule XXII, that the cloture vote for today on the Byrd amendment 2413 and the vote on the Dole amendment 2417 be postponed until 9 p.m. in the hopes that an agreement can be reached for the Senate to consider both issues separately.

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

The Senator from Missouri.

AMENDMENT NO. 2633

(Purpose: To make an amendment regarding authorizations of appropriations for activities of the Air Force)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH], for himself, Mr. GORTON, Mr. GARN, and Mr. RIEGLE, proposes an amendment numbered 2633.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . AUTHORIZATION OF APPROPRIATIONS FOR THE AIR FORCE.

Notwithstanding any other provision of this Act, funds are hereby authorized to be appropriated for fiscal year 1987 for the Air Force as follows:

For missiles, $8,866,000,000.

For research, development, test, and evaluation, $15,334,573,000.

For expenses, not otherwise provided for, for operation and maintenance, $19,687,171,000. Of the funds authorized to be appropriated under this section, not less than $556,300,000 shall be available for the purpose of payment to the National Aeronautics and Space Administration to reimburse such agency for launch services and related expenses of the space shuttle system as agreed to between such agencies.

Mr. DANFORTH. Mr. President, this amendment is offered on behalf of myself and Senators GARN, RIEGLE, and GORTON.

The amendment is supported by the Department of Defense and more specifically by the Secretary of the Air Force. The amendment is also supported by OMB and the amendment is supported by NASA.

The thrust of the amendment is as follows:

Each year, the Department of Defense pays to NASA an amount which is necessary to pay for the space missions of the Department of Defense in the following year.

This payment a year in advance is factored into the total spending plans of NASA. Therefore, when the budget of NASA was prepared approximately a year ago, it was anticipated that in addition to the regular NASA budget, NASA would also be receiving $556.3 million from the Department of Defense in fiscal year 1987, which was the prepayment for the NASA flights for DOD which would take place in 1988.

As we were proceeding in the Budget Committee to work on the 1987 budget, the space shuttle disaster took place.

However, at the time that the disaster took place, the budget process was well along and it became impossible in the Budget Committee, even though a lot of us tried to do so, to increase the amount of the budget for NASA.

The administration originally proposed $7.7 billion for NASA for next year. In fact, the budget resolution gave NASA $7.3 billion, less than the administration asked for even before the space shuttle disaster.

It is clear to everyone, Mr. President, that $7.3 billion for next year is not adequate to do the job for NASA.

But all along it was anticipated by NASA that in addition to the $7.3 billion provided in the budget, NASA would also receive $556.3 million from the Department of Defense.

The Department of Defense agrees that that money should be paid to NASA. The Office of Management and Budget agrees that that money should be paid to NASA.

But our Armed Services Committee, in putting together this authorization bill, reasons that because the NASA program is being disrupted and the anticipated space launches will not take place, it could, in effect, renege on the payment of the over half billion dollars to NASA.

□ 1900

I understand the reasoning of the Armed Services Committee. That committee has its own problems with the budget. The chairman of the committee has pointed this out to me several times. But the fact of the matter is that NASA, which is already, even without the orbiter disaster, well under what the President asked for, given the fact of the space shuttle disaster, clearly NASA will incur additional costs. At the very time that NASA is being hard pressed, our Armed Services Committee decides that it is going to withhold the payment that everyone anticipated when the budget was being prepared; that it is going to withhold the payment that was anticipated by our Budget Committee, that was anticipated by the ad-

ministration, that was anticipated by NASA, that was anticipated by OMB and by the Department of Defense.

Mr. President, that, in a nutshell, is the issue. The issue is whether we are going to truly cripple our space program by cutting back by an amount of more than half a billion dollars what they anticipated receiving before the shuttle disaster took place.

Mr. President, if we do not accept this amendment, the effect of what we are doing is to put off further space launches by an additional half year or more. The effect of it really is to pull the props out from underneath the space program.

Despite the fact that the Armed Services Committee has its problems, it is my hope that the Senate will realize that this is not the time to cut back more than half a billion dollars what it was anticipated NASA would receive before the orbiter disaster took place.

Mr. GOLDWATER. Mr. President, I think I understand full well what the Senator from Missouri is talking about. I happen to have served on the first Space Committee of the Senate. I have great admiration and respect for and realize the extreme importance of space to the future of our country and the future of the world. But we have some problems, Mr. President.

We are talking about $556 million. The Armed Services Committee has already taken $30 billion in cuts and right now, we are trying to find another $10 billion to comply with the recent Budget Committee judgment. There is no question that when we get into conference with the House, we are going to be asked to take maybe another $6 to $8 million.

So what the Senator from Missouri is asking the Armed Services Committee to do, I have to say, is an absolute impossibility. We do not have the money.

Now, Mr. President, we could get the money by not buying some equipment, and I am not even going to refer to the Senator's hometown. We do not have to buy all the main battle tanks. We do not have to provide money for the Navy. We can cut some troop strength, which we do not want to do. But, Mr. President, the actions of the committee with respect to shuttle flight discharges we took for budgetary reasons. There was certainly no prejudice with respect to NASA's requirement for these funds, which constitute an important source of their operating revenues for 1987.

We cut the money out because we were told, and we are still being told, that there will be no flights so the money is not needed.

At issue in this bill is the tradeoff between valid military requirements on the one hand and an agreement between NASA and DOD that provides budget and program stability to our national Space Transportation System on the other. We know that NASA requires these funds to implement their shuttle recovery efforts. But we also know that the DOD has already transferred to NASA during fiscal year 1983-86 payments for more shuttle flights than NASA currently projects to fly in fiscal year 1986 and fiscal year 1988.

The committee is strongly committed to the recovery of our space launch posture at the earliest possible time and our recent actions with respect to expendable launch vehicles attest to this commitment. But under the current budget constraints on DOD funding and the increased funding requirements to meet DOD's military space launch requirements, I just don't see where we are going to get the money.

I keep saying that, Mr. President, because it is the God's truth. We are broke.

I do not see where we are going to get the money to keep DOD's commitment to NASA for shuttle launch charges for launches that unfortunately will not take place as scheduled.

In the fiscal year budget, the administration requested $268.8 million in Air Force O&M, $32.9 million in Air Force RDT&E, and $297.9 million in Air Force missile procurement to reimburse NASA for fiscal year 1988 DOD shuttle missions.

Mr. President, I do not want to go on on this but we have just talked to Mr. Aldridge, the Secretary of the Air Force, and he has told us he wants the money, but do not take it out of the defense budget. I know he has told the Senator from Missouri another tale. In fact, the last paragraph of the letter he has written to a large number of us says:

> In summary the Shuttle accident and the recent ELV failures have dealt a serious blow to this Country's capability for launching payloads into space. Recognizing that funding stability was necessary in order for NASA and the DOD to plan an expeditious recovery, we agreed to keep fiscal year 1986 and fiscal year 1987 reimbursements intact. This approach will permit appropriate preparation and planning for DOD missions to proceed in an orderly and efficient manner. It is our joint recommendation, therefore, that the Congress endorse the ongoing efforts of both DOD and NASA for the overall STS recovery, for the orderly and mutually beneficial reconstruction of the DOD STS flight planning, and for the application of credit adjustments for DOD reimbursements in the fiscal year 1988 budget.

Mr. President, I know there are others who want to talk on this, but as chairman of the Armed Services Committee, I just have to repeat: My heart is with them. I wish we had this money. I wish we had a lot more money than we have. If they insist on getting this out of this budget, as I say to my friend, we are going to have to take it out of equipment or take it out of personnel, and I know that the Senator does not want to do that. I know Colonel Garn does not want to do that, and neither do I.

So, Mr. President, we have our problems. I hope we can solve them.

I have said all I care to say on this. I yield to the Senator from Virginia.

Mr. WARNER. Mr. President before the distinguished chairman yields the floor, I listened carefully to his statement, and I am certain he meant that NASA does need the money. There is a very legitimate requirement for these funds, and his opposition is solely on budgetary considerations as it impacts on the DOD budget.

□ 1910

Mr. GOLDWATER. I could not declare in strong enough language how badly I know NASA needs the money, but at the same time I could not declare in strong enough language how broke we are.

Mr. COHEN. Will the chairman yield?

Mr. GOLDWATER. Yes.

Mr. COHEN. It is my understanding that the Department of Defense has already provided NASA reimbursements for 10 shuttle flights which have yet to be flown, and if we are to provide another half a billion dollars, it is the proposal that DOD get a credit for that amount of money.

The difficulty is that next year and the year after and the year after that we are going to be facing more constrained budgets than we have this year, and in all likelihood they will never be able to reimburse DOD for this half a billion dollars, not to mention the 10 flights which have yet to be flown.

So I would agree with the chairman that as much as we would like to fund this program, it seems to me it is incumbent upon the administration to clearly specify where they are going to come up with the money for the program itself. We all support it, but I do not know how we can come up with another half a billion dollars, on top of what we have added today and yesterday and the day before, and have any kind of a budget that is going to survive not only the budget conference but be subject to a point of order when we come back with the appropriation process.

Mr. GOLDWATER. The Senator is absolutely correct.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. I concur with what the chairman has said and what the Senator from Maine has said.

We are talking about a situation where we are going to decide with this vote whether we want the U.S. Air Force to be a customer of NASA or whether we want the U.S. Air Force to be the banker for NASA. That is the

question. This has been a customer relationship before. They have been prepaying NASA on an orderly basis because if you did have a delay of a flight at the end of a fiscal year, the payment was not made in advance, you would have a disaster in the NASA budget.

Now, what we have is tremendous delays, and the Senator from Maine put his finger right on it. You have 10 flights that the Air Force has already paid for. There is no possibility those flights can be completed by the end of fiscal year 1988, let alone 1987. What we are now being asked is for the Air Force to pay for seven more flights. What we are really saying is we are converting what was supposed to be an arrangement based within agencies but based on business, based on a business proposition, because the shuttle was supposed to be a business proposition. We hope it will be in the long run, but we are now going to convert that from a business proposition with transfers between two agencies to a banking proposition. The Air Force is being asked with this amendment to loan NASA the money. They have already got tremendous credits.

They have already in effect loaned a lot of money, hundreds of millions of dollars. They are being asked to loan more money. I am sympathetic to NASA's plights. I hope we can find a way to fund them but we have some very serious funding problems in the Department of Defense bill.

This budget request that we have been given by the Budget Committee and passed by the House and the Senate is not being met now by this bill. We have to go to conference and knock billions and billions and billions of dollars off this bill.

If we meet the outlay total and if we do it in an honest way and avoid gimmicks, we are very likely to have to either see an awful lot of people laid off in the military today, which could have devastating effects on the morale, or we are likely to see cancellations of an awful lot of weapons systems that no one on the floor I think wants to count.

That is the dilemma we face now. Next year is going to be worse. So I know why the amendment is being proposed. I know that NASA has a budgetary problem but I think it is time for the administration to face the fact and come over with the kind of request in the proper category so we keep a business relationship with the shuttle and not have it as a charitable endeavor from one agency to another.

Mr. DANFORTH. Mr. President, even before the space shuttle disaster, NASA was counting on a payment of over a half billion dollars in fiscal year 1987 for launches that would take place in 1988. The question now is whether the same payment will be made in 1987 for the same flights but they will take place in 1989. If that counted-on prepayment is not made, then NASA is in very serious trouble.

I would point out that NASA is not just a charity case or a ward of the Defense Department. It is a very important agency which is itself integral to our defense effort.

I yield 5 minutes to the Senator from Utah.

Mr. GARN. I thank the Senator from Missouri.

I served on the Armed Services Committee for 4 years with the distinguished Senator from Arizona. I have served for another 8 years on the Defense Appropriations Subcommittee. I do not think there is anyone who understands better than I the problems of this defense budget.

I think it is an irresponsible budget, entirely too low. We have been trapped into this Gramm-Rudman process that takes care of all of the social programs but, good heavens, do not fund defense adequately. So I understand what the chairman is saying.

The House of Representatives on their defense budget goes—I do not even have a word for their disregard for the defense of this country. For 12 years in this body I do not think anybody could accuse me of anything but being a supporter of defense and on this bill I have voted with the chairman on every single vote, on the 50-to-49 votes. I do not take a back seat to anybody on being a supporter of the defense of this country.

However, look at the record of what has taken place. The Senator from Missouri has outlined the 1987 budget. Let us talk about 1986. The administration requested $7.9 billion. We appropriated $7.7 billion with a real struggle. Gramm-Rudman took it down to $7.3 billion. This is without regard to the *Challenger* accident. And I can remember when the Senator from Arizona and I served on the original Space Committee and we promised NASA at that time, 12 years ago, that they would be kept whole for inflation. They have not been. We spend less than four-tenths of 1 percent of our entire national budget on space flight. That is hardly a very large effort when you consider that we get $8 or $9 back in the private sector in spinoffs for every taxpayer dollar we spend, and I do not know how you put a dollar value on human life from the Pacemaker and the 12,000 other medical devices and/or procedures that have resulted from space research and development or what was going on in the shuttle—electrophoresis in processing pharmaceuticals that will save thousands of lives because you can process pharmaceuticals a hundred times more efficiently and four times more pure in microgravity.

I do not have the time to go on and on, but as strongly as I support defense, there is no budget where the American taxpayer and all the people of this Earth get returns like they do from space research and development, save lives, and you cannot put a dollar value on that.

We get back to the 1986 budget; $1.3 billion and then we have a tragic accident. I think everybody in this body knows that no one can feel worse about that than I do. It was not just a national tragedy. That crew of seven were my friends. Mike Smith was my trainer. No one has ever had a more difficult task than to walk into the crew quarters at Kennedy Space Center with the Vice President and look those families in the eye 3 hours later—Mike Smith's son—and try and feel adequate to say something comforting to them.

So we spend four-tenths of 1 percent of our national budget on space flight with all the returns and then what do we see. We have a tragic accident. The administration cannot get its act together. Six months later it has not come up with a recommendation on whether they want a replacement orbiter, and we have so underfunded NASA that when *Challenger* crashed, no, it was not just *Challenger*, it was pieces of my orbiter, *Discovery II* and pieces of *Columbia* and parts of *Atlantis* because we have not had enough spares in NASA to fly a complete orbiter, so you do what is known as to cannibalize. You take parts of one to make the other one fly. We could not fly two orbiters at the same time because they are not fully put together. NASA was struggling along that way before we had the accident.

Then we get back to $7.3 billion. No administration request. You have a search and rescue, a recovery effort. We have got anomaly resolution, all of those additional costs. So I put in an emergency supplemental of $531 million for NASA and we were able to get it through to help with the problems of the accident, the redesign and all of the things that go with trying to get the orbiter back into space to carry primarily military cargoes to begin with, spy satellites for arms control verification, navigation and communications satellites; so if this succeeded in taking a half a billion dollars away, who is going to suffer the most is DOD. They have critical cargoes that need to be placed in space. If this half a billion dollars is taken away from NASA, this is not just a customer relationship. It is a matter of taking much longer.

I think the Senator from Missouri underestimates 6 months. He will be looking at 2½ or 3 years before you put another military cargo into orbit. So they are cutting off their nose to spite their face, I suppose.

□ 1920

The PRESIDING OFFICER. The Senator has used his 5 minutes.

Mr. GARN. I ask for 1 more minute.

This is a critical issue. We got back to $7.8 billion, $100 million less, absorbing the cost of the accident, and now what do we have? Armed services, admittedly with a lot of problems, wants to take another half-billion dollars away.

NASA cannot survive, and we are not going to have a fourth orbiter. We are not going to get the first three orbiters back into space. The military will suffer. The research and development will suffer.

I could go on and on talking about the difficulties we are going through, trying to get our space program in existence again. We are going to have another Sputnik if we are not careful. The Soviets will surprise us again, as they did before.

It is important for the United States to be back in space. With all the problems the armed services have, and much as I support this committee, this chairman, and this budget resolution, I wish there was a great deal more in it. It is a lot easier to take a half-billion out of the $291 billion than it is out of the $7.3 billion. We must transfer this back to NASA.

Mr. DANFORTH. Mr. President, how much time do I have?

The PRESIDING OFFICER. Sixteen minutes.

Mr. DANFORTH. I yield 5 minutes to the Senator from Washington.

Mr. GORTON. Mr. President, this amendment is not a small one. It involves over a half-billion dollars. The choice is relatively simple and easy to understand. One-half billion dollars is approximately two-tenths of 1 percent of the authorization for the Department of Defense. It is approximately 7 percent of what has been recommended for NASA—almost one-tenth.

This money was included as a reimbursement to NASA in the budget submission of the administration. The assumption that this money would be available to NASA was included in the budget resolution passed by the Senate Budget Committee, passed by the Senate of the United States, passed by the House of Representatives, and passed after a conference committee report.

Unilaterally, to remove it from NASA, to take this 7 percent of the money available for NASA next year, will be absolutely devastating to NASA. The Senator from Utah, in my view, is much more close to being accurate than even my distinguished chairman, the Senator from Missouri.

I am convinced that the loss of this amount of money may well postpone by an additional year the time in which NASA can once again put a shuttle into orbit. Because the largest single share of the work of the space shuttle is for the Air Force and for the Department of Defense, the Department of Defense simply will be cutting off its nose to spite its face if it succeeds in this unilateral repudiation of an obligation which it understands it has, an obligation which the administration understands it has, and an obligation which was assumed in all the budget debates we have had to this point on the floor of the Senate. It is as simple as that.

It will be difficult for the Department of Defense, and especially for the Air Force, to deal with this loss of $500 million. It can be done, as difficult as it is. It will be impossible for NASA to deal with it. NASA has already been subjected to a loss of over $400 million in its pre-*Challenger*-accident request by reason of the actions of this body and the House of Representatives in a budget resolution. NASA cannot keep its skilled employees together; NASA cannot recover at any reasonable rate from the disaster to the space shuttle *Challenger*, and NASA will not be able to conduct any of its new programs or begin any of its new research without this amount of money.

What is a difficult task for the Department of Defense and for the Air Force with the loss of an additional $500-plus million becomes literally an impossible task for NASA.

Mark my words: This is not a choice between whether or not we have an over-rich NASA appropriation for next year. This has to do with the life of NASA and the American space program. This has to do with whether or not we take at all seriously our responsibilities and our opportunities in space.

A Member of this body cannot vote against this amendment and claim with any degree of realism that he or she favors American leadership and excellence in space. That vote and that claim will be simply, completely, and totally inconsistent with one another.

This is not a request to be a banker. This money will be to the credit of the Air Force. By next year's budget submission from the administration, there will be no such reimbursement called for, because there will be a credit there, and the NASA budget submission will include whatever NASA needs directly. It is too late to do that for fiscal 1987.

So you simply have your choice of the last $500 million added on to a $291 billion defense budget on the one hand, or 7 percent or more of NASA's budget—a key 7 percent—the 7 percent which determines whether or not we have the remotest opportunity of retaining our leadership in space and getting back into orbit by early calendar year 1988. That is the choice. There is no other. To vote against this amendment is to vote for a second-rate or third-rate American space program.

Mr. DANFORTH. Mr. President, I yield 5 minutes to the Senator from Ohio.

Mr. GLENN. I thank the distinguished Senator.

Mr. President, this is not an easy vote, because it is in some respects robbing Peter to pay Paul.

From NASA's standpoint, there is little else we can do. NASA has made contracts and set up its budget on a certain basis, and because of its continuing difficulty, some of those expenses cannot be met.

I hate to call for money out of the defense budget when we are already cutting things we would perfer not to cut, but it is more onerous to let NASA languish even further in its difficult situation.

Unfortunately, NASA's experimental program remains mercilessly unforgiving of human error. While NASA corrects its errors and reviews its procedures, we have to support them.

I do not like the situation in which NASA finds itself, and I have discussed these problems repeatedly with NASA officials. Nevertheless, I would like the White House, in the name of Heaven, to give us a clear, unambiguous signal as to the direction in which they want NASA to go. We must not give lip service to the importance of our space program without giving it backing, and support.

Maybe we can give NASA some badly needed financial support tonight.

John F. Kennedy once said words to the effect that if any nation desires to be a world leader, it will have to be a leader in this important area of technology—space. If we want to lead in this field and have nations look up to us, we are going to have to support NASA in these difficult days and get them back on track.

I do not like voting to take money from one project and put it into another. But I think it is the lesser of two evils and so I support the amendment by the Senator from Missouri and urge my colleagues to do the same.

But I would only say once again that I implore the White House to give us a clear indication as to what it wants NASA to do. We want to work with the administration on that.

The American people have shown their support for NASA and we, in Congress, must take the lead in providing some of the funding that NASA so desperately needs right now.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I know of no other speakers on this side.

□ 1935

Mr. WARNER. Mr. President, the chairman of the committee, the distinguished senior Senator from Arizona, has stated the case in opposition as eloquently as I know of anyone, together with the distinguished Senator from Maine.

The case has been made that we recognize the need for these funds, but at this time there is no place that we know of in the Armed Services Committee recommendation to the floor of the Senate in this bill that can be curtailed to provide for those funds.

Mr. DANFORTH. Mr. President, I want to just add about 1 minute's worth to say and to reiterate that this amendment is supported by the administration. This amendment is supported by the Department of Defense. This amendment is supported by the Office of Management and Budget.

It is understood by the Defense Department that this amendment is critical to the future of the Space Program which in turn is essential to the mission of the Defense Department.

I wanted to reiterate this because this is not a battle of NASA against the Defense Department. This is simply a matter of carrying out the wishes of the Department of Defense and providing those funds which were anticipated by NASA well before the NASA budget was put together and well before the space shuttle disaster.

The issue before us does not anticipate our answer to the question of whether or not there should be a fourth orbiter. This is not to be decided here. These funds are needed with or without a fourth orbiter.

This was anticipated in the budget well before the space shuttle disaster. It is absolutely necessary to the survival of NASA.

Mr. WARNER. Mr. President, I yield such time as the distinguished Senator from Nebraska may require.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank my colleague from Virginia.

Mr. President, this Senator served on the Armed Services Committee that has jurisdiction, the main jurisdiction, over the matter before us, the defense authorization budget. I also serve on the Commerce Committee, which has responsibility for the NASA budget primarily.

I just want to comment on the knot that the Senate finds itself in in this particular matter, and that knot simply is it is critically necessary to the defense of this country that we get satellites back up where they belong. Those of us who have been working with this program know that that is critically important. Yet what we are doing here today, I guess primarily because of the Gramm-Rudman-Hollings bind that we find ourselves in, we do not have any money, so we are going after the biggest part of our budget by and large expensewise and that is the defense budget.

It seems to me, first, we should realize that we are already well over $200 billion in excess of the budget that was assigned to the Armed Services Committee with regard to defense. Yet there have been a whole series of amendments and there are going to be some more as I understand it to add more spending to the budget.

I compliment the proponents of this amendment—they have at least specified and spelled out where the money that they wish to advance to NASA out of the defense budget is coming from but that is a separate argument. I simply want to say that we earlier today approved by voice vote some $300 million-plus for a fight against drugs. I do not really believe that that should have properly come out of the defense budget.

The Senator from Missouri just indicated that the Reagan administration supports taking this money out of the defense budget. The Reagan administration also supported taking the $300 million plus to fight drugs out of the defense budget.

The Reagan administration and its leader, the President of the United States, almost daily attacks the Congress of the United States for not providing enough money for the defense of this Nation.

I suggest that all of this is part and parcel of the knot that we have ourselves in, the box, if you will, with regard to Gramm-Rudman-Hollings.

Everybody is scurrying all over the place to find funds for projects, some of which are worthwhile, and I suggest some of them which are not.

I am for the launching of the shuttle as soon as possible. I am for, if that is what the President of the United States wants, building a shuttle to replace the one that we lost in the tragic accident. It is not clear yet whether or not the President of the United States wants another shuttle.

I realize that the expenses of NASA are going on, and I recognize that that agency is under extreme stress today. I simply say that I am not sure that a defense budget that is already squeezed, that has already been reduced by Congress from the some $320 billion for fiscal year 1987 that the President requested, down to about $294 billion according to the Senate figure, and on down below that to what the House is going to come forth with, can absorb this cut. I simply say that with all of these add ons that we are going through, and we are going to have another one I understand before the night is over, and that has to do with regard to the RAM missile, another $60 million or $70 million on top of what we have already authorized of which there is no money to pay for.

I would simply say that I believe that we are making a serious mistake by taking this out of the budget that is already squeezed. I would hope that we not do it.

I would hope, though, that most of us who recognize the importance of the program that the proponents are talking about here now would join together and come up with a separate bill if necessary to get the money that is tremendously important to keep NASA going, better put, to get NASA back on track, because we all know that it is critically important that we get many satellites up in space.

That we will not be talking about in any great detail for obvious reasons on the floor of the Senate.

Therefore, Mr. President, I hope we will not authorize this additional expenditure, as much as it is necessary, out of the defense funds.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, if I might just add a word to what the Senator from Nebraska has said, he is precisely on target. The administration is for everything in this budget. They are for the Bigeye. They are for the M-1 tank. They are for the F-15. They are for the F-18, and on and on.

I do not know of anything that they are opposed to in our bill. Every time an amendment is offered they say the administration supports it. They would oppose, I assume, paying for a portion of it by increasing the cigarette tax. I am not suggesting that we do that. But where is the money going to come from?

The administration would oppose any effort to raise revenues to support these add ons. So it is wonderful to be able to say we want more and more and more, but someone has to pay for it.

The action taken by the Senate Armed Services Committee was consistent with a recommendation of the Intelligence Committee markup and if, in fact, we are going to add another one-half billion dollars on, we are going to be faced with reducing some other budget, thus far unspecified, perhaps equally as important as this particular program.

So I agree with the Senator from Nebraska on this, as much as we would like to add more money to take care of a program that is of vital interest to our national security, and no one is more aware of this than those members on the Intelligence Committee who know what the loss of the shuttle has meant, who know what the deficiencies in our Satellite Program are right now. No one is more in favor doing something to correct that. But they have now once again pointed to the Department of Defense budget and we simply do not have the money to pay for it.

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When the time comes that we have to reconcile these figures with what the budget will allow, we are going to find a dramatic reduction, billions and billions of dollars in programs that are going to be eliminated across the board either in personnel preparedness or weapons, which I think will be a great disservice to the defense needs of this country.

□ 1940

So, reluctantly, I am opposing this amendment and hope an appropriate motion to table will be made by the Senator from Virginia.

Mr. DANFORTH. Mr. President, how much time do I have?

The PRESIDING OFFICER. Five minutes and twenty-nine seconds.

Mr. DANFORTH. Mr. President, I would just raise a question to those who are listening to this debate. Where are we going to get the money to make up for the shortfall of the NASA program if we in the Congress of the United States renege on the commitment that already has been made by the Department of Defense? If we renege on the agreement made by the Department of Defense, where is NASA going to get the money, not just to buy a new orbiter, but for the whole program?

Some people have suggestions. Some people suggest it should come out of Conrail on the theory that Conrail is awash with cash, having been loaned $3 billion-plus from the Federal Government. It has excess cash on hand and some people say, well, that is a source of funds for NASA. On the other hand, there are those who oppose that idea.

But if we cannot get the money from the Department of Defense, as the Department of Defense agrees it should be paid, then where is the money going to come from? I do not understand the answer to that question. This is essential to the mission of NASA, Mr. President. This is essential to the mission of NASA. You cannot tell me that, in the Defense Department authorization, you cannot find a half billion dollars so that the Defense Department can maintain its commitment to NASA. It is not credible.

Mr. President, I do not know if there is any further request for time on this side.

Mr. WARNER. Mr. President, before we vote on this matter, I think it should be made very clear to the Senate the dollar impact on other budgets that are within the DOD numbers. The distinguished chairman of the Intelligence Committee is now seeking recognition. I yield to him such time as he would require.

Mr. FORD. Will the distinguished Senator yield for a question?

Mr. WARNER. Yes.

Mr. FORD. Something is wrong with my mind. I do not quite understand it, because the Defense Department agrees that this is their obligation. We also understand that we had a disaster. The money was still expected to come on October 1. That is just 60 days from now. And with the Defense Department's agreeing to it, why is it so out of order to go ahead and fulfill that commitment under this budget?

Mr. WARNER. Mr. President, I say to my distinguished colleague from Kentucky, I have just been conferring with a representative of the Secretary of Defense just outside the Chamber, the Assistant Secretary of Defense. Regrettably, I do not have a piece of paper from the Secretary of Defense, who opposes this amendment, and the reason why he opposes it are about to be given by the distinguished chairman of the Intelligence Committee.

Mr. FORD. Let me ask just one further question. What was the $6.2 billion that the Secretary of Defense found earlier this year in the Defense Department so that the Armed Services Committee could meet its budget? Where did he get that $6.2 billion, or whatever it was?

Mr. WARNER. Mr. President, that was largely the result of recalculation——

Mr. FORD. Recalculation.

Mr. WARNER [continuing]. Of certain accounts that were budgeted to take care of inflation, primarily, in the fuel area and elsewhere.

Mr. FORD. But they did have a $6.2 billion surplus. Is that surplus growing over there now?

Mr. WARNER. I say to my distinguished colleague, Mr. President, that that surplus is computed on the basis of projected inflation. The question is put: Is it growing? We are talking about a future budget, the one beginning——

Mr. FORD. That is right. And the money assigned to the Department of Defense does not go into a general fund like all the other departments. So I suspect, if I look hard enough and we start digging deep enough, we will find billions of dollars uncommitted over there, and tonight we are arguing over a little over $500 million to save NASA.

Mr. WARNER. Mr. President, I say to my distinguished colleague, the chairman of the committee addressed the Senate just a half hour ago on this very amendment. He indicated that we have already come down $30 billion, we are coming down further, and after the conference in the House we expect the net sum to go to the Department of Defense to be reduced. We do not have these billions that the Senator from Kentucky represents.

Mr. FORD. I do not say I represented that. I said I bet I could find, and the opportunity will be mine to look for it. I think we will come back to this point tonight and find that there was sufficient money there for the Defense Department to keep its word out of approximately $300 billion or $295 billion, for a mere $500 million for NASA.

Mr. COHEN. Will the Senator yield?

Mr. WARNER. Yes, of course.

Mr. COHEN. I might point out, when the Department of Defense initially supported this particular program, we were talking about a much higher figure. Do not forget, it was the Congress who reduced the targets that the DOD had to meet. So we are talking about a much different set of figures when the Department of Defense gave us full endorsement for this procedure.

Second, it is not correct, as the Senator from Missouri has represented, that we are simply adding more money to the DOD budget. We are not adding more money to the DOD budget. The total obligational authority has not increased one penny. What we are doing is designating this amount of money for this program so that when our total obligation authority finally comes, the budget and everything else is reduced, and that means intelligence is cut, it means other programs across the board are going to be cut in order to accommodate this and other programs that have been added. So it is not a simple add-on to a little DOD budget. It is really a zero sum game in which DOD is going to be cut back by billions of dollars in the next few months.

Mr. WARNER. I thank the distinguished Senator from Maine. He has stated the factual case accurately.

I now yield to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I thank my colleague from Virginia. I rise to add to this, if I can, given the strictures that are on me and were on the Senator from Maine when he tried to talk about the implications for the intelligence budget in this matter, but I think he has clearly stated the problem that you face when you try to make a decision on this.

The Senator from Missouri has made it look relatively simple. This is just a $556 million add-on. The problem is that this is an earmarked budget. And each of the items in this budget has a particular purpose. The $556 million add-on is earmarked only for NASA.

And when you earmark only for NASA, you get yourself into a variety of problems that all of use face in our relationship with the NASA budget, and that is that we have been making certain contributions to that budget over some period of time for some very specific purposes as customers, if you will, of a delivery system that has not been delivering a great deal against the money that we have paid.

So, throughout the armed services budget, you are going to find a variety

of moneys earmarked for a variety of purposes which include very specific purposes of an intelligence nature in many cases.

When the NASA money, the $556 million is earmarked for NASA only, there is nothing in there to accomplish the ends that are intelligence or may be intelligence in nature.

□ 1750

We have taken our cut not only from some of the failures to deliver on the products that we have tried to purchase from NASA, but we have also taken our cut for intelligence purposes out of the budget that is before us in this authorization bill here.

So I rise, Mr. President, to urge my colleagues, to urge the Senator from Missouri and anyone else who is advocating this amendment to specifically deal with the NASA problem in a very specific fashion somewhere else other than in the DOD authorization.

I regret, Mr. President, to have to apologize to all my colleagues. We have been at this 10 years now with this new intelligence arrangement and I cannot be more specific particularly in an area that is as crucial to our national security as this one. But we have debated this issue back and forth. And much as I would like to be able to support as a Senator the request to help NASA, this is not the place that either as a Senator or as specifically chairman of the Intelligence Committee that I can support the request. I urge all of my colleagues to vote against the amendment.

● Mr. ROCKEFELLER. Mr. President, I am prepared to support this amendment to enable the Air Force to provide funds that are urgently needed by NASA in fiscal 1987. But I am troubled by the way this issue has been framed, and would have preferred to deal with the requirements of the civilian space program in a more direct manner.

Normally, the Air Force reimburses NASA, in advance, for the costs of flying military payloads on the space shuttle. In fiscal year 1987, NASA was anticipating reimbursements of over $500 million. In the wake of the *Challenger* accident, with the shuttle grounded for at least 2 years, these military missions have been postponed. The problem, however, is that if NASA is deprived of the DOD funding, it would be forced to operate with a completely unrealistic budget—dashing any hopes of moving forward with a rebuilding of the space program.

The consequences of the *Challenger* accident are far-reaching—affecting virtually the entire NASA budget. In the Commerce Committee, we are trying to put together an authorization that addresses these changed circumstances—and reflects our beliefs about what space exploration can accomplish. I have cosponsored a bill (S. 2718) which would authorize $8.6 billion for NASA in fiscal 1987. I am not reluctant to recommend this commitment of resources for the civilian space program—and truly believe that society will benefit tremendously from investment in space exploration.

If we provide the resources, I'm convinced that the space program is capable of great achievements. This country should be striving for preeminence in space exploration: To expand our knowledge of the universe; to develop advanced technologies in robotics and other "cutting edge" fields; to produce medical and other discoveries that could have substantial benefits for people here on Earth. The amount of money represented by the DOD reimbursements is clearly an integral part of this effort. But, recognizing this, I would have preferred to authorize this money directly to NASA, instead of pursuing a somewhat circuitous process of having the Air Force pay now for launch services that are several years away.●

Mr. DANFORTH. Mr. President, I yield 1 minute to the Senator from Washington and then such time as remains to the Senator from Utah.

Mr. GORTON. Mr. President, the distinguished Senator from Maine has implied that the approval of the Department of Defense and the administration for these reimbursements was based solely upon the very large original submission of the administration for defense budget.

I ask unanimous consent that a letter to me from the Administrator of NASA and the Secretary of the Air Force jointly supporting these reimbursements dated July 10, 1986, be included in the RECORD at this point.

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

JULY 10, 1986.

Hon. SLADE GORTON,
Chairman, Subcommittee on Science, Technology and Space, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The purpose of this letter is to outline, in view of pending Congressional action upon the FY 1987 Administration budget request for the Department of Defense, the importance of maintaining full funding within the DOD budget for FY 1987 Shuttle reimbursements to the National Aeronautics and Space Administration. We urge your support in maintaining the integrity of the ongoing resource requirements needed for the Space Transportation System (STS) and to preserve the STS recovery plan.

Since 1983, the NASA/USAF Memorandum of Agreement on Reimbursement of Launch and Associated Services for Uses of the Space Shuttle has been established as the primary protocol for interagency reimbursement policy for Space Shuttle Launch activity. A major objective of this agreement is to provide essential stability in budget and program planning in order to have an effective national Space Transportation System. The need for program stability is especially critical to an orderly resumption of Space Shuttle flights at the earliest possible time.

Consistent with current agreements, the President's FY 1987 budget funds a substantial share of FY 1987 Shuttle launch operations requirements from DOD payments to NASA. Following the 51-L accident, NASA and DOD, with OMB concurrence, have agreed that the most effective approach to the STS recovery plan would be to preserve the basic funding provisions of the President's budget and to implement the appropriate adjustments to credit the DOD past reimbursements in the FY 1988 budget. This agreed to approach recognized the reality that since hardware, launch, and mission contracts remain in effect (with some reduction in the hardware production effort), NASA will continue to incur substantial liability, particularly in flight planning, software development, etc., during the FY 1987 timeframe in preparation for future DOD missions.

The budgeted FY 1987 DOD reimbursements, in excess of $500M, along with the requested NASA funding for Shuttle operations, represent the total Government requirement for NASA and DOD Shuttle services. Therefore, if the Congress were to eliminate or substantially reduce the DOD funding budgeted for the FY 1987 Shuttle payment, NASA, in turn, would have to request an equivalent offsetting adjustment to the NASA budget for the lost revenue. A reduction or elimination of DOD reimbursements would therefore introduce inefficient budget adjustments for both NASA and DOD without benefit to the U.S. Government. If NASA's request for such additional funds from the Congress were denied, there would be several major impacts. The immediate effect would be the same as a major cut in the Space Shuttle budget and would directly impact both the timely return of shuttle to flight status and the efficient build up of flight rate required to reduce the backlog of critical national security and major science missions. Further, the entire cost base of the Shuttle would need to be rebaselined with the potential for substantial cost increases.

In summary the Shuttle accident and the recent ELV failures have dealt a serious blow to this Country's capability for launching payloads into space. Recognizing that funding stability was necessary in order for NASA and the DOD to plan an expeditious recovery, we agreed to keep FY 1986 and FY 1987 reimbursements intact. This approach will permit appropriate preparation and planning for DOD missions to proceed in an orderly and efficient manner. It is our joint recommendation, therefore, that the Congress endorse the ongoing efforts of both DOD and NASA for the overall STS recovery, for the orderly and mutually beneficial reconstruction of the DOD STS flight planning, and for the application of credit adjustments for DOD reimbursements in the FY 1988 budget.

Sincerely,

EDWARD C. ALDRIDGE, Jr.,
Secretary of the Air Force.
JAMES C. FLETCHER,
Administrator, NASA.

Mr. GORTON. July 10 is after the Congress adopted the budget resolution by setting the limit of the amount for defense. I also ask unanimous consent that a letter from the Director of the Office of Management and Budget

supporting this amendment and its reimbursement dated today be included in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, August 7, 1986.

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

DEAR JACK: I am deeply concerned about a proposal pending before Congress that would eliminate funding planned in the President's FY 1987 Budget for Shuttle operations payments to NASA by the Department of Defense (DOD).

As you know, DOD and NASA had reached agreement on reimbursements for two years in advance of flights to assure stability in NASA program planning. The Challenger accident created the need for major additional expenditures to restore safely the operation of the existing three orbiter Shuttle fleet, including the unavoidable loss of planned receipts from commercial launches. These increased funding needs will be difficult to accommodate in the current severe fiscal environment, even without any loss by NASA of the $0.5 billion in planned reimbursements from DOD for FY 1987. The further loss of the FY 1987 reimbursements from DOD to NASA would introduce major inefficiencies in the space recovery program and could impact the pace of recovery and the Shuttle's capability to meet priority defense space launch needs in the future.

NASA and DOD have agreed that the most effective approach to U.S. space launch recovery would be for DOD to make the FY 1987 reimbursement payments to NASA as planned and to receive credit in FY 1988 for flights paid for but not flown. I urge strongly that the Congress support the approach agreed upon by NASA and DOD and approve the FY 1987 reimbursement funding as proposed in the President's FY 1987 Budget.

Sincerely yours,

JAMES C. MILLER III,
Director.

Mr. GORTON. I assume and I state that this is the purview of the administration. These reimbursements are vital for NASA. They remain administration policy.

Mr. GARN. Mr. President, I am puzzled by what I am hearing from some of the opponents of this amendment. It sounds as if we are trying to take money away from DOD to give to NASA. This was money committed in the budget by the President, by this administration supported by the Secretary of the Air Force, supported by the Secretary of Defense, unless he changed his mind on both sides of an issue again, which is not the first time that has been true. This is attempting to restore to NASA money that the Armed Services Committee took away.

Let us be very clear on that point. My good friend, the chairman of the Intelligence Committee from Minnesota—I served 10 years or 8 years on that Intelligence Committee, too. So I know what he is talking about. I am very familiar with the need for delivery of certain systems into space. It seems to me rather shortsighted of Armed Services tonight, and the Intelligence Committee, to talk about taking money away from NASA as if it were some civilian program because everybody should be well aware where the critical need will be: In spy satellites, in communications, military communications, and navigation satellites, and those will be the very first and probably 80 percent of a lot of the first missions for cargoes delivered into space.

What we are doing here tonight is not hurting NASA as much as we are DOD if this amendment is not approved because then DOD will be sitting back there 1½ years from now saying, "Why is there another 6 months or 1 year delay?" It is amazing.

I am surprised, having served on all three of the committees we are talking about and currently still on defense appropriations, that we are taking the shortsighted view of it. I will guarantee you, if this happens, and this $500 million stays within DOD, it will cost DOD a lot more. Then they will be scrambling around for ELV's, or some means, and there will be a hue and cry of why can we not get our satellites up, and we are trying to negotiate an arms control deal but we have no means of verifying it.

With all good due respect to my good friends who I serve with—and they know where I am coming from for the last 12 years on defense—we are cutting our noses off to spite our face. You have to be willing to put this back into NASA so that it will put defense satellites back into space sooner.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURENBERGER. Mr. President, do we have time on this side?

Mr. WARNER. How much time remains?

The PRESIDING OFFICER. One-and-a-half minutes remains to the opponent.

Mr. WARNER. Mr. President, I yield at this time to my distinguished colleague.

Mr. DURENBERGER. I will be very brief.

I think the facts of this are—and I hesitate to disagree with my distinguished colleague from Utah that the Department of Defense has already provided to NASA reimbursement for 10 shuttle flights that have not been flown. There is no way that those flights could be flown until somewhere in 1989 or 1990.

If funds were restored by this amendment, they would not be used for future shuttle launches. All they would be used for is to help NASA offset the cost of fixing the shuttle. NASA indicates that it will give the Department of Defense a credit, they call it, for shuttle rides somewhere out there in the future if these funds are restored. These kind of shuttle rides, so-called, have to be paid for. And the cost to NASA providing this credit is going to have to be borne by NASA in the future.

So I have to disagree with my colleague from Utah. We have not gotten the money. We are not taking away money that is owed NASA in any way at the present time.

Mr. WARNER. Mr. President, I move to table the amendment of the Senator from Missouri and ask for the yeas and nays.

THE PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

THE PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Virginia to lay on the table the amendment of the Senator from Missouri. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from South Dakota [Mr. PRESSLER] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES] is necessarily absent.

THE PRESIDING OFFICER (Mr. MATTINGLY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 37, nays 61, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—37

Abdnor	Gore	Proxmire
Andrews	Hecht	Quayle
Baucus	Humphrey	Roth
Biden	Kennedy	Simon
Boren	Leahy	Simpson
Bradley	Levin	Specter
Broyhill	Lugar	Stafford
Burdick	McConnell	Stennis
Cohen	Melcher	Thurmond
DeConcini	Mitchell	Wallop
Durenberger	Moynihan	Warner
Exon	Murkowski	
Goldwater	Nunn	

NAYS—61

Armstrong	Gorton	Matsunaga
Bentsen	Gramm	Mattingly
Bingaman	Grassley	McClure
Boschwitz	Harkin	Metzenbaum
Bumpers	Hart	Nickles
Byrd	Hatch	Packwood
Chafee	Hatfield	Pell
Cochran	Hawkins	Pryor
Cranston	Heflin	Riegle
D'Amato	Heinz	Rockefeller
Danforth	Helms	Rudman
Denton	Hollings	Sarbanes
Dixon	Inouye	Sasser
Dodd	Johnston	Stevens
Dole	Kassebaum	Symms
Domenici	Kasten	Trible
Eagleton	Kerry	Weicker
Evans	Lautenberg	Wilson
Ford	Laxalt	Zorinsky
Garn	Long	
Glenn	Mathias	

NOT VOTING—2

Chiles	Pressler

So the motion to lay on the table amendment No. 2633 was rejected.

Mr. GARN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. DANFORTH. I move to lay that motion on the table. The motion to lay on the table was agreed to.

□ 2020

Mr. NUNN. Mr. President, the amendment has not been voted on, has it?

The PRESIDING OFFICER. It has not.

Mr. NUNN. Mr. President, what is the time agreement on this? How much time remains?

The PRESIDING OFFICER. All time on the amendment has expired. The question recurs on the amendment.

Mr. NUNN. Mr. President, I ask unanimous consent that I be granted 1 minute, or 1 minute on each side will be fair.

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

Mr. NUNN. Mr. President, let me say I do not think Members understand what is happening here, and I want to be very careful about what I say. I have talked to the chairman of the Intelligence Committee, and he says that we are permitted to say this and it is the fact as we understand it. This is a direct transfer, if this amendment passes, of money out of intelligence to NASA. Now, the Intelligence Committee has gone through this whole area very closely, very carefully, and made certain recommendations to this body. I am not permitted to go into it further than that, but if you want to take money out of some of the most critical intelligence programs we have and transfer it to NASA, that is what this amendment is. I am not opposed to having the money for NASA. I know they need the money. But this administration now today has sent three different endorsements up here over $1½ billion asking us to shift DOD money to somewhere else. They spent Tuesday telling us they had already been decimated in the Department of Defense, but this money is not coming out of the Department of Defense in the final analysis. It is coming out of the intelligence community.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, with all due respect to the Senator from Georgia, his statement is not true. It is not factually accurate. There is nothing in this amendment that transfers anything out of intelligence. This amendment adds to the total authorization for the Defense Department the amount from which the NASA funds are taken. And it adds it to specific categories. The increase goes for missiles, to research and development, for expenses not otherwise provided for, for operation and maintenance.

Those are categories to which additional funds are added. Nothing is transferred. I would invite Senators who have any doubt to simply look at the amendment. I am holding it in my hand. There is nothing that transfers anything from intelligence to NASA.

The PRESIDING OFFICER. The additional time has expired.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, there is nothing more I can say except that I stand by the facts. This amendment will do a great deal of damage to our intelligence.

The PRESIDING OFFICER. All time has expired. The question is on the amendment.

Mr. BOREN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES] and the Senator from Missouri [Mr. EAGLETON] are necessarily absent.

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

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—58

Armstrong	Grassley	Mattingly
Bentsen	Harkin	McClure
Bingaman	Hart	Metzenbaum
Boschwitz	Hatch	Packwood
Bumpers	Hatfield	Pell
Chafee	Hawkins	Pressler
Cranston	Heflin	Pryor
D'Amato	Heinz	Riegle
Danforth	Helms	Rockefeller
Denton	Hollings	Rudman
Dixon	Inouye	Sarbanes
Dodd	Johnston	Sasser
Dole	Kassebaum	Stevens
Domenici	Kasten	Symms
Evans	Kerry	Trible
Ford	Lautenberg	Weicker
Garn	Laxalt	Wilson
Glenn	Long	Zorinsky
Gorton	Mathias	
Gramm	Matsunaga	

NAYS—40

Abdnor	Goldwater	Nunn
Andrews	Gore	Proxmire
Baucus	Hecht	Quayle
Biden	Humphrey	Roth
Boren	Kennedy	Simon
Bradley	Leahy	Simpson
Broyhill	Levin	Specter
Burdick	Lugar	Stafford
Byrd	McConnell	Stennis
Cochran	Melcher	Thurmond
Cohen	Mitchell	Wallop
DeConcini	Moynihan	Warner
Durenberger	Murkowski	
Exon	Nickles	

NOT VOTING—2

Chiles	Eagleton

So the amendment (No. 2633) was agreed to.

□ 2050

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

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

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, it is my understanding that the distinguished Senator from Massachusetts, the distinguished Senator from Maryland, and the distinguished Senator from Indiana have had an opportunity to talk about the pending amendment.

At this point, I yield to the Senator from Indiana to hopefully——

Mr. KENNEDY. I ask for regular order, Mr. President. I ask for recognition, Mr. President.

Mr. WARNER. I yield the floor.

Mr. KENNEDY. Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Thank you.

Mr. President, I send an amendment to the desk on behalf of Senator MATHIAS and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The Wilson amendment is the pending amendment. It takes unanimous consent to set aside.

Mr. KENNEDY. I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection to setting the Wilson amendment aside?

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

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I reserve the right to object so I might have an opportunity to speak with the distinguished Senator from Massachusetts about a time agreement. Would the Senator be willing to enter into 1 hour, equally divided, with the Senator from Indiana having control of 30 minutes and the distinguished Senator from Massachusetts, or his designee, 30 minutes?

Mr. KENNEDY. Mr. President, if I could have the attention of the floor managers. We had indicated earlier that we were prepared to enter into a time limit. I would be happy to enter into a time limit. We would like to establish a process by which Senator MATHIAS, myself, and perhaps others would be able to address this issue. I know the chairman of the Foreign Relations Committee would like to do that, as well. I would be happy to enter into a time agreement. I understand that the Senator from Indiana will offer a substitute to our amendment.

I would be happy if we could receive ½ hour for the Senator from Maryland and myself and then ½ hour on the substitute. If that were to be proposed by the floor managers, I would not object to that.

The PRESIDING OFFICER. Does the Senator from Indiana withdraw his objection?

Mr. LUGAR. I withdraw my objection, if the floor managers will offer that type of an agreement so we might proceed expeditiously.

Mr. DOLE. Will the Senator from Massachusetts yield so I can move the cloture votes forward?

Mr. KENNEDY. Yes; I yield.

CLOTURE VOTE POSTPONED UNTIL 11 P.M.

Mr. DOLE. Mr. President, parliamentary inquiry. The cloture vote on the Dole-Byrd amendments are set for 9 o'clock?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. I ask unanimous consent that that time be moved to 11 p.m.

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

Mr. DOLE. I thank the Senator from Massachusetts.

Mr. WARNER. Mr. President, may I suggest that the proposed time agreement be restated by the Senator from Massachusetts?

Mr. KENNEDY. Mr. President, with the understanding of the majority and minority leaders and the floor managers, I would propose that we have 1 hour time limitation on this amendment and the substitute to be offered by the Senator from Indiana; with that hour to be equally divided between the Senator from Indiana and the Senator from Maryland, and myself.

Mr. WARNER. Mr. President, I move that time agreement.

Mr. NUNN. Mr. President, I want to make it abundantly clear that we are talking about two amendments, as I understand it.

Mr. KENNEDY. Well, we are talking about the Kennedy-Mathias amendment and the Lugar substitute.

Mr. NUNN. Could the unanimous-consent request also include a specific provision that there would be no other amendments allowed to either amendment?

Mr. MATHIAS. Mr. President, I would object if that were the case. I want to have an opportunity to offer one amendment.

Mr. NUNN. We have to know what it is, so we would have to object.

Mr. KENNEDY. We were trying to ensure that we consider the Kennedy-Mathias amendment and then consider the substitute.

Mr. MATHIAS. It is basically a sense-of-the-Senate resolution on the test ban treaty.

Mr. NUNN. How many amendments are we likely to have? I guess that is the question.

Mr. MATHIAS. I have one amendment to the Kennedy amendment.

Mr. LUGAR. Mr. President, I say to the distinguished Senator from Georgia that there will be a substitute amendment offered by the Senator from Indiana to the Kennedy-Mathias amendment.

Mr. NUNN. Would it be correct to say there would be a maximum of three amendments and that all of them deal with this same subject matter, that is, the test ban area?

Mr. MATHIAS. As far as I know.

Mr. BYRD. What does the hour entail? Is that just on the first degree amendment or is that overall hour on all three amendments?

Mr. MATHIAS. All three.

Mr. LUGAR. All three.

Mr. KENNEDY. All three.

Mr. BYRD. If that is agreeable.

Mr. WARNER. That is agreeable to me.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Without objection, the Wilson amendment is set aside.

AMENDMENT NO. 2638

(Purpose: To express the sense of the Congress on nuclear explosive testing)

The PRESIDING OFFICER. The clerk will report the Kennedy amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. MATHIAS, proposes an amendment numbered 2638.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment reads as follows:

On page 229, between line 14 and 15, insert the following:

SEC. 1221. SENSE OF THE CONGRESS ON NUCLEAR EXPLOSIVE TESTING.

(a) FINDINGS.—The Congress finds that—

(1) the United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time;

(2) a comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) the Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification;

(4) the entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable;

(5) a comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means;

(6) at present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty; and

(7) the past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that at the earliest possible date, the President of the United States should—

(1) request advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

AMENDMENT NO. 2639

(Purpose: To express the sense of the Congress on nuclear explosive testing)

Mr. MATHIAS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. MATHIAS] proposes an amendment numbered 2639 to the amendment numbered 2638.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment reads as follows:

At the end of the amendment add the following:

(2) a comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons;

(3) the Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification;

(4) the entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and also make completion of a comprehensive test ban treaty more probable;

(5) a comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means;

(6) at present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty; and

(7) the past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that at the earliest possible date, the President of the United States should—

(1) request advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

Mr. KENNEDY. Mr. President, I understand that we have 1 hour of debate and that half of the hour is divided by myself and the Senator from Maryland. I yield myself 5 minutes.

Mr. President, I am pleased to join Senator MATHIAS in offering this amendment expressing the sense of the Senate that the President should propose to the Soviet Union an immediate resumption of negotiations to achieve a verifiable comprehensive ban on all nuclear tests and to submit the Threshold Test Ban and Peaceful Nuclear Explosions Treaties to the Senate for its advice on ratification. I also want to thank my colleagues, Senators PELL and DANFORTH, for throwing their support behind this measure. Both had previously offered their own resolution offering constructive suggestions on how we might break the logjam blocking a ban on nuclear testing.

I also want to acknowledge the work that has been done by the ranking minority member of the Foreign Relations Committee, Senator PELL, and also Senator DANFORTH, who has also been active in this area, as well as my other colleagues, Senators KERRY, LEAHY, CRANSTON, HATFIELD, and others for their support on this matter. All have previously offered constructive suggestions and their own resolutions on how we might break the logjam blocking a comprehensive nuclear test ban.

The world is waiting with anticipation and hope for the arms talks now taking place between the United States and the Soviet Union. All of us in Congress are united in our desire for successful negotiations that will end, once and for all time, the spectra of nuclear annihilation that shadows all the Earth.

For over 20 years, ever since the ratification of the Limited Test Ban Treaty negotiated by President Kennedy in 1963, one of the most important and most widely shared goals of arms control has been to halt all nuclear testing on both sides and thereby to prevent the development of even more dangerous generations of these weapons.

□ 2100

The Threshold Test Ban Treaty was signed by President Nixon in 1974, and the Peaceful Nuclear Explosions Treaty was signed by President Ford in 1976. Together, the two treaties limit underground explosions to nuclear devices with an explosive power of 150 kilotons of TNT or less. The treaties have never been ratified by the Senate, but both the United States and the Soviet Union have agreed to abide by their terms.

In spite of a decade of delay, the two treaties are as current as the day they were signed. And ratification now would serve important purposes.

First, it would send a signal that the United States Senate is serious about arms control—that we are prepared to place the full weight of the legislative branch as well as the executive branch behind these arrangements. Currently, we exist in an arms control twilight zone—in fact, the last three major arms control treaties have been signed yet not ratified; two by Republican Presidents, one by a Democrat. We continue to abide by the TTBT and PNET, yet we are unwilling to act to make them binding.

Second, ratification will bring into being several verification and compliance provisions which have not been implemented due to our failure to ratify the treaties. In particular, the Threshold Test Ban Treaty provides for exchanges of geological data that will clarify ambiguities about the size and location of tests. And the Peaceful Nuclear Explosions Treaty sets an important precedent on verification, by providing for onsite inspection whenever it is unclear whether a test is peaceful. The Soviet's willingness to accept some form of onsite inspection was reiterated in the CTB negotiations.

Some have argued that we should not ratify the treaties because the Soviets are already violating them. But the vast weight of expert opinion has concluded that the data on Soviet testing are entirely consistent with compliance. Recently the CIA even revised its estimates of the yields of previous Soviet tests in a manner that reduces significantly the number of Soviet tests that may have exceeded the threshold.

Finally, ratification of these two treaties is the first step toward the goal of a Comprehensive Test Ban Treaty. We should neither over-estimate, nor under-estimate, the value of such an agreement. A CTBT will not end the arms race—it will not by itself lead to the dismantling of dangerous and destabilizing weapons systems. But it does play an important role in putting a brake on the unending proliferation of weapons systems, and it can lead to sharp reductions in nuclear weapons that will lessen the risk of nuclear war. A CTBT would limit the development of dangerous new—so called third generation—nuclear weapons, while preserving U.S. superiority in critical areas such as microcircuitry, safety and security, and command and control. I believe that we should resume real negotiations on a CTBT and that we should do it now.

The Kennedy-Mathias amendment is identical to one that passed several years ago by an overwhelming, bipartisan vote of 77 to 22. Since the Senate vote in 1984, there have been a number of positive developments that have helped to remove obstacles to a total test ban.

Earlier this year, the House of Representatives passed House Joint Resolution No. 3, language identical to Kennedy-Mathias, by a two-thirds majority.

For over a year, the Soviet Union has not conducted a single nuclear test. This unilateral moratorium was initiated and then extended twice without any reciprocal gesture by the Reagan administration. Most experts agree that suspended testing for this period has significantly affected the Soviets' Nuclear Weapons Development Program. The Soviet unilateral moratorium provides a strong indication that a comprehensive test ban is achievable.

There have also been significant recent advances in seismic verification techniques which could effectively remove verification as an obstacle. Most important is the technical breakthrough in the use of high-frequency filtering of seismic signals from nuclear tests. Already, we have practical experience using this technique at a site in Norway jointly manned by United States and Norwegian Government scientists. That site has achieved very good results and has detected Soviets tests with yields below 1 kiloton at considerable distances. The emplacement of such sophisticated monitoring equipment inside the Soviet Union, as they agreed to during test ban negotiations back in 1978–79, would remove any question that a comprehensive test ban can be effectively verified.

Another important development has been the recent action by a group of private United States scientists who, acting on their own, have persuaded the Soviet Government to establish three seismic monitoring stations near the principal Soviet nuclear test site. The stations will be jointly manned by American and Soviet scientists and will operate for at least 1 year. The data from the stations will be made available to both Governments and to the public.

This is the first time the Soviet Union has allowed foreign nationals on its soil to monitor for nuclear tests. With a number of such seismic stations in the Soviet Union, a nuclear test ban or moratorium could be verified with virtual certainty.

The first monitoring station became operational on July 9 and is collecting considerable geological data. Two more stations should be operational by mid-August. All three sites are within 200 kilometers of the Soviet nuclear weapons test site of Semipalatinsk and will be able to detect a nuclear explosion substantially less than 1 kiloton.

Given all these developments, we are looking at one of the best opportunities we have had in many years to move toward an agreement. We should not squander this opportunity.

Mr. President, yesterday marked the 41st anniversary of Hiroshima. It was also the day that the Soviet Union's unilateral moratorium was scheduled to end. But yesterday, the Soviet Deputy Foreign Minister stated that the Soviet leadership will not immediately announce its decision whether to resume testing or whether to continue the moratorium. I think it would be instructive for the Senate to hear what Deputy Foreign Minister Kaptisa had to say on this subject:

> Many foreign statesmen, political and public leaders are addressing the Soviet Government on the question of an extension of the unilateral moratorium on nuclear testing. This question will be decided with due consideration of both these appeals and how seriously the United States is prepared in our estimation to discuss the question of ending nuclear tests.

It is fair to conclude that this debate and this vote will carry some weight inside the Kremlin as to whether the moratorium on testing should be continued or whether it should end.

I do not say that the views of the Soviet leadership and what possible actions they might take as a result of this vote or this debate should guide the Senate as it makes its decision on this resolution. I do say, however, that a comprehensive test ban is strongly supported by the American people. In this vote today, we must give voice to the hopes of the American people—and of all humanity—that it is time to get time to get talks underway between the Soviets and the Americans on resolving our differences and achieving a comprehensive test ban treaty. It is time for us to speak clearly and forcefully to give voice to that message.

I have faith that President Reagan, once he understands the depth and breadth of the feelings, will himself embrace the challenge of ending nuclear testing.

Mr. President, Senator MATHIAS and I feel that the administration needs to get our message, again, that a comprehensive test ban should not be merely a "long-term objective" but we should start real talks now. We urge our colleagues to vote in favor of this amendment.

Given the action of the House of Representatives last spring, I would hope we would move toward support of this particular amendment.

I reserve the balance of my time.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER (Mr. STEVENS). The Senator from Maryland.

Mr. MATHIAS. Mr. President, I feel very deeply and personally about the subject of this amendment. We are this week observing the anniversary of the dropping of the bombs on Hiroshima and Nagasaki. A few weeks after V-J Day I visted Hiroshima and Nagasaki and I saw what a nuclear bomb could do to a city. I was there. I saw, I think, perhaps one of the most moving things as I walked down the street, a little tricycle, in the middle of the street, where obviously some child had been bicycling, tricycling down the street at the moment of impact. And it was a twisted wreckage of the tricycle there, but the child was not.

I could tell other stories of things I saw that day. But the point is that we have to put an end to the scourge of nuclear war. So I consider it an honor to join with Senator KENNEDY once again in offering this amendment, urging the President to take meaningful steps toward ending nuclear testing.

Senator KENNEDY has already said his amendment, which is now pending, is identical to the amendment that the Senate adopted to the defense authorization bill 2 years ago by an overwhelming vote of 77 to 22. Seventy-seven Members of this Senate thought this amendment was a good idea 2 years ago. It is still a good idea. I hope it still has the support of 77 Members of the Senate.

It calls upon the President to submit the Threshold Test Ban in the peaceful nuclear explosions treaties for ratification and to resume comprehensive test ban negotiations.

I might note that in the other body this past February there was an identical measure which passed by a bipartisan vote of 268 to 148.

So we are talking about a measure which has historically been supported in this Chamber, and supported in the other body which is right.

One of the objections that has been raised is that a test ban is unfair, but it is our belief and I think the belief of those who are far more expert than I that what needs to be done is to work out an acceptable onsite verification arrangement. There is also an objection that a test ban would reduce our stockpile reliability. But that ignores the fact that only a very small portion of the tests conducted for the purpose of testing reliability and nonexplosive means are available in those cases.

There is one argument which is raised, I think correctly, that a test ban could prevent the proliferation of nuclear weapons. That is not an undesirable end in itself.

So on the basis of the record that has already been established in the Senate, on the basis of the need to do something about the continued expansion and proliferation of nuclear weapons, I urge the Senate to adopt our amendment.

I yield 5 minutes to the distinguished Senator from Rhode Island.

Mr. PELL. Mr. President, I very much hope that the Senate will give a strong, clear endorsement of the amendment being offered by the Senators from Massachusetts and Maryland [Mr. KENNEDY and Mr. MATHIAS].

Earlier this year, the House of Representatives gave an overwhelming endorsement to comparable legislation, as did the Senate in 1974. It is time to put the whole Congress on record in support of ratification of the 1974 Threshold Test Ban Treaty and the 1976 Peaceful Nuclear Explosions Treaty, as well as resumption of negotiations on a comprehensive test ban.

Late last year, the Senator from Missouri [Mr. DANFORTH] and I introduced a new test ban resolution, Senate Joint Resolution 252, which endorsed the actions called for in this amendment, but which also introduced in legislation the concept of moving toward a total ban through a series of significant, intermediate steps.

Specifically, the Pell-Danforth resolution urges the President, at the earliest possible date, also to:

Call upon the Soviet Union to join in a further agreement reducing the permitted yields of explosions, as specified in the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, to the lowest possible verifiable levels which advances in seismic detection and other verification capabilities will allow; and

Seek Soviet agreement to facilitate negotiations by declaring at the earliest practicable date a mutual moratorium of finite duration on nuclear explosions.

Mr. President, in May and June, at my request, the Committee on Foreign Relations held three hearings on test ban issues. Those hearings reinforced my view, first, that there is no solid reason why we cannot proceed toward a complete ban, and, second, that intermediate steps may well be necessary to pave the way and to demonstrate to skeptics that we can move toward and achieve a test ban without in any way endangering our national security.

Accordingly, I fully intend to continue seeking steps which will move us toward a total ban. As ranking democratic member of the Committee on Foreign Relations, I expect to press

for steps which will gain strong bipartisan support and lead to significant progress. At this point, however, I believe a sound, intelligent course is for the Senate to reiterate its support for the concepts set forth in the amendment now under consideration.

I regret very much that the administration, to date, remains opposed to attainment of a comprehensive ban. At the same time, I am encouraged that administration officials have met with the Soviets in Geneva and will meet again soon with them in Moscow. I trust and hope that the two sides can find ways around the impasse over verification, which has stymied test ban progress during both terms of this administration. If we can reach mutual agreement on some significant moves during this administration, I believe the way will be open for truly significant steps. In any event, progress soon would reduce the terrible possibility that the sides would be so foolish and wrongheaded as to take steps which could destroy chances for real progress in the next few years.

Mr. President, it is clear that steadily improved controls on nuclear testing, culminating in a ban on all nuclear explosions, offer many critically important benefits:

Over time, confidence in the reliability of our warheads would erode, although there is no reason whatsoever that actual reliability should not remain high for some time. There is no doubt, however, that the reliance we and the Soviets place upon nuclear weapons would decline over time. That diminishing reliance would be to everyone's benefit.

Modernization of nuclear warheads in the arsenals of both sides would be curbed. This could well prevent the Soviets from developing new, smaller warheads with high weight-to-yield ratios to be proliferated on their missile forces. Early controls could also impede the development of new technologies, such as x-ray lasers driven by nuclear explosions, as well as other unwelcome, unneeded additions to the nuclear Pandora's box.

Pressure on the French and Chinese to halt their testing programs would be increased, as would the incentives for other nations not to start nuclear testing programs.

Finally, the resolve of the 127 nations which have foresworn nuclear weapons would be reinforced. Indeed, a nuclear test ban to which all nations would be welcome to become party, could give new and vitally needed vigor to efforts to stop the further spread of nuclear weapons.

Mr. President, I believe the case for early progress toward a comprehensive test ban is compelling. The case against such steps is simply not compelling. Unfortunately, the history of the test ban issue demonstrates once again that it is often akin to the labors of Hercules to push a good idea through various obstacles to success and substantially easier to thwart the good ideas of others.

We must recall that the idea of a test ban has stood the test of time. Beginning with the Eisenhower administration, every American administration until and except for this one has supported achievement of a ban. The objective has been set forth in treaties to which we are party.

Against this background, I find it simply outrageous that we have allowed the Soviets to appear to have the high road on a number of arms control issues, including test ban initiatives. Rather than spending our time thinking up reasons to justify claims that the Soviets are not serious, we should have been putting them to the test. I hope that recent developments indicate that we are smart enough to put them to the test now. We should make our adversaries put up or shut up. We should be doing our utmost to get their agreement to strong, verifiable arms contol agreements.

The amendment now under consideration would put the Congress on record on an issue central to arms control. If the advice contained in it were accepted and pursued by the administration, it would provide real proof that we are at last getting arms control back on track. I urge adoption of the amendment.

Thank you, Mr. President.

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Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I rise in opposition to the amendment by my colleagues from Maryland and Massachusetts on nuclear testing. On April 29, 1986, the Committee on Armed Services conducted a hearing on the military implications of nuclear testing limitations. The committee received testimony from administration officials and public witnesses on this important subject.

In these hearings, we discussed the implications of various proposals to limit the U.S. Underground Nuclear Test Program. These hearings demonstrated that constraints on our Nuclear Test Program like those contained in the pending amendment would have profound implications for U.S. national security.

In May, the Foreign Relations Committee conducted a separate hearing on this issue which was chaired by my colleague from Washington, Senator EVANS. I would like to commend the chairman and ranking minority member of that committee, Senators LUGAR and PELL, for their leadership in scheduling this hearing. Proposals to limit nuclear testing would have significant ramifications for U.S. foreign and arms control policies as well.

Adm. William J. Crowe, Jr., the Chairman of the Joint Chiefs of Staff, testified at the Foreign Relations Committee's hearing. As this Nation's senior military adviser, his views about the need for continued nuclear testing carry extraordinary weight. Admiral Crowe explicitly linked limitations on nuclear testing to the achievement of effective verification provisions. He stated that:

> Moscow continues to maintain that agreement on methods of verification and compliance will not be difficult if we ignore problems associated with the Threshold Test Ban Treaty and move on to a more comprehensive moratorium on nuclear testing, a maneuver that would completely ignore effective verification concerns in a regime where these factors are even more critical and demanding.

Mr. President, U.S. verification concerns must be addressed before we can proceed with ratification of the Threshold Test Ban Treaty. Likely Soviet violations of the treaty's 150-kiloton yield limit and violations of other important arms control agreements make effective verification and enforcement measures essential.

I would like to commend the President for the initiatives he has taken to encourage the Soviet Union to join us in resolving these concerns. The President's policy on nuclear testing limitations has begun to bear fruit. After rejecting several Presidential offers to exchange technical delegations, the Soviets recently agreed to such a meeting. During the week of July 28, 1986, United States and Soviet delegations met in Geneva to discuss nuclear testing issues. It is my understanding that these discussions went well, and that further meetings are planned. I hope these discussions will lead to Soviet agreement to improvements in verification provisions so that we may proceed with ratification of the TTBT and PNET agreements.

In this regard, it is important that any action taken by the Congress on this important subject be fully supportive of the President's efforts. In my considered judgment, adoption of the amendment before us would undermine U.S. efforts in this area. If we recommend ratification of these agreements before our verification concerns are resolved, little incentive would remain for the Soviets to be forthcoming in addressing our concerns if any.

In his testimony, Admiral Crowe relates nuclear testing limitations to U.S. arms control policies. He points out that due to asymmetries and potential instabilities in the evolving military balance between the United States and the Soviet Union, a comprehensive ban on nuclear testing should only take place following a radical reduction in strategic nuclear weapons. In his own words:

Overall, I believe we stand a better chance of achieving near-term progress in nuclear disarmament by approaching weapons reductions directly rather than obliquely through a comprehensive test ban.

Mr. President, I commend to my colleagues the full text of Admiral Crowe's statement before the Foreign Relations Committee on May 8, 1986, and request that it be included in the RECORD at this time.

There being no objection, the statement was ordered to be printed in the RECORD, as follow:

STATEMENT OF ADM. WILLIAM J. CROWE, JR.

Mr. Chairman and members of the Committee, I appreciate this opportunity to contribute to your deliberations on various proposals to ban the testing of nuclear weapons.

You have asked me to address the issue of nuclear testing broadly and comprehensively, with emphasis on:

The relationship between nuclear testing and defense policy;

Linkages between testing and deterrence, the prime mission of our nuclear forces;

The military impact of nuclear arms reductions and associated proposals for a comprehensive test ban;

Safety, security, reliability, and effectiveness considerations embedded in the technical aspects of nuclear testing; and

Issues surrounding compliance with and verification of existing limits on nuclear testing.

NUCLEAR DETERRENCE

To begin, I share the view of many on this Committee that the world would be better off without nuclear weapons. But until that occurs, some of us have to mind the store, making sure that we have a nuclear deterrent as reliable and as credible as we can make it, with minimum risk to our national security. As Secretary Weinberger stated in his Fiscal Year 1987 report to the Congress:

"We seek to prevent war by persuading potential adversaries that the cost of attacking us will exceed any gain they could hope to achieve. This is the core of our defense strategy today, as it has been for most of the postwar period."

I am not sure that the Soviet military establishment looks at deterrence in exactly the same context. I do know that we and they approach the strategic balance in far different ways.

For their part, the Soviet Union takes a very robust and multifaceted approach toward this balance:

An unusually large mix of nuclear offensive forces: ten types of ICBMs, three classes of ballistic missile submarines, six types of SLBMs, six types of nuclear-capable bombers, five cruise missile variants, two types of long-range intermediate-range missiles, and a host of theater nuclear-capable weapons positioned to strike across the Warsaw Pact front with NATO;

An air defense system with extraordinary radar coverage and interceptor density around the nation's periphery;

The world's only operational ABM system featuring interceptor missiles with both conventional and nuclear warheads;

An antisatellite system operational for more than two decades, including missiles with a conventional warhead designed to blast satellites out of the sky;

A shield of earth, rock, concrete, and steel around many of their nuclear forces, coupled with a concurrent program hardening command, control, and communications facilities and equipment.

A heavy emphasis on damage limitation through civil defenses.

Thus, while the Soviet Union has pursued a comprehensive nuclear testing program over time, that program is only one component of a military strategy, forged around a massive array of offensive and defensive forces. These forces are composed of conventional and nuclear arms which support a doctrine concerned with the essence, purpose, and character of a possible future war and the preparation of the country and its armed forces for conducting such a war.

For our part, we have never tried to emulate the Soviet "fortress" mentality. Nor do we replace our strategic offensive forces at the same pace as one sees in the Soviet Union.

Instead, we have historically let our deterrent rely heavily on the incremental modernization of existing launch platforms with recurring emphasis on nuclear weapon technologies. To illustrate this point:

Over the years, we could have emphasized large ICBMs and megatonnages in warheads; instead, we leaned toward more accurate missiles and new warheads of lower yields.

We might have moved, more quickly, toward an entirely new design for our ballistic missile submarines, featuring larger tubes or more missiles per submarine, or a larger inventory of SSBNs; instead, we applied the multiple independently targetable reentry vehicle (MIRV) solution.

Similarly, in the mid 1970s, a decision not to replace the aging B-52s was accompanied by development of an entirely new weapon system centered around cruise missiles.

For better or worse, many of these decisions were made on the basis of fiscal constraints. Sometimes, they were accompanied by an illusion that nuclear disarmament was just around the corner. In any event, improvements to our systems placed proportionately greater emphasis on weapons rather than proliferation of basic platforms. This in turn led us to rely on a comprehensive nuclear testing program. We know it, and the Soviet know it. That is why they have pushed weapons and nuclear testing to the foreground in propaganda and in recent nuclear disarmament proposals.

Today, of course, we are forced to replace aging platforms with the new TRIDENT submarine, the B-1 bomber, and the PEACEKEEPER. We fully expect that these new platforms will be around for a long time—the mainstay of our nuclear deterrent force. In turn, we must retain the flexibility to make incremental improvements in weapon systems designs and validation of such designs through the nuclear testing program in order to ensure that these systems remain an effective and credible deterrent.

THE STRATEGIC BALANCE

Because the U.S. and Soviet Union approach the strategic balance in such different ways, we also find occasional confusion over where the two sides stand in that balance.

When one limits the discussion to offensive nuclear arms, it is possible to conclude that we lead the Soviets in some areas and they lead us in others, resulting in a situation perceived by some as rough nuclear parity.

But if we consider the totality of Soviet military forces and capabilities—offensive nuclear arms, together with other nuclear, conventional, chemical, and biological warfare components of their strategic posture—we find that the U.S. and its allies are considerably underpowered in comparison with the USSR.

To restore and stabilize the strategic balance—and in seeking to reduce our current reliance upon offensive nuclear arms—we are moving ahead with efforts to determine the technical feasibility of a strategic defense. In the interim, the need to maintain an effective Triad is clear. We must leave the door open for the incremental improvements necessary to ensure that effectiveness.

SOVIET NUCLEAR DISARMAMENT PROPOSALS

As you know—and might expect—nuclear testing figures prominantly in recent nuclear disarmament campaigns and proposals by the Soviet Union.

With respect to nuclear testing in general, the Soviet Union has been reaching for the high ground in political and social rhetoric, condemning in particular the U.S. program. In reality, however, the official Gorbachev proposals of mid-January do not contemplate a worldwide ban on nuclear testing until the late 1990s—more than a decade from now. In the interim, these proposals suggest only that the U.S. and Soviet Union join in a moratorium or delay in nuclear testing—an arrangement which can be broken and which, in fact, worked very much to our disadvantage in 1961 when the Soviets broke out of a three-year moratorium with the most intensive nuclear test program in history. Even their recent suspension of nuclear testing seems to have been a temporary expedient. They are now gearing up for a resumption of such tests.

NUCLEAR DISARMAMENT AND NATIONAL SECURITY

You also will find that the Soviet proposals of mid-January weave the whole issue of nuclear testing into a much broader package which, through the year 2000, would enhance their security and flexibility while undermining the foundations of U.S. and allied security.

We should not expect otherwise. But even if we are able to find a more equitable road to nuclear disarmament, that road will have its own asymmetries, uncertainties, and potential instabilities in the East-West military balance.

As the process evolves, both sides can be expected to place a premium on the survivability, reliability, and effectiveness of that last component of their nuclear capability. In this regard, General Secretary Gorbachev was correct when he noted, "the interrelationship between offensive and defensive arms is so obvious as to require no proof." What he did not mention are some very obvious efforts by the Soviet Union to strengthen such linkages within their own force structure, including but certainly not limited to an earth and space shield for many of their nuclear strike forces, national command structure, and communication assets. For deterrent purposes, it is absolutely essential that we be able to place such protected targets at risk. To do this we must be able to perfect our nuclear weapons, as necessary, and that in turn requires continuity within the nuclear testing program.

We also face major uncertainties surrounding the mix of launch vehicles apt to evolve from a nuclear disarmament process. We don't know whether the Soviets will emphasize mobile or hardened ICBMs, more dispersed and sheltered bombers, or ballistic missile submarines, some of which may be

berthed in coastal tunnels. In any event, uncertainties surrounding the evolving mix and location of Soviet offensive forces underscore the importance of remaining flexible in weapon system design and validation of such designs through testing.

Lastly, the whole process of eliminating nuclear weapons on a worldwide basis is fraught with extraordinary problems of compliance and verification. We do not know, in the first instance, whether nuclear disarmament is an achievable proposition by the year 2000. Further, we have no way of knowing whether a nuclear disarmament treaty, even one pursued diligently by the United States and the Soviet Union, will capture the last weapon on earth. Thus, we will have to maintain a deterrent to nuclear attack right down to the last moment and, from a U.S. and allied security perspective, we want that deterrent to be as effective and credible as possible. Nuclear testing is required to guarantee this.

To put all of this in perspective:

A comprehensive ban on nuclear testing, now or later, will contribute absolutely nothing to nuclear disarmament. It will not eliminate a single nuclear weapon.

Conversely, continuation of a comprehensive nuclear testing program can assure that we go down the road of nuclear disarmament with minimum degradation in the safety, security, survivability, reliability, and flexibility of our nuclear deterrent and, in turn, minimum risk to our national security and that of our allies.

TECHNICAL REQUIREMENTS

Thus far, I have focused upon the strategic and military requirements for nuclear testing. Let me now turn to the technical side.

In general, the design and development of a nuclear weapon represents a great extension beyond the usual engineering experience of any technology on which we depend:

Temperatures of 100 million degrees or hotter than the surface of the sun;

Pressures higher than in stars;

Operations measured in millionths of a second; and

Internal velocities of 100 kilometers per second.

Safety and security

These characteristics demand, first and foremost, the highest standards in safety and security. We can never rest on our oars. Similarly, we must ensure that all of the complex mechanisms of achieving safety and security do not, in some unexpected fashion, degrade the reliability of that weapon as part of our strategic nuclear deterrent. We can satisfy ourselves, on that score, only by maintaining a nuclear testing program.

A strong emphasis on safety and security also reinforces our concerns about nuclear arms control. We go to great lengths to minimize the possibility of unauthorized access or tampering, radiation exposure to troops engaged in weapon maintenance, and hazards associated with an accident during storage or transportation.

Further, the basic precept that American-built products should be put through a program of rigorous testing is deeply entrenched in our industrial culture and in laws of the land. We insist that a vast range of commercial goods possess a requisite degree of safety and reliability, and we ensure this through testing at the factory, by the National Bureau of Standards, or some other independent agency. Similarly, the Department of Defense is under constant pressure to assure that conventional weapon systems—tanks, fighting vehicles, aircraft, missiles, and so on—perform as designed and expected on the battlefield. In this context, I frankly do not understand why Congress would want to suspend testing on one of the most critical and sophisticated elements of our nuclear deterrent—namely, the warhead.

Weapons reliability and effectiveness

With respect to weapons reliability and effectiveness, we are dependent upon the testing program in five distinct ways:

It gives us confidence in our existing stockpile of nuclear weapons. Our hope is that we will never have to use such weapons, but like other systems not used over many years, we must be sure that they will perform as designed—and that our potential adversaries are aware of this fact. We require this same confidence of our conventional war reserves (ammunition, missiles, etc.). It is inconceivable that we would place weapons, constructed of the most exotic materials known to man and incorporating the most advanced physical principles, on the shelf for an indeterminate period of time without ascertaining the indiscriminate effects of aging.

It provides information essential to the effective employment of nuclear weapons—confidence that the right weapon is applied to the right target. The lethality of nuclear weapons, theirs and ours, against hardened targets is one of our major concerns. So too is the expected survival and performance of such weapons in a nuclear environment, featuring the synergistic effects of blast, high intensity radiation and electromagnetic pulse (EMP).

It enables us to determine critical nuclear effects on such non-nuclear systems as surveillance, command, control, and communications systems. For example, it is common knowledge that radiation can be a serious problem. We must continue to explore the nature of the entire spectrum of nuclear effects problems and develop fixes to deal with them.

It helps us to verify that a weapon modified for reliability, security or safety reasons, or a weapon tailor-made for a new delivery system, such as cruise missiles, the Peacekeeper, or the Trident D-5, will emerge as a reliable and effective component of our nuclear deterrent forces. At one time, for example, we had to recall all of the POLARIS warheads because of reliability problems which degraded inventory effectiveness by as much as 75 percent. Only nuclear testing allowed us to verify that Polaris modifications has solved the problem.

It helps us design entirely new weapons of smaller size and weight for a given yield. For years, the U.S. has led the world in this aspect of nuclear technology with considerable savings in the size and cost of delivery systems. But each new delivery system and associated weapon requires thorough testing before it can be counted as part of our strategic or tactical nuclear deterrent.

Overall, nuclear testing is a bargain in the maintenance and modernization of our nuclear forces. But the lack of testing can make this process more costly over the long haul. To illustrate this point, if we had to assess weapon reliability and survivability upon paper calculations, unsupported by empirical tests, we would encounter a number of unacceptable uncertainties and unknowns, the nature and extent of which we would be unable to determine. One could conceive of these unknowns translating into compensatory measures that could result in markedly different types of weapons or, possibly, a requirement for more weapons per target than we plan today. That's an expensive proposition no matter how you look at it.

In all of this, I would emphasize that we do not detonate a weapon underground simply for stockpile reliability, weapons development, or physics studies of new concepts. The Department of Energy and the Defense Nuclear Agency have a broad-based schedule of scientific and technical observations, supported by an extensive array of measuring devices, to study effects on the various non-nuclear components of our strategic deterrent forces as well as those incorporated in command, control, communications, and intelligence systems. While I do not want to go into details, it is not uncommon for these tests to produce technical surprises—something not predicted in either simulations or computer-based analyses.

I believe that the Soviet military has a similar range of technical requirements. Certainly, this was suggested by General Secretary Gorbachev's statement last March that "during seven months of non-testing the Soviets had paid a price militarily" and their subsequent decision to resume testing. Thus, on purely military grounds, I suspect both sides agree that nuclear testing is essential. In turn, this tends to push the whole issue of testing toward compliance with existing agreements.

VERIFICATION AND COMPLIANCE

As this Committee is aware, the U.S. Government has been trying for several years to get its arms around the verification and compliance problem. So far, objective results are not very assuring.

Most government experts agree that seismic techniques, used to estimate the yield of a Soviet nuclear test under the Threshold Test Ban Treaty, are inadequate to ensure effective verification and compliance.

Others have testified that, even with seismic sensors, it is possible to circumvent this technology by testing in cavities, thereby decoupling the energy of an explosion from the surrounding medium; or testing in outer space, in remote areas, or in the atmosphere above parts of the world, areas where attributing the test to a particular country would be extremely difficult.

In the interest of exploring the technical side of verification, the President has repeatedly sought an honest exchange of views with the Soviets. They have been invited, for example, to measure the yield of U.S. nuclear test using any instrumentation devices they deem necessary. But they have refused to participate in this relatively straight-forward approach to the problem.

Additionally, the President offered to demonstrate in the third week of April 1986, a new direct yield measurement technique, known as Corrtex, which U.S. scientists believe will enable both the U.S. and USSR to improve verification and ensure compliance with the current Threshold Test Ban Treaty.

The Corrtex method has a number of features important to understand. It does not replace remote sensing by seismic detectors; rather it would eliminate some of the uncertainties associated with remote sensing by on-site measurement of specific nuclear tests. The U.S. Government does not intend that such measuring be accomplished by a third party. Americans would monitor Soviet tests, and citizens of the Soviet Union would monitor our tests. The Soviet

Government turned aside the President's latest proposal.

Instead, Moscow continues to maintain that agreement on methods of verification and compliance will not be difficult if we ignore problems associated with the Threshold Test Ban Treaty and move on to a more comprehensive moratorium on nuclear a maneuver that would completely ignore effective verification concerns in a regime where these factors are even more critical and demanding. I have trouble with their "good faith" approach, particularly when other aspects of their nuclear disarmament package envision a continuing military struggle for world power and influence. I doubt the Soviet Union will ever be able to square this circle. Thus, we must assure that verification and compliance mechanisms, surrounding any nuclear testing arrangement, to as direct, straight-forward, and objective as possible.

SUMMARY

To sum it up:

I believe that the U.S. way of managing its nuclear deterrent and the strategic balance is far less burdensome on our society and our economy than the Soviet way. But you must recognize that our approach to nuclear deterrence puts a premium on high technology rather than brute force. So too does our effort to develop a strategic defense, unaccompanied by a government and a people digging in for survival.

In defense planning, we are drawn toward nuclear testing by one simple fact: we expect to achieve effective deterrence from a relatively small mix of strategic nuclear forces in service over a relative long period of time. To maintain that effectiveness and credibility over time, we must have a weapons modernization and maintenance program, supported by rigorous underground testing—the only environment left to us. We cannot assume, even in view of the Soviet proposals, that nuclear disarmament is just around the corner.

For something as exotic and potentially lethal as a nuclear weapon, such testing also is embedded in the highest standards of safety, security, and survivability, as well as reliability. We should regard with the utmost concern any suggestion that we could allow our nuclear weapons stockpile to "gracefully" degrade over time.

Further, virtually everything about the nuclear disarmament process—asymmetries, uncertainties, and potential instabilities in the evolving military balance—suggests that a comprehensive ban on nuclear testing should only occur toward the end, rather than at the beginning of this process. Certainly, this is the case for the U.S. and its allies, if not for the Soviet Union.

Overall, I believe we stand a better chance of achieving nearterm progress in nuclear disarmament by approaching weapons reductions directly rather than obliquely through a comprehensive test ban. The U.S. has formally proposed such reductions in both theater systems and strategic systems. The JCS fully support these proposals and would welcome a constructive response by the Soviets to them.

Mr. GOLDWATER. In conclusion, I again urge my colleagues to oppose the Kennedy/Mathias amendment.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I rise in opposition to the Kennedy-Mathias amendment on nuclear testing. Nuclear testing is an issue in which various Senators have been interested throughout this Congress. I believe this interest springs from a genuine desire to see if there is some way to speed the arms control process along toward nuclear disarmament. The Committee on Foreign Relations has been actively involved in exploring the possibilities which some limits on nuclear testing might offer. This included a set of comprehensive hearings on the issue.

On May 8, and again on June 19 and 26 our committee heard from distinguished representatives of the administration, scientists, former diplomats and former Government officials. Adm. William Crowe, Chairman of the Joint Chiefs of Staff, our Nation's highest military officer, told us how important nuclear testing is for our national security. We also heard the testimony of Richard Perle, Allen Holmes and Robert Barker from the Departments of Defense, State and the Arms Control and Disarmament Agency. On the 19th and 26th of June we proceeded with testimony covering a wide range of experiences, political views and expertise. We heard from Ambassador Paul Warnke, former Director of ACDA. Dr. Carson Mark, a retired physicist from the Los Alamos National Laboratory shared his insights with us. Dr. Mark has been critical of the way we design our weapons, and advocates some type of test ban. We heard from Dr. Donald Kerr, former director of Los Alamos, and from Dr. Richard Wagner, former Assistant Secretary of Defense for Atomic Energy. I will not go on to name each witness, but I am sure my colleagues will agree that these hearings covered the full range of views and expertise available.

I regret to say that our hearings did not show that a test ban, or some other proposed restrictions on testing, would be viable paths toward nuclear disarmament. We rely on our nuclear weapons to maintain peace through deterrence. Therefore, we must maintain a reliable, safe and secure force which credibly meets the evolving challenges.

Dr. Robert Barker, Deputy Assistant Director of the Arms Control and Disarmament Agency, effectively outlined the purposes which our current, limited testing program serves. Let me summarize them briefly.

Reliability tests check to see that new weapons will perform as designed, or that older weapons still work as expected.

It is also important to test the effects of a nuclear environment on our own systems. This does not mean just weapons. To maintain a credible deterrence, we must believe, and the Soviets must believe, that our command, control and communications systems will work, even when subjected to radiation and electromagnetic impulse.

Then, we test to modernize our forces. We do this to proceed with programs such as the Trident D-5 missile and Midgetman. During our hearings I was struck by the fact that almost all witnesses agreed that a test ban would be tantamount to a qualitative freeze. No significant nuclear weapons development could take place under a ban.

Finally, Dr. Barker pointed out, testing has a role in improving the safety and security of our nuclear forces.

Mr. President, Dr. Barker's testimony is an excellent primer on nuclear testing issues and I ask unanimous consent that it be printed in the RECORD.

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

TESTIMONY BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE

(By Dr. Robert B. Barker)

Good morning, I am happy to appear before this Committee for the purpose of providing an overview of the technical foundations for the Administration's views on nuclear test limitation treaties.

Careful study led us, over four years ago, to conclude that the Threshold Test Ban Treaty, in its current form, is not effectively before verification improvements can be negotiated, ratification of this tready before with the Soviet Union is not in the national security interest of the United States. The United States must stand by its standard of effective verification with respect to the Threshold Test Ban Treaty; anything less would undermine our ability to demand effective verification in this and other treaty areas, as well as being a disservice to the objectives of the TTBT.

The President has stated to Soviet General Secretary Gorbachev that he would be prepared to move forward on ratification of both the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty as soon as agreement is reached on the use of an effective verification system. He has described to General Secretary Gorbachev a technical system, using a technique known as CORRTEX, which we believe will determine yield with an acceptable level of uncertainty.

Thorough evaluation has also led the Administration to reaffirm that a comprehensive test ban remains a long-term objective of the United States; an objective which we will seek to pursue within the context of broad, deep and verifiable arms reductions, substantially improve verification capabilities, a greater balance in conventional forces and at a time when a nuclear deterrent is no longer as essential an element as currently for international security and stability. There is much to be accomplished with respect to each of these objectives; it is not yet time to undertake negotiation of a Comprehensive Test Ban Treaty.

A nuclear-testing moratorium, such as that which was proposed by the Soviets, is an invitation to a comprehensive test ban with no semblance of verification. The lack of verification alone is sufficient basis for rejection of a moratorium. Moratoria are never acceptable substitutes for negotiated, effectively verifiable arms control agreements. Further, the reasons for rejecting a

moratorium are identical to those for rejecting the negotiation of a comprehensive test ban at this time.

President Kennedy's 1962 statement on a nuclear testing moratorium, on the heels of the bitter experience with the nuclear test moratorium of 1958-61, details his extensive appreciation of the threat which is posed by such a moratorium.

"We know enough about broken negotiations, secret preparations, and the advantages gained from a long test series never to offer again an uninspected moratorium. Some may urge us to try it again, keeping our preparations to test in a constant state of readiness. But in actual practice, particularly in a society of free choice, we cannot keep top-flight scientists concentrating on the preparation of an experiment which may or may not take place on an uncertain date in the undefined future. Nor can large technical laboratories be kept fully alert on a standby basis waiting for some other nation to break an agreement. This is not merely difficult or inconvenient—we have explored this alternative thoroughly, and found it impossible of execution."

With this country's experience with a nuclear-testing moratorium it is almost incredible that any, even the current Soviet leadership, could believe we would find a moratorium to be a serious alternative to real arms control.

Other variations on the nuclear test limitation theme which are sometimes heard include the possibility of quotas or nuclear test yield thresholds lower than the current 150 kiloton limit. Either of these concepts, if implemented, would adversely limit our ability to maintain a credible and effective nuclear deterrent. From a verification perspective, a quota presents all the problems associated with a comprehensive test ban; one cannot verify compliance with a quota unless one can detect and identify even the lowest yield nuclear test. Effective verification of a 150 kiloton threshold is not yet a reality; verification of a lower yield threshold will not be any easier.

In the remainder of my statement, I will go into some length in discussing the technical basis for the U.S. nuclear testing program, in order to make clear why nuclear testing is for the foreseeable future, critical to the maintenance of a credible and effective deterrent. I will also address the exent of U.S. efforts to establish a technically sound basis for effective verification of any future comprehensive test ban and describe the technical foundations for an effectively verifiable Threshold Test Ban Treaty.

NUCLEAR TESTING

In a recent letter to Senator Dole, the President stated:

"Any limitations on nuclear testing must be compatible with our security interests and must be effectively verifiable. Because of the continuing threat that we face now and for the foreseeable future, the security of the United States, its friends and its Allies must rely upon a credible and effective nuclear deterrent. A limited level of testing assures that our weapons are safe, effective, reliable and survivable and assures our capability to respond to the continued Soviet nuclear arms buildup. Such testing, which is conducted underground, is permitted under the existing agreements on nuclear test limitations, all of which the United States fully complies with—the TTBT, the PNET, and the Limited Test Ban Treaty (LTBT)."

The nuclear tests of the United States fall into four general categories: stockpile reliability/confidence tests; weapons effects tests; development tests; and tests designed to further understanding of the fundamental physical processes which occur in a nuclear explosion. Each category contributes to assuring that our deterrent is safe, effective, reliable, and survivable.

Stockpile reliability/confidence tests

Each year a small number of tests are directly conducted for stockpile reliability/confidence reasons. These tests can confirm that a recently produced nuclear weapon will perform properly or determine whether an older weapon is still performing as expected.

The use of the word "reliability", in conjunction with the need for nuclear testing, has confused many people. In every day usage, reliability is associated with a statement about probability—such as 99 out of 100 weapons will operate properly. Thus, apparently, many people assume that a concern about nuclear weapon reliability is a concern that today's possible reliability of 99 percent may degrade to 95 percent or 90 percent sometime in the future. This is not what concern for nuclear weapon reliability is about! What we must be concerned about is a fault in the design which dramatically reduces the expected yield or makes a nuclear weapon unsafe. Such faults could be accidently built into a weapon during the production process or could be a result of chemical changes that occur as weapons grow old.

Such problems are not imaginary nightmares; the actual cases are all too real. While much still remains classified about problems with the U.S. nuclear stockpile, a great deal is revealed in a 1983 paper produced for the Department of Energy, authored by Jack W. Rosengren, and entitled "Some Little-Publicized Difficulties with a Nuclear Freeze." The paper discusses a half-dozen significant stockpile problems which required nuclear testing for their identification and/or fixing. This paper revealed that one time 75 percent of one type of warhead designed for our Polaris submarines would have produced zero yield—no yield—if detonated. This is the kind of catastrophy that is the basis for our concern about nuclear weapon reliability, and, therefore, the reliability of our deterrent.

At the current time, a representative warhead, one of each new type produced, is tested to make sure that weapons from the production line will meet their design requirements. Every kind of military materiel, from boots to ammunition to tanks, planes, and submarines must be similarly "proof-tested", to ensure that the government is getting what it paid for—only in the case of nuclear weapons do some suggest such testing is unnecessary. While these critics of nuclear testing may believe that the computer calculations of nuclear weapon scientists are sufficient for a reliable nuclear deterrent, the Directors of the nation's nuclear weapon design laboratories are firmly on record stating that they cannot—in the absence of testing—retain confidence in the performance of weapons that their laboratories have designed.

In addition to tests of newly produced weapons, the category of stockpile reliability tests also includes the rare tests whose purpose it is to confirm that an older weapon from the U.S. inventory will still perform its function or to confirm a "fix" for a serious stockpile problem. Representative samples of older nuclear weapons are disassembled on a routine basis. Those parts of a weapon which can be fully tested in the laboratory—such as the electronic components—are so tested. The components which would produce nuclear yield are carefully examined by scientists and engineers from the nuclear weapons laboratory which was responsible for the initial design. Nuclear weapons are not immune from corrosion and decay. These scientists and engineers are asked to evaluate whether the changes wrought by time will adversely affect performance. Routinely their answer is that performance will not be compromised by the changes that have occurred.

But should changes be observed from which it is concluded that performance may be adversely affected, then a nuclear test will be devoted to determining the true situation. If there is a problem, a solution will be designed, tested in a nuclear test, and the entire inventory of that weapon will be recalled to install the design change.

What is unique about this process of stockpile evaluation is not that a test may be required—all military materiel is routinely tested to ensure that age has not unacceptably degraded its performance. What is unique is that testing for the effects of age is so rare. A nuclear weapon destroys itself in a test and each weapon and test are expensive items. Therefore, rather than conduct routine tests of the aging nuclear weapon, we depend upon the judgment of a very few nuclear weapon scientists and engineers to tell us whether everything is in order. Why should we trust the judgment of these people? Because, these same scientists and engineers are involved in the ongoing nuclear weapon design and testing program and are constantly having their judgments about design validated repeatedly by the results of undeground nuclear tests.

Thus we see that while we categorize only a very few nuclear tests as stockpile confidence or reliability tests, in reality every nuclear test is a reliability test—because every test contributes to the competence of those upon whom we ultimately depend for assurance that our deterrent is reliable.

Weapons effects tests

The second category of nuclear tests is weapons effects tests. Again this is a small number of tests in any given year but it is these tests which establish another critical aspect of a deterrent in which we can have confidence. For our deterrent to be real we must believe, and so must the Soviet Union, that we will achieve sufficient warning of an attack to maximize the survivability of our deterrent and to ensure a response unacceptable to the Soviet Union. This requires that we design our space-based advanced warning systems and our space-based communication systems to be sufficiently hardened against the effects of nuclear detonations so that they cannot be too easily disabled. We also protect our military equipment against nuclear radiations and electromagnetic impulse—again so that the Soviet Union cannot calculate that our forces would be easily destroyed in a nuclear attack.

We convince ourselves that we successfully achieved our hardness goals for our warning, communication, and all other relevant military materiel by exposing samples of these equipments to nuclear radiations in specially designed weapons "effects" tests managed by the Department of Defense's Defense Nuclear Agency. While small in number these tests are vital to ensuring the effectiveness of the U.S. deterrent.

Development tests

Development tests comprise a major part of the nuclear tests conducted by the

United States each year. Some of these tests contribute to the engineering of a specific new nuclear weapon for a specific new weapon system; other tests investigate concepts which might have utility in some future U.S. weapon system or which might be employed by the Soviet Union and, therefore, need to be protected against. Typical concepts under investigation include improved nuclear weapon safety and security features as well as concepts important to the evaluation of the Strategic Defense Initiative, such as the x-ray laser.

Modernization of U.S. nuclear weapons delivery systems has been an ongoing process. Weapons systems based on newer technology replace those that have lost effectiveness because of obsolescence; for example, air-launched cruise missile carriers and B-1 bombers are to replace penetrating B-52s. Weapons systems whose survivability may be threatened are replaced with less vulnerable systems; thus the Trident missile system is replacing the Polaris and Poseidon systems.

In every case to date, the replacement system has required a nuclear weapon different from the weapon in the system that was replaced. In some cases, physical dimensions alone preclude use of the older weapon. In other cases, existing warheads cannot survive the heat, acceleration, vibration and other environmental extremes that a new nuclear weapon will meet in the stockpile or during delivery. Even the yield requirement of the new system may be different from that of the system it replaces. As J. Carson Mark, retired head of the Theoretical Division of Los Alamos, has noted the *Bulletin of the Atomic Scientists*:

"The nuclear explosive and its carrier constitute a "weapon system" of which neither part is of much use without the other . . . The weapons, tailored for . . . [its] particular delivery mode, cannot easily be used in any other way."

The Navy designed its C-4 missile to have a longer flight range, thereby permitting the Poseidon and Trident submarines to operate in larger ocean areas. No existing Navy reentry body could survive the harsh reentry environments associated with the greater missile range: a new reentry body with a new warhead made the C-4 system possible. The B-1 bomber will replace the B-52 in its role as a penetrating bomber. For the new bomber to fulfill its mission of deterrence, it must credibly be able to penetrate Soviet air defense, deliver its weapons and escape. Accordingly, bombs delivered by the B-1 must be able to withstand release at greater speed, survive a more stressing ground impact, and delay detonation while the aircraft flies out of range of the bomb's explosion. The criteria are very different from those for bombs designed for delivery by the B-52. The weapons labs have developed new nuclear designs to enable the B-1 to fulfill its mission.

In the area of tactical nuclear weapons, new development work has established the survivability of nuclear weapons in long-range artillery. The original nuclear artillery shells were designed to withstand the acceleration associated with the range of the 8-inch and 155-mm howitzers of the 1960's. In the following decades, U.S. and Soviet artillery doubled in range. Without new nuclear shells, capable of withstanding the acceleration associated with the longer ranges, U.S. nuclear artillery would be "outranged" and therefore vulnerable to destruction by conventional weapon fire.

While concern for survivability is the primary motivation for modernizing nuclear weapons, systems, there are other important reasons for doing so. The military effectiveness of established systems has declined as the hardness of intended targets has increased. To reestablish past destructive capability requires new nuclear weapons systems. Another motivation for modernization comes directly from developments in the area of nuclear weapons design. In the last decade the nuclear weapons laboratories have developed the technology to increase dramatically the safety and security of nuclear weapons.

Improved safety and security

In the laboratories' work on nuclear weapons safety, the concern is not that of an accidental nuclear explosion. As Mark has stated:

"The high explosives which have been mostly used in connection with nuclear weapons . . . can reliably withstand the jolts and impacts encountered in normal handling, even if they should be dropped from modest heights, but they might detonate on falling on to a hard surface from a plane, for example. The concern is not that a full-scale nuclear explosion would result, since that requires a thoroughly symmetric detonation of the explosive which could not be induced by impact at one point."

In fact, two aircraft accidents have caused the high explosives in nuclear weapons to detonate: in 1966 at Palomares, Spain, and in 1968 in Thule, Greenland. In both cases there was no nuclear chain reaction, but the explosions dispersed plutonium, requiring extensive cleanup operations to eliminate the hazard to health.

As a result of developments at the nuclear weapons laboratories, it is now possible to preclude accidents that disperse plutonium. There are some relatively insensitive high-explosive mixtures that can survive quite violent impacts. The laboratories are now in the process of incorporating such explosives in new weapons systems as they are modernized. Due to the number of different nuclear weapons designed in the U.S. stockpile, it will be many years before all the weapons with insensitive explosives are based on new designs that differ substantially from those using older explosives, nuclear testing must be conducted before the features are incorporated in the U.S. stockpile.

Security is another area where recent developments in design are leading to dramatic improvements. Again, as weapons systems are modernized, features are being included that make it impossible for unauthorized persons to make use of a nuclear weapon. These features are an intimate part of the nuclear design and require nuclear tests to ensure that only authorized use would result in the expected performance.

Technical surprise

One long-standing mission of the nuclear weapons laboratories is to understand all means by which a nuclear explosion might be of military use. In part, this represents a desire to understand all the ways in which the U.S. might employ such explosives to enhance its security. It also represents a desire to avoid surprise from the advantages others might obtain from nuclear weapons developments.

The evolution of nuclear weapons design is not a one-dimensional process; there is no unique path that a nuclear weapons state must follow from its first nuclear explosion to subsequent developments. One cannot be confident that findings by the United States match those of the Soviet Union. With the maturity of the U.S. nuclear program, new concepts are less frequent, but they do occur. Nuclear testing is critical to determining whether a new concept will work.

Verification that a concept is feasible does not imply that it will be incorporated into weapons in the U.S. stockpile—far from it. But establishment of feasibility does permit the evaluation of the threat to this country should the Soviet Union have already incorporated it into its nuclear arsenal.

Physics tests

The fourth category of nuclear testing includes those tests which are devoted to improving the basic understanding of nuclear weapon performance. Despite the lengthy history of nuclear weapons testing in the United States, weapons scientists do not fully understand some fundamental phenomena that bear on the performance of nuclear explosives. The nuclear weapons laboratories possess the country's largest computer resources and a very impressive cadre of theoretical physicists. Yet, sometimes substantial discrepancies exist between calculation and experimental results; the mathematical models are just not yet adequate to predict reality. Economic considerations alone motivate the nuclear weapons laboratories to maximize the role of calculations in order to husband the scarce and expensive resource of nuclear tests. Thus, the objective of some nuclear tests is to improve calculations by exploring fundamental phenomena that are not yet understood, and which may be the cause of the discrepancies between calculation and experiment.

A further very real consideration since 1958 has been the recognition that a comprehensive test ban may some day preclude testing, leaving the laboratories with calculation as the sole tool for meeting their obligation to maintain confidence in the U.S. nuclear weapons stockpile. We are not now at the point where we can maintain current confidence requirements with calculation alone. Even in the last few years we have been surprised at the results of nuclear tests of weapons in production and have had to modify designs as a result of such tests.

VERIFICATION

Comprehensive Test Ban Treaty

Effective verification is also a necessary condition for a Comprehensive Test Ban Treaty (CTBT). Today it does not exist. The U.S. has spent hundreds of millions of dollars on research to establish the basis for verifiable nuclear test limitations. This Administration is continuing that search. As part of that effort we have actively supported multilateral involvement in nuclear test ban verification studies at the 40-Nation Conference on Disarmament in Geneva.

A specific example of this research effort is U.S. support for the Norwegian Regional Seismic Array (NRSA) which uses a cluster of seismometers to detect and locate the sources of seismic disturbances—even those so weak that background noise would normally obscure them. Many of the features of NRSA would be expected to be incorporated into the in-country seismic stations which would be required as part of any future CTBT verification regime. The data from this seismic array is shared with the international community. It was dedicated in 1985 in a ceremony with international participation following its development and installation with funding provided by the Department of Energy and the Department of Defense's Advanced Research Project Agency.

The geophysical characteristics of the Norwegian site are such that the array is particularly sensitive. The research effort that will be required before such stations could be meaningfully applied to CTBT verification include: evaluation of the reliability of the instruments at the NRSA site; determination that sufficiently sensitive sites for in-country location of such arrays exist within the boundaries of potential signatory countries; and much better understanding of the transmission of weak seismic signals within the boundaries of signatory countries.

While only one example, NRSA demonstrates our commitment to establish a basis for effective verification should the other conditions established by the President for Comprehensive Test Ban negotiations be achieved.

Threshold Test Ban Treaty

There is almost universal acceptance in this country that true treaty verification cannot be based upon trust. Yet the TTBT, in the name of verification, offers only an exchange of data which, while appearing extensive, contains not a single meaningful element that can be independently validated by the United States. There is no ability for us to independently measure any of the important parameters upon which our estimates of Soviet yield are based.

Those who negotiated and signed the TTBT, with today's hindsight, were optimistic. They believed that our understanding of the science of seismology was good enough for us to determine Soviet nuclear weapon test yields to an accuracy sufficient to protect U.S. security. They also expected that the Soviets would comply with the treaty. Since 1976, when the Soviet Union claimed that it would abide by the provisions of the TTBT, two things have happened to change that earlier perspective. First, we have had to recognize that we cannot determine Soviet nuclear yields with the accuracy required for effective verification. Secondly, we have had to conclude that it is likely that the Soviets have violated their legal obligation with respect to the TTBT. As reported by the President in 1984 and twice in 1985, in the Congressionally mandated reports on Soviet noncompliance with arms control agreements, while ambiguities in the pattern of Soviet testing and verification uncertainties continue to exist, evidence available leads to the conclusion that Soviet nuclear testing activities for a number of tests constitute a likely violation of the 150 kiloton limit.

The TTBT cannot now be effectively verified. The Soviets are in likely violation of their legal obligation to limit test yields to 150 kilotons and below. Verification must be improved before the President could in good faith determine that this treaty is in the national security interest of our nation and before he could thus seek the advice and consent of the Senate to its ratification.

The Administration has not been passive on this issue. In 1983 and 1984 we sought on a number of occasions to engage the USSR in discussions on verification improvements for the TTBT and PNET. In addition, in his address to the United Nations General Assembly on September 24, 1984, President Reagan proposed an exchange of visits to allow Soviet experts to come to the U.S. nuclear test site and U.S. experts to go to a Soviet nuclear test site to measure directly the yields of nuclear weapons tests. We recognize that any improvements to verification of the TTBT must be mutually arrived at—must be negotiated. They cannot be dictated by the United States and imposed upon the Soviet Union. For this reason we have not approached the Soviets with a unilateral, non-negotiable demand; we have instead sought an honest exchange of technical views on how verification can be improved.

In March of this year, the President made clear that he is prepared to move forward on ratification of both the TTBT and PNET as soon as we and the Soviets can reach agreement on the use of an effective verification system. We have described to the Soviets a technique that we call CORRTEX (Continuous Reflectometry for Radius Versus Time Experiment), which can provide acceptable uncertainty in estimating the yield of high yield nuclear tests consistent with the 150 kt threshold. CORRTEX will measure yield without compromising other potentially sensitive information about the performance of the nuclear explosion.

CORRTEX is a hydrodynamic yield measurement technique that measures the propagation of the underground shock wave from an explosion. This technique uses a coaxial cable which is shorted out by the shock wave as it propagates from the center of the explosion. The coaxial cable is emplaced in a hole parallel to the device emplacement hole. Precise measurements are made of the length of the cable by timing the return of low energy electrical pulses sent down to, and reflected from, the cable end. When the nuclear device is detonated, a shock wave emanates through the ground, crushing and shortening the cable. The rate by which the cable length changes is recorded via measurements of the changing pulse transit times. This rate is a measure of the propagation rate of the explosive shock wave through the ground which is, in turn, a measure of the yield of the nuclear explosion.

CORRTEX has been shown to be accurate to within 30 percent of more direct, radiochemical yield measurements for tests of yield greater than 50 kilotons and in the geological media of the U.S. test site. This is based on over 100 tests with the sensing cable in the device emplacement hole and four tests with cables in a satellite hole. The accuracy of the technique is believed to be relatively independent of the geological medium, provided the satellite hole measurements are made in the "strong shock" region near the nuclear device explosion. At greater separation distances, the properties of the medium become much more important factors. A satellite hole separation distance of 14 meters (46 feet) is appropriate for a test near 150 kt.

The electronic device that provides the timing signals is a battery-powered suitcase-sized unit that may be remotely controlled. All equipment for power, recording, and data reduction can be contained in a small trailer.

The President invited the Soviets to send technical experts to our Nevada Test Site to observe CORRTEX measurements with the hope that this could begin the process of agreeing to its implementation as a basis for an effectively verifiable TTBT.

The test to which we invited the Soviets has already occurred—without the presence of a Soviet technical team. We hope that the Soviets will ultimately respond positively and observe similar measurements on a future U.S. nuclear test.

Today the Soviets may perceive a lack of unanimity—a lack of commitment—within the American government on the issue of TTBT verification. They can have no doubt about the Administration's position—effective verification must precede ratification. But thus far the Soviets have not heard Congressional endorsement and support for the Administration position on the strengthening of verification of measures; S.J. Res. 252, S. 2220, H.J. Res. 3 do not now call upon the Soviets to join us in seeking verification improvements to the TTBT.

Congressional support for the Administration's position and the President's most recent proposal for verification can only enhance the prospects for a positive Soviet responsive which would lead to ratification of the TTBT and PNET. Your support for our efforts to enhance verification would be most helpful and most welcome.

Mr. LUGAR. Although our hearings brought out some wide divergences, I was struck by how much our witnesses agreed on certain things. First, most agreed that a test ban would put an end to significant weapons development. Some, like Dr. Mark, thought this desirable, but the point is inescapable: a test ban would be a qualitative freeze on our nuclear forces. They would become less reliable and less able to meet evolving challenges. We should bear in mind that our nuclear deterrent must be modernized in response to Soviet nuclear and nonnuclear developments. It is Soviet air defenses which have made the B-52 obsolete, not Soviet ICBM's. But to proceed with the B-1 and the advanced technology bomber, we must proceed with our limited testing program.

The second area of convergence seemed to be that a true comprehensive test ban would be unverifiable. Thus Dr. Mark said, "I do not think we should ban something we cannot lay our hands on."

He recommends a threshold of 3 kilotons. The point here is that expert proponents of further test limitations are talking about a lower threshold, not an outright ban. I do not know if lowering the threshold is a good idea for arms control or national security. My distinguished colleague, Senator PELL, has advanced the concept in his resolution. Perhaps it is an idea worth looking at. I believe he has done us a service by bringing this idea to our attention. We should study it, but I doubt any of us knows enough to endorse it today. If we lower the threshold, as what level would we damage national security? If we stay about it, what arms control purpose would be served? If we go below it, is that not the qualitative freeze we must avoid?

Finally, all seemed to agree that ratification of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties would be a good first step. Some placed more emphasis on verification than others. I agree with President Reagan that effective verification is essential.

The President has offered to negotiate, and he invited the Soviets to observe one of our tests in Nevada. They

were told they could use their own equipment or use our Corrtex hydrodynamic system. These offers were to no avail until a few weeks ago. Then the Soviets agreed to meet in Geneva on nuclear testing issues without preconditions. We listened to their views and they exhibited much interest in ours. They asked many questions about the Corrtex system, and said they might even have some suggestions on TTBT verification. The Soviets are finally paying attention to our verification concerns, and the Geneva meetings will resume on September 4. If we succeed in negotiating effective verification, President Reagan is committed to moving forward on TTBT. I look forward to giving the Senate's advice and consent to ratification of TTBT under those circumstances. I believe that the Kennedy-Mathias amendment now would undermine this effort. The timing of it is unfortunate.

I also believe that many Senators are engaged in an earnest search for some nuclear testing limitations which would genuinely contribute to national security and arms control. Our hearings answered some questions, but also brought forth some ideas like that of my colleague from Rhode Island. Therefore, at the appropriate time, I will propose an amendment which encourages the President to pursue and expand the Geneva meetings so that we might soon ratify TTBT and PNET. It also would ask the President to explore with us some new ideas for nuclear testing limitations. Naturally, it also endorses what must be our main objective and that is a need for reductions of existing nuclear weapons.

Our months of work on the Foreign Relations Committee, and our extensive hearings lead me to believe this is the most responsible approach.

Mr. President, if I may have the attention of my colleagues, my understanding of the parliamentary situation is that the distinguished Senator from Massachusetts offered an amendment; the distinguished Senator from Maryland has offered a second-degree amendment, thus creating a tree, of sorts, which makes it impossible for me to offer a substitute at this juncture. My understanding, however, for the information of my colleagues, is that when the hour time limit runs out, three amendments are still in order under the unanimous-consent agreement.

I ask this parliamentary question of the Chair: Is it in order for me to submit my amendment at this time with knowledge that it will not be in order until an hour has elapsed and there has been some disposition of the two amendments now before the Senate?

The PRESIDING OFFICER. The Senator may submit his amendment to the desk. It would not be pending until the time has expired or is yielded back.

Mr. LUGAR. Mr. President, I send an amendment to the desk under the conditions the Chair has stated.

The PRESIDING OFFICER. The amendment will be received and will be stated when the conditions are proper to have it before us.

Mr. LUGAR. Mr. President, I yield the floor.

Mr. KENNEDY. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Massachusetts has 19 minutes. Senator Lugar has 14½ minutes.

Mr. KENNEDY. I yield 4 minutes to my colleague.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Chair and I thank my distinguished colleague. I rise in support of the amendment of Senator MATHIAS.

I have listened with interest to the distinguished chairman of the Foreign Relations Committee. As a member of that committee, I sat through those hearings and listened. I must say that I think that, at least for this Senator, this administration is without credibility on the issue of trying to find a means of verification for a test ban or really caring about verification as a legitimate stumbling block to the signing of a comprehensive test ban.

I think the truth is that when examining the current star wars program, the x-ray laser bomb, and other arms control questions, it is clear that there is a perception by this administration that it is better to build. They have turned their back on opportunity after opportunity to eliminate nuclear testing in a mutual fashion.

In December 1982, when given the opportunity, we had the chance to lead the world toward that kind of agreement. Instead, we were the lone nation to vote at the United Nations against a resolution which said that all testing should be outlawed. The final tally of that vote was 111 to 1, the United States being the 1.

Last summer, during the 40th anniversary of the Hiroshima explosion, opportunity knocked again when Secretary Gorbachev announced a unilateral moratorium on testing and offered to extend the moratorium indefinitely if the United States would only agree to follow suit. President Reagan chose to ignore the offer. Secretary Gorbachev extended the moratorium nonetheless, and opportunity is still knocking if only we were in a position to take advantage of it. If only we followed the courage of President Kennedy in his move on the test ban in the early 1960's.

Opportunity knocked in October, Mr. President, when six nonaligned nations offered to monitor a comprehensive ban on underground tests. India, Sweden, Argentina, Tanzania, Greece, and Mexico would all have worked for greater verification of testing agreements, if only we would agree to the basic principle of banning nuclear tests. Still we ignored the opportunity.

In May, 2 months ago, opportunity knocked when Secretary Gorbachev proposed to meet with President Reagan on the testing issue, and offered to begin a bilateral moratorium on underground testing. The administration rejected the offer.

Somehow we are pretending that by offering the Soviet Union the opportunity to come and watch one of our tests, that is a constructive move toward getting rid of tests.

Today, we are all fortunate enough to have opportunity knocking again. A mutual moratorium on nuclear testing represents yet another chance for this Nation to carry on the spirit of President John Kennedy's Limited Nuclear Test Ban Treaty which outlawed all nuclear testing in the atmosphere, underwater, and in outerspace. A comprehensive nuclear test ban is straightforward. There are no formulas on the size or capability of weapons. No formulas on throw weights. This amendment would simply allow this country to respect the wishes of 111 nations, to enhance the unilateral moratorium which the Soviets have upheld, and to ensure the safety of the world without reducing our nuclear stockpile. This is a risk-free opportunity. Because the Soviets have maintained the ban unilaterally, we have nothing to lose.

I listened very carefully at those hearings and I must say I heard different things from those who testified. Admiral Crowe, distinguished as he is, came before the committee and said he did not even support the limited test ban anymore and thought we could not verify that.

I listened carefully while more extraordinary statements were made. They testified that we cannot verify the Threshold Test Ban Treaty that we negotiated in 1974 but in the very next breath, they said, we know for a fact that the Soviets have violated it. How can you know for a fact they have violated it when you cannot verify it?

Then they said the comprehensive test ban would not prevent the creation of nuclear weapons. In the next breath they said, no, we cannot have a comprehensive test ban because if we do we are not going to be able to develop the x ray laser for star wars programs; that will be stopped. On the one hand, it will not stop the creation of new nuclear weapons; on the other hand it will stop the very new program they want.

When they talked about safety, they said our nuclear weapons today are reliable. They said no American is

threatened by the safety problem of our nuclear program today. The record will show that. They said our weapons will be reliable for the next 20 years yet in the next breath they say a nuclear test ban will make nuclear stockpiles unsafe. Everybody in the business knows you can adequately test every single component of a nuclear weapon right up to the point of firing without actually firing and know that you have adequately tested the safety of that weapon.

It has been more than 40 years now since we fired that first weapon and we have an opportunity to take an action which this administration clearly does not want to take, will not take, and which it has left to the Congress of the United States to take for it. I hope we, for once and all, do away with this myth, this illusion, this game, this chicanery, that somehow suggests that the administration is really worried about safety, that it is really worried about our ability to verify.

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The Soviet Union has said it will talk about onsite inspection. The Soviet Union has said it will have inground implantation of seismic devices, but nothwithstanding that we are not even talking about it. I hope we will take this step toward moving us to a safer world. I yield.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY, Mr. President, I yield 4 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, yesterday, August 6, we observed two important anniversaries in the history of atomic weaponry. One of these anniversaries served to remind us of the terrible consequences should we fail to regain control over these awesome agents of destruction we have created. The other bore testimony of our failure to date to do so, but also offered hope that we might yet escape the nuclear quandary in which we have placed ourselves.

Forty-one years ago, as the war in the Pacific reached its climatic stage, the world entered the atomic age with the sudden devastation of Hiroshima. What was immediately apparent was that never again could mankind accept the prospects of atomic warfare with anything other than horror. No more the equanimity with which our fathers and grandfathers viewed the outbreak of war in 1914. No more the clamor for battlefield glory which marked the weeks before the United States declaration of war against Spain in 1898.

Yesterday's other anniversary recorded a far less epochal event, but a potentially important milestone nonetheless. One year ago the Soviet Union began observing a unilateral moratorium on all nuclear explosions, including the testing of nuclear weapons. In the intervening months Moscow has repeatedly challenged the United States to match the Soviet ban with one of its own.

It is this latter anniversary about which I wish to speak tonight. Thus far the Reagan administration has steadfastly refused this Soviet challenge. A comprehensive test ban remains a long-term objective, administration spokesmen tell us. But then they quickly add that we're not yet ready for such a step. So while Moscow has refrained from testing for the past 12 months, and even extended its moratorium three times, the United States has conducted more than a dozen tests.

More and more this attitude is revealed as terribly shortsighted. It is clearly to our advantage that the Soviets not resume their testing. A test ban would inhibit the development of new Soviet weapons and maintain the current United States superiority in warhead design. A test ban would stabilize the nuclear balance between the United States and the Soviet Union. A test ban would help in slowing the arms race.

And a test ban would enhance deterrence by reducing the possibility of a sudden technological breakthrough that could conceivably lead one superpower or the other to fear for the safety of its retaliatory forces.

A comprehensive test ban would not free us from the threat of nuclear holocaust. But it could provide a significant impetus toward addressing many of the dangers of a nuclear world.

The American people and their elected representatives realize this. Opinion polls show impressive majorities of Americans favoring the negotiation of a test ban. Both Houses of Congress have produced overwhelming bipartisan votes in support of a test ban. Two years ago we in the Senate voted by a 77 to 22 margin in favor of resuming negotiations looking toward a verifiable ban at the earliest possible date. Every President since the early 1950's, Republican and Democrat, has endorsed such an accord. But this administration has repeatedly spurned opportunities to work for an agreement halting nuclear tests.

Those of us who disagree with this stance have tried to understand the reasons behind this stubborn opposition to an agreement. But frankly, we have not seen or heard much that makes the White House position more intelligible. Administration officials, for instance, speak of the impossibility of verifying a test ban. But their actions belie their words. Were the administration seriously concerned about verifiability questions, the Arms Control and Disarmament Agency would not now be spending on test ban research only one-tenth the amount it spent in 1979. In truth, the administration maintains that a test ban is unverifiable only because it wants a test ban to be unverifiable.

Other administration officials tell us that we need to continue testing in order to insure the reliability of our current nuclear stockpile. But we in the Senate have heard mountains of testimony to the effect that nuclear explosions are not needed in order to confirm stockpile realiability. Sample weapons can be disassembled and their components subjected to nonnuclear tests. Or weapons can be detonated without their nuclear components, while nonexplosive tests are available for determining whether the nuclear components have deteriorated during storage.

In the past these techniques have successfully identified reliability problems, and there is no reason why they cannot be used in the future. Questions about stockpile reliability, it turns out, are only a red herring.

To be fair, it should be noted that the administration has in recent weeks shown somewhat greater flexibility on the issue of a test ban. Perhaps this represents a sincere change of heart on the part of the White House, perhaps only a cynical acknowledgment of the overpowering demand in the country for a more forthcoming attitude. Last month, as we all know, United States experts met in Geneva with their Soviet counterparts to discuss, for the first time since President Reagan took office, issues relating to monitoring and eventually banning nuclear tests. All of us were encouraged by reports out of Geneva that the sessions had been largely free of the bitterness that has characterized many Soviet-American arms control exchanges in recent years. The announcement that the meetings are to resume in September can be viewed as another hopeful sign.

But sharp, even fundamental differences between the two sides remain. The Soviet Union gives every indication of wanting to arrange a total ban on nuclear testing, while United States negotiators insist that they wish to talk only about improved methods of monitoring the very tests the Soviets want to abolish. Whether this basic disagreement can be bridged remains to be seen.

Recently there has also been welcome new movement on another old sticking point—on-site monitoring. During the Geneva talks last month the Soviets reportedly displayed greater interest than ever before in United States proposals for on-site inspections. Equally intriguing is an arrangement Moscow recently negotiated with a private team of American scientists. Under the terms of this agreement the Americans have installed a dozen seis-

mic devices at a Soviet nuclear test site in Kazakhstan. This is the first time Soviet authorities have ever permitted foreign scientists to set up monitoring stations in Soviet territory.

Does this mean that Moscow is now willing to deal? Frankly, we don't know. But we should move expeditiously to explore just what the Soviets are prepared to accept.

And this gets us back to the amendment under consideration. I support that amendment, and I encourage my colleagues to support it. Its terms are perfectly straightforward. It calls upon the President to seek ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, and it urges the President to resume comprehensive test ban negotiations.

These are not radical requests. They do not seek to dictate the nature of negotiations with the Soviet Union, nor the outcome of those negotiations. They simply acknowledge the reality that Hiroshima made evident with such force: That in the nuclear age it is better to talk with our adversaries than to fight nuclear wars against them.

Unfortunately, time is running out. We have allowed an entire year to slip away since the Soviet ban on testing went into effect. Moscow has not announced whether it will continue its unilateral restraint now that its moratorium has expired. We must hope that it does. But we must equally insist that the Reagan administration awake to the advantages of negotiating a mutual and fully verifiable CTB.

Nearly a generation ago we faced an opportunity much like this one when, in the aftermath of the Cuban missile crisis, the leaders of both the United States and the Soviet Union concluded that they had better resolve their differences over the bargaining table. The result was the Limited Test Ban Treaty of 1963.

It is now time to build upon that agreement. The Limited Test Ban Treaty was a useful start, but it failed to go far enough. Had we banned all nuclear testing in 1963, instead of simply driving it underground, neither we nor the Soviets would ever have developed MIRV's or long-range cruise missiles. Nearly everyone agrees that the proliferation of these weapons in recent years has had a tremendously destabilizing impact upon the nuclear balance. We are all less secure today than if we had managed to forego their development.

We are now on the verge of a new generation of destabilizing weapons—the so-called third generation weapons. Now is the time to slow efforts to develop these even more destabilizing instruments of destruction. Now is the time to finish the work first begun with the Limited Test Ban in 1963.

Incredibly, we have allowed the Soviet Union to seize the high ground on this issue. American national interests—and world peace—require that Moscow not resume its nuclear testing. The President should declare an immediate halt to U.S. testing and initiate serious talks with Moscow on a comprehensive test ban treaty.

And Congress should do its part as well. Let us once more demonstrate our endorsement of a comprehensive test ban by supporting the amendment currently before us.

Mr. President, three decades ago President Eisenhower, one of the great military heroes in our history, and a man who knew war as few Americans ever have, established as our national policy the achieving of a comprehensive ban on nuclear activities. Five Presidents who followed him, Republicans and Democrats alike, endorsed that policy and took steps to move the United States toward that objective. The current President and the current administration are the first in the nuclear age to reject that policy and to seek to move the United States not toward that ojective but away from it.

A result is that we are engaged in an unrestrained nuclear arms race which has not enhanced our Nation's security and will not, so long as it is pursued, enhance that security.

It is an illusion to think that if both sides merely pile nuclear weapon on nuclear weapon either is more secure. The opposite is the sad reality. I urge the Senate to support this amendment—a modest step toward the beginning of what we all know must come, and that is the beginning of restraint in the nuclear arms race, to preserve our society, to preserve societies throughout the world.

Mr. KENNEDY. Mr. President, I yield a minute to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 1 minute.

Mr. CRANSTON. Mr. President, many issues are important, issues that we deal with constantly in this body, issues that confront people of our country—the environment, the economy, equal opportunity, and many others. But if we fail to prevent a nuclear war, none of those issues will matter. It is time for us in the United States to take a strong position of leadership on the vital issues of war and peace in the nuclear age and nothing is more important than moving toward a ban on the testing of weapons.

I strongly urge support for the Kennedy-Mathias approach which would put us strongly on record in favor of our country providing the leadership and taking the steps that can lead to a reduction and ultimately the end of the threat of nuclear annihilation that hangs over us and that, worse, hangs over our children, darkening their days and filling the nights of the youngest of them with fear.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it will be my intention to yield 4 minutes to the Senator from Illinois and then to yield back the time that I had with the idea that we would vote on our proposal, and, should it be successful, to use the remaining time to debate the proposal offered by the Senator from Indiana.

The PRESIDING OFFICER. Will the Senator suspend. The Chair wishes to inform the Senator from Massachusetts that neither side need yield back their time in order to dispose of the Mathias amendment.

The agreement which was entered into, the Chair is informed, would permit the vote on the Mathias amendment or the disposal of the Mathias amendment without having yielded back or utilized the time allocated to both sides.

Mr. KENNEDY. If I could have the attention of the Chair. The way we are constructed now, if we act and the Kennedy-Mathias amendment is accepted, under the existing parliamentary situation there would be no time for the Senator from Indiana. I would suggest that we work out a method of ensuring that the Senator from Indiana would have the time remaining on this particular amendment to argue for his substitute, and that I would have whatever time remains after that to express my views on the substitute.

The PRESIDING OFFICER. The Chair would inform the Senator from Massachusetts that the Senator from Indiana has 14½ minutes roughly and the Senator from Massachusetts 10½ minutes roughly. That time need not be yielded back in order to vote or dispose of the Mathias amendment.

Mr. KENNEDY. I understand that.

Mr. LUGAR. Mr. President, a parliamentary inquiry. Mr. President, is it not the case that after the Mathias amendment is disposed of, then a substitute is in order for the underlying Kennedy amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I yield 4 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 4 minutes.

Mr. SIMON. Thank you, Mr. President.

I commend my colleagues, Senator MATHIAS and Senator KENNEDY, for this amendment. Two fundamental questions. One, if I may pose it in the negative, why not have it? One argument is verification. I was a delegate to the United Nations special session

on disarmament in 1978, 8 years ago. Eight years ago we had the technology to verify. I have had the Arms Control Disarmament Agency people in to tell me why we cannot do it now, and they come up with things like, "Well, maybe there is an earthquake somewhere and it will look like it is a nuclear explosion." We are straining at gnats to try and find a reason on verification. The reality is we can verify, and everyone who examines the question seriously knows that is the reality.

The second reason for not doing it is one that has been published in some newspapers and journals. I am not revealing any classified secrets. We want to test certain kinds of warheads, particularly laser warheads, and just as certain as I am standing in front of you if we go ahead with those warheads inevitably the Soviets are going to do the same. It just is not rational not to go ahead.

Now, why go ahead? We all know if we sit back and think about it a little we are on a collision course with history with this unbelievable power.

One of the interesting things for me is to talk to a Rotary Club and you may have a question about a nuclear explosion; Talk to a college group and you are likely to have one; talk to a high school group and you are much more likely to have one; talk to a group of fourth graders, my friends, and the question that is going to dominate the discussion is where we are going and whether we are going to blow up this world. That is the reality that these fourth graders somehow sense more than those of us who sit in this Senate, because we get so tied up in all the details of our day-to-day existence and day-to-day legislation.

One illustration. And some of you have heard me use this before over in the House. When I first understood what kind of a world we are living in was about 4½ years ago down in Arkansas, an Air Force sergeant was walking along, accidentally dropped a wrench, it fell through some boards, broke a little aluminum tube, a series of things happened, and a Titan II missile went up in the air and landed in a wooded field some miles away. The warhead did not explode, but the newspapers reported it was a 9 megaton warhead. I called the Congressional Research Service, and I said, "Tell me in terms I can understand what the heck 9 megatons is."

They gave me two answers. No. 1, if you take all the bombs of World War II, including Nagasaki and Hiroshima, they total 2 megatons. Or, No. 2, if you read in El Salvador or Lebanon or Northern Ireland or someplace about a car blowing up, ordinarily that is 1 or 2 or 3 pounds of TNT.

□ 2140

In TNT equivalency terms, a megaton is a railroad freight train loaded with TNT 300 miles long; 9 megatons, 2,700 miles long—almost from Washington, DC, to Los Angeles, CA.

As my friends on the Armed Services Committee know better than I, we have a lot of warheads a lot bigger than 9 megatons. The United States has roughly 10,000 strategic warheads, the large warheads; the Soviets have roughtly 9,500. We have between us, in addition, about 30,000 tactical, smaller nuclear warheads. We have the ability, in a matter of hours, to create a world in which never again is the laughter of a child going to be heard, never again is a deer going to run through a forest, never again is a blade of grass going to grow. Somehow, we have to move away from that. This amendment is a practical way of moving us in that direction.

We are like a car that has passed a detour sign that says: "Warning! Cliff Ahead;" and everybody is saying, "We're going all right now; we haven't passed over the cliff yet." I do not know where that cliff is, but it is down the road, and we have an opportunity, in a responsible way, to halt and say, "Let's move back." I hope we do the responsible thing.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LUGAR. Mr. President, for the benefit of Members, let me describe the situation currently. Senator KENNEDY has offered an amendment and Senator MATHIAS has offered an amendment to the Kennedy amendment which is virtually identical. In that way, they have blocked the substitute. However, the unanimous-consent agreement calls for the three amendments, so eventually my substitute will be heard. Whether the Mathias amendment is voted up or down, the three will be unblocked, and my amendment will be eligible.

I recommend defeating the Mathias amendment which is identical to the Kennedy amendment. In any event, because the time is limited, I want to give Members an idea of my substitute, so that they will have a good recollection as we come to voting on it.

The amendment I will propose reads as follows:

(1) Ratification of the Threshold Test Ban Treaty (TTBT) and Peaceful Nuclear Explosions Treaty (PNET) with effective verification would be in the national security interest of the United States;

(2) Resolution of compliance questions arising from current verification shortcomings is essential to creating a climate in which TTBT and PNET could contribute to national security and the furthering of arms control objectives;

(3) Technical experts on nuclear testing from the United States and USSR have met in Geneva to discuss each side's views, and Soviet delegations expressed interest in pursuing U.S. concerns on TTBT verification;

(4) The Geneva technical experts meetings will resume in early September of this year;

(5) These meetings represent the best opportunity for moving forward with limitations on nuclear testing;

(6) The President is committed to moving forward on ratification of TTBT with PNET, if effective verification provisions can be negotiated;

(7) The Congress remains interested in the possibilities which may be afforded by a Comprehensive Test Ban (CTB);

(8) In examining the CTB question, innovative ideas have been brought forth which merit the serious attention of the Congress and the Administration; and

(9) Achievement of effective verification and ratification of TTBT nd PNET would be a major breakthough in US-Soviet relations upon which the President should seek to conclude further arms control agreements, especially those for significant reductions in existing nuclear weapons.

B. Sense of Congresss. It is the sense of Congress that:

(1) The President should be commended for bringing about the recent Geneva meeting on nuclear testing issues;

(2) The President should do everything possible to further the current Geneva talks of nuclear testing experts, including taking into account Soviet views;

(3) The President should seek to expand the experts meeting to the political level as soon as possible in order to negotiate effective verification of TTBT and PNET;

(4) The President should raise this as an issue of high priority with General Secretary Gorbachev at the next summit; and

(5) If effective verification is agreed, the President should seek Senate advice and consent to ratification of TTBT and PNET immediately.

C. *Report.* By February 1, 1987 the President shall submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. This report shall detail:

(1) Whether a CTB, or a ban on tests above the lowest verifiable yield, would contribute to U.S. national security, including our arms control objectives. If the Administration reports that they cannot, the report shall explain why;

(2) Whether a CTB, or a very low permitted yield could ever contribute to U.S. national security, including our arms control objectives, and if so, under what conditions;

(3) Whether a permitted yield below 150 kilotons could contribute to U.S. national security and arms control objectives, and under what conditions; and

(4) Whether an annual quota on tests could contribute to U.S. national security and arms control objectives.

D. *Coordination of the Report.* The President's report will be coordinated by the Director of The Arms Control and Disarmament Agency, with the Secretary of Defense, Secretary of Energy, Secretary of State, Director of Central Intelligence and all other responsible officials.

Mr. President, that is the substitute that I look forward to offering at the appropriate time. I hope that all Members will carefully consider the fact that negotiations are about to proceed. The substitute I am prepared to offer gives encouragement to all who are involved in those talks because very genuine bipartisan basis for furthering

the aims of the talks was evident during the hearings of the Foreign Relations Committee.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes and 4 seconds.

Mr. KENNEDY. I yield myself 4½ minutes.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, the chairman of the Foreign Relations Committee described his substitute. I would like to do the same for the proposal that the Senator from Maryland and I offer. It reads as follows:

(a) FINDINGS.—The Congress finds that—

(1) the United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time;

(2) a comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons;

(3) the Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification;

(4) the entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable;

(5) a comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means;

(6) at present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty; and

□ 2150

I would point out, here that the so-called expert negotiations that took place in Geneva last week are not on the subject of a comprehensive test ban. The administration is simply not interested in talk on a CTBT.

To continue:

(7) the past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that at the earliest possible date, the President of the United States should—

(1) request advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively;

Let me point out that, if the President has concerns about verification of the TTBT or PNET and wants additional verification provisions, we invite him to submit those additional verification requirements to the Senate of the United States in the form of a report.

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

Mr. President, the immediate resumption of CTB negotiations is supported by a large number of distinguished American Nobel laureates in a number of fields. I ask unanimous consent that a letter of support for the CTBT dated April 6, 1986, from these distinguished Americans be printed in the RECORD at this point.

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

APRIL 8, 1986.

President RONALD REAGAN,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to urge you not to abandon the historic opportunity that now exists to end nuclear weapons testing for all time. We implore you to suspend all U.S. nuclear tests until the next summit meeting or until the Soviet Union resumes testing. We also urge you to resume trilateral negotiations with the Soviet Union and the United Kingdom, suspended since 1980, which could lead toward the swift completion of a Comprehensive Test Ban Treaty.

Nobel laureate signatories:

Philip W. Anderson, Physics Department, Princeton University.

C.B. Anfinsen, Department of Biology, Johns Hopkins University.

Baruj Benacerraf, Department of Pathology, Harvard Medical School.

Paul Berg, Willson Professor of Biochemistry, Stanford University School of Medicine.

Owen Chamberlain, Lawrence Berkeley Laboratory, University of California at Berkeley.

S. Chandrasekhar, Laboratory for Astrophysics and Space Research, Chicago, IL.

Sheldon Lee Glashow, Professor of Physics, Lyman Laboratory of Physics, Harvard University.

Walter Gilbert, Biology Department, Harvard University.

Roald Hoffman, Department of Chemistry, Cornell University.

Robert W. Holley, Salk Institute for Biological Studies.

David H. Hubel, Department of Neurology, Harvard Medical School.

Polykarp, Kusch, Professor Emeritus of Physics, University of Texas, Dallas.

Fritz Lipmann, Professor of Biochemistry, Rockefeller University.

William N. Lipscomb, Jr., Department of Chemistry, Harvard University.

S. E. Luria, Institute Professor of Biology, Massachusetts Institute of Technology.

Linus Pauling, Formerly Chair, Division of Chemistry and Chemical Engineering, California Institute of Technology.

Edward M. Purcell, Lyman Laboratory of Physics, Harvard University.

Glenn T. Seaborg, Lawrence Berkeley Laboratory, University of California at Berkeley.

Emilio Segre, Department of Physics, University of California at Berkeley.

Herbert A. Simon, Professor of Computer Science and Psychology, Carnegie-Mellon University.

James Tobin, Department of Economics, Yale University.

George Wald, Biological Laboratories, Harvard University.

Steven Weinberg, Department of Physics, University of Texas.

Kenneth G. Wilson, Laboratory of Nuclear Studies, Cornell University.

Robert W. Wilson, Head, Radio Physics Research Department, Bell Laboratories.

Mr. BIDEN. Mr. President, the Reagan administration is the first since the Presidency of Dwight Eisenhower to fail to make any effort to make progress in the domain of nuclear testing.

The administration's record is dismal. It has refused to resume comprehensive test ban negotiations. It has failed to request Senate approval of the still unratified Threshold Test Ban Treaty that was signed in 1974 and the Peaceful Nuclear Explosions Treaty that was signed in 1976. It has, in the face of strong public opposition, resumed nuclear testing just when the Soviets, however, cynically, appear to be demonstrating more interest in a testing agreement.

The fact is that the administration wishes to continue testing because, as I stated during the SDI debate on the floor several days ao, it intends to continue its arms buildup. And it specifically wants to preserve the right to test such exotic weapons as the x-ray laser which are critical to the development of its Star Wars Program.

There is now substantial consensus in the technical community that the administration's allegations about frequent Soviet violations of the 150 kiloton threshold limit on testing that is now in effect were due to measurement error. Both the Soviet Union and the United States have in fact tested several times over the threshold. But if the roof on your house is leaking, you do not tear down the house. You attempt to improve upon its construction. So too with arms control. We must strengthen the commitment not to test, not weaken it.

The amendment offered by Senators KENNEDY and MATHIAS calls on the administration to seek ratification of the two extant treaties and to resume negotiations toward a mutual and verifiable Comprehensive Test Ban Treaty. While a test ban is not a substitute for the limitations on offensive and defensive systems that I have repeatedly called for, a test ban would be an important component of a comprehensive arms control regime between the two superpowers.

COMPREHENSIVE TEST BAN

Mr. LEAHY. Mr. President, if President Reagan and Mr. Gorbachev are to succeed in devising a formula to reduce and ultimately eliminate nuclear weapons, they must take the fundamental step of making a commitment to negotiate a comprehensive test ban.

A verifiable CTB with onsite inspection could pave the way toward a freeze on the production and deployment of nuclear weapons. It could help put an end to the constant parade of destabilizing nuclear innovations which have failed to enhance our security. Combined with deep reductions in offensive forces and tight restraints on the development, testing, and deployment of defensive weapons, a halt in nuclear testing could be a major contribution toward halting and reversing the nuclear arms race.

As a first step, we should immediately ratify the Threshold Test Ban and Peaceful Nuclear Explosion Treaties. These treaties, negotiated by Presidents Nixon and Ford, ban nuclear tests above 150 kilotons and contain precedent-setting verification procedures, including Soviet acceptance of the principle of onsite inspection and the use of data exchanges to calibrate the size of Soviet tests. Though these treaties have not been ratified, both superpowers have agreed to informally observe them.

The administration has refused to allow the Senate to proceed with a ratification debate on these treaties, citing likely Soviet violations of the TTBT and the inadequacy of its accompanying verification protocol.

Let's take a moment to evaluate the basis of the administration's refusal to verify these treaties.

First, according to recent press reports, the Central Intelligence Agency has changed its procedures for estimating the yield of Soviet nuclear tests because its previous estimates were too high. Seismological experts outside the Government have long argued for such a change. As a result, on the basis of seismic information, the Soviet Union's likely violations may have never been violations at all. In fact, under the old methodology used by the administration to allege likely Soviet violations, it is entirely possible that some U.S. nuclear weapons tests may have themselves appeared to the Soviets to exceed the imposed 150 kiloton limit.

With regard to verification, there is no doubt that uncertainties involved with the monitoring of either a low yield arms control regime or a comprehensive test ban can today be reduced to acceptable levels with readily available technology for onsite monitoring at Soviet and United States test facilities. The question, then, is how to proceed to implement such a program of effective monitoring.

After ratifying the TTB and PNE Treaties, the second step is for both superpowers to join in a mutual moratorium on all nuclear testing. Such a moratorium could be imposed for a limited period of time, or as long as the Soviet Union continued to refrain from testing, while we negotiate and implement more rigorous nuclear testing verification procedures.

Mr. President, such an opportunity has been available to the United States since last August, when the Soviet Union began its moratorium on nuclear testing. The administration has refused to join the Soviets, citing the risks that a moratorium could pose for the reliability of our nuclear weapons stockpile. It argues that without testing, the United States could not diagnose and remedy potential problems in the safety of our nuclear stockpile or the reliability of our nuclear weapons.

The fact is, few U.S. nuclear tests have ever been dedicated specifically to identifying design flaws in nuclear weapons. Rather, the overwhelming majority of tests are for validating nuclear weapons designs and testing new concepts for future weapons development.

Certainly, the safety and reliability of the nuclear stockpile cannot be ignored. However, this issue can be adequately addressed through an arms control agreement which, for example, might permit a very small quota of low yield tests for the purpose of ensuring the safety and reliability of remaining weapons.

The final step would be to resume comprehensive test ban negotiations.

Prior to United States withdrawal from CTB negotiations in 1980, the Soviets had accepted a United States plan for onsite inspections to help resolve compliance questions. In another major breakthrough on verification, the Soviets also accepted a United States proposal for development of a network of sophisticated automatic seismic monitoring stations on their territory. Such seismic facilities inside of the Soviet Union, combined with our impressive existing national technical means of verification, would give us a very effective basis for verifying a CTB.

Mr. President, negotiating the elimination of nuclear testing is largely a matter of political will, and not of inadequate verification technology or procedures. Verification should not be used as an excuse by the administration to block CTB negotiations.

It is ironic that a group of U.S. scientists from the National Resources Defense Council have recently succeeded where our Government has failed. The NRDC has concluded an agreement to deserve Soviet tests which might actually enhance the prospects of verifying a comprehensive test ban.

On May 28, 1986, the NRDC and the Sovict Academy of Scientists entered into an unprecedented agreement to establish three seismic monitoring stations near the Soviet nuclear test site in Kazakhastan and our Nevada test site.

History's first private sector peace initiative could result in the collection of invaluable data on the seismological characteristics of the Soviet Union. It might help remove an important obstacle in the verification myth used by the administration in opposing a comprehensive test ban.

Finally, Mr. President, in recent days we have been encouraged by promising developments between Soviet and American negotiators in Geneva on the question of nuclear testing. They concluded their deliberations with the promise to meet again. But we have been encouraged in the past, only to be disappointed. The time for action is now in moving toward an end to all nuclear testing.

● Mr. LEVIN. Mr. President, my colleagues have discussed several important aspects of the Comprehensive Test Ban [CTB] Treaty issue. My remarks will concentrate on the relationship of a CTB Treaty and negotiations to the arms control treaty most of us seem to forget: The Nuclear Nonproliferation Treaty [NNPT]. In 1991, a short 5 years away, we may be rudely awakened to the continuing importance of the NNPT, for in that year the over 100 nations that have pledged not to develop their own nuclear arsenals will decide whether to renew their pledges. Obviously, the security of this small planet will be even more seriously threatened if the six nuclear nations we now know of are joined by the dozen other nations capable of developing a nuclear device, and another two dozen who might be able to develop one by the end of the century. The sole legal obstacle to such a dangerous future is the NNPT.

The NNPT, signed in 1968 right here in Washington, and ratified by the Senate in 1969, sealed a three way bargain. The nonnuclear signatories promised not to develop nuclear weapons. In exchange, they were promised access to peaceful nuclear technologies. All nations which signed it agreed to adopt International Atomic Energy Agency [IAEA] safeguards to prevent clandestine development of weapons and to set international standards of inspection and safety measures for their reactors. All this has come to pass. The third aspect of the bargain is contained in article six of the treaty: "Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measure relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disar-

mament under strict and effective international control." This is clearly an undertaking by the nuclear weapons states to negotiate an end to the arms race as their part of the bargain, at an early date. Seventeen years later, what progress can we point to in this regard? Five years from now, this is the question the patient, peaceful nonnuclear states will be asking us: Have you kept the NNPT bargain?

And, Mr. President, in 1969, disarmament had a very precise meaning. There were no SALT or START talks at the time. There was only the Atmospheric Test Ban Treaty. In fact, this treaty which is cited in the preamble of the NNPT, had as its ultimate goal "the discontinuance of all test explosions of nuclear weapons for all time." Clearly by this reference disarmament in the NNPT context has as one of its ultimate goals a comprehensive test ban. We signed this treaty understanding this. And for years, through the Threshold Test Ban Treaty of 1974 and the Peaceful Nuclear Explosions Treaty of 1976, we were good to our word. These modest steps toward a CTB were achieved. But this progress came completely to a halt with the Reagan administration.

Our current administration policy is that a CTB, regardless of our solemn international obligations, is not in the national interest. I'd like to examine the administration's arguments against a CTB one by one, remembering that weighty pledge we have made in the NNPT. Do any of these reasons justify our refusal to negotiate in good faith on a CTB? That is the question. First, verification. Due to advances in the technology of verification, it is now the consensus of experts in the field that nuclear explosions can be verified certainly at the 10 kiloton level and very probably at the 1 kiloton level. Yet Assistant Secretary Perle, as recently as this March, still maintains that the 150 kiloton limit of the Threshold Test Ban Treaty [TTBT] cannot be adequately verified. On a related issue, onsite inspection, a scientific team from the Natural Resources Defense Council has just visited the Soviet Union to begin a civilian monitoring effort of Soviet tests. It is no longer adequate for the administration to cite this as a realistic obstacle. The Soviets are willing to allow onsite inspection. We can verify the TTBT, and we should begin serious discussions of CTB verification procedures, beyond the low level expert contact recently begun in Geneva. This is a bare minimum effort.

A second argument against the CTB is the need to test a nuclear pumped x-ray laser, a third generation nuclear weapon, a test which clearly violates the spirit of the NPT. We are supposed to negotiate a cessation to the arms race, not invent an even more sophisticated weapon for its continuation. We've heard no solid strategic reason to develop the x-ray laser.

But let's get to the heart of the issue. Many Senators will be rightly alarmed by statements that continued testing is needed to maintain the reliability of our arsenal. This is the import of the annual arms control impact statement. And it is the basis for a recent letter from Deputy Assistant Secretary of Defense Frank Gaffney to Representative MARKEY. I'd like to refer to this letter in greater detail: It lists our current design criteria for nuclear weapons. These are: Safety; modifications for compatibility with new delivery vehicles—that is modernization—minimum probability of any plutonium dispersal in the event of accident; operational reliability; yield testing; conservation of nuclear materials; minimum maintenance costs; and simplicity.

Reading between the lines, these criteria mean that we want to modernize, and we want to continue producing different yields. These goals also clearly violate the spirit of the NPT and its call for cessation of the arms race. Moreover, two very feasible goals do not appear in these criteria. One is the design of nuclear weapons so they do not require further testing. This was our policy until the 1970's. A second criteria might be simple compatibility with our NPT obligations. They amount to the same idea: We can develop weapons that do not require proof testing of their reliability. In fact, a very small proportion of our nuclear tests today are conducted for this purpose. The individual nonnuclear components, including permissive action links, can be tested readily in the laboratory or with conventional explosions. All that is lacking is the policy guidance to require it. So don't be deceived by the often stated argument: We must test for reliability. That is not the reason for the vast majority of our tests.

Finally, let us examine the most contradictory argument of all. It is said that reduced confidence in our arsenal would lead to a decision to launch even more weapons in the event of a nuclear conflict. The whole rationale of an SDI is to reduce confidence in the opponent's ability to attack our silos. Gradual deterioration of both side's arsenals would in fact perform the same function as an SDI. The administration seems to want it both ways, depending on the context of the argument. They want SDI, they don't want a CTB. This completes the pattern of disregard for logic and the capabilities of the most modern technologies in verification and warhead design. I wish the administration would turn this skeptical scrutiny on SDI. If we can indeed develop an impenetrable shield to make these terrible weapons impotent and obsolete, we can certainly use the available technology to comply with a CTB!

The American people are indeed uncomfortable with the no-win theory of deterrence. We live in anxious and all too dangerous times. A CTB would serve as a valuable first step to a true cessation of the arms race; it would effectively prevent modernization on both sides. Over many years, 20, 30, 50, it would render our arsenals slowly impotent and obsolete without costing anyone a dime. The confidence that might be bred between our two nations as this slow and steady miracle occurred could materially change the climate of our relations with the Soviet Union. And we would be spared that looming danger on the horizon, that the many nonnuclear nations who signed and have compiled with the NPT would not be tempted to develop additional arsenals. The moment of truth for the NPT will occur in 1991. What will we say to them? What will they say to us?

At the recent NPT review conference, in August 1985, I was told over and over by representatives of our allies: "Keep your commitments to sit down and negotiate." And, "You hurt yourself and give the Soviet Union a great propaganda victory by refusing to talk to them about a comprehensive test ban." It is extremely hard to argue against that position. And the fact that the Soviets have suspended their testing for more than a year now just makes these remarks more urgent. Such a self-inflicted wound can be avoided, however, if the President will listen to our allies keep our commitments and promptly state a willingness to resume CTB negotiations. For this reason, I support the amendment.●

Mr. KENNEDY. Mr. President, I am prepared to vote.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

The Lugar side has 26 minutes remaining.

The Senator from Maryland.

Mr. MATHIAS. Mr. President, I am also prepared to vote.

I just point out this has not only been supported by the past five administrations, including, as the Senator from Maine noted, President Eisenhower, but it is today supported by a majority of the American people. The Gallup Poll that was taken on June 8 showed that a clear majority of Americans favored the test ban.

It is an urgent subject. It is one on which I think the record is clear.

I urge the Senate to adopt this amendment, and I ask for the yeas and nays on the amendment.

Mr. KENNEDY. Yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, will the Senator yield me about 10 seconds?

Mr. KENNEDY. I yield.

Mr. NUNN. Mr. President, I support the amendment. It is identical to the amendment we adopted 2 years ago by something like a 77 to 22 vote. It gives the President the latitude that he needs both in terms of verification and in terms of seeking a comprehensive test ban. It does not mandate a complete comprehensive ban. It gives a lot of leeway and flexibility.

I think it is a good amendment. I urge my colleagues to support it.

Mr. GOLDWATER. Mr. President, I yield 3 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, on the surface, this amendment seems to be a rather simple statement in support of controlling nuclear testing. The amendment, however, raises some serious issues that the Senate should consider very carefully. This amendment would endorse Senate ratification of a Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty before U.S. verification concerns have been addressed and satisfied. In addition, the amendment calls for the immediate resumption of the Comprehensive Test Ban Treaty negotiations.

Mr. President, verification is the heart and soul of any arms control agreement between the two superpowers. The Threshold Test Ban Treaty in its current form cannot be effectively verified. The Soviets have clearly violated the Limited Test Ban Treaty and have probably violated the Threshold Test Ban Treaty. Therefore, it is essential that the United States be guaranteed sufficient verification and enforcement provisions in any treaty.

Mr. President, President Reagan has stated if agreement can be reached with the Soviet Union on verification of the Threshold Test Ban Treaty, he is prepared to seek ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty.

Mr. President, we need to ensure that any treaty concerning limiting nuclear tests can be vertified fully and accurately. Until the United States is assured of adequate verification provisions, the Senate should take no steps to undermine the President's negotiations with the Soviets.

Mr. President, I urge all of my colleagues to oppose this amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. LUGAR. Mr. President, following the vote on the amendment of the distinguished Senator from Maryland will my amendment automatically be in order, and by what procedure does it become the pending amendment?

The PRESIDING OFFICER. When the Mathias amendment is disposed of the amendment of the Senator from Indiana will be in order.

Mr. LUGAR. Mr. President, is it true that whether or not the Mathias amendment passes, in the event that my amendment passes, will it prevail over both the Kennedy amendment and the Mathias second degree amendment?

The PRESIDING OFFICER. The Senator's amendment is a complete substitute, and the Senator is correct.

Mr. LUGAR. Mr. President, I ask these questions for the benefit of Members. In the event that the vote on the Mathias amendment is adverse, as I hope it will be, my substitute will be available. In the event the Mathias amendment should pass, my substitute will be available. In either case, if voted favorably, it would prevail.

Mr. GOLDWATER. Mr. President, I yield 2 minutes to the Senator from Virginia.

Mr. WARNER. Mr. President, I rise to oppose the Kennedy-Mathias amendment on nuclear testing. I would like to take this opportunity to address the issue of underground nuclear testing and its relationship to U.S. national security. In view of the Soviet moratorium on such testing announced by General Secretary Gorbachev, and the administration's determination to proceed with the U.S. underground test program, this issue is receiving heightened attention.

On April 29, 1986, the Committee on Armed Services conducted a hearing on nuclear testing issues. At that hearing we heard from administration officials and public witnesses on this important subject. In addition, earlier in April, the Subcommittee on Strategic and Theater Nuclear Forces—which I chair—conducted a hearing on the Department of Energy's National Security Programs. During this hearing the subject of nuclear testing—which would have a significant impact on our nuclear weapons programs—was discussed in considerable detail. I would like to share with my colleagues the information that was brought out during these hearings.

Effective and verifiable limitations on nuclear testing remain an important element in a broad spectrum of U.S. arms control objectives. However, there are two subjects that I would like to focus on today, and these are the key provisions of the amendment by my colleagues from Maryland and Massachusetts. The first is the Threshold Test Ban Treaty [TTBT] and the verification issues associated with that treaty. The second issue is the Comprehensive Test Ban Treaty [CTBT] and the question of whether the resumption of negotiations on a CTBT is in our national security interest at this time.

The United States and the Soviet Union signed the Threshold Test Ban Treaty in 1974, and although this agreement has not been ratified, both parties stated in 1976 that they would observe the 150 kiloton limit that it established. Because that the United States cannot effectively verify Soviet compliance with the TTBT, it places the highest priority in the nuclear testing area to resolving these verification problems. The Reagan administration has made several proposals to the Soviets to resolve these verification problems, including the President's proposal of March 14, 1986.

In that proposal, the administration again invited the Soviet Union to send scientists to the Nevada test site later that month to monitor a U.S. nuclear test. For the purpose of beginning a dialog, President Reagan agreed to forego any conditions on his unilateral invitation. At this time, the Soviets would be able to examine a proven technical method—known as CORR-TEX—to monitor the yields of underground tests. This technology can accurately determine test yields—to within plus or minus 30 percent—by measuring the propagation of the underground shock wave created by the nuclear explosion.

While the Soviets have rejected previous U.S. offers in this regard, I had hoped that they would respond more positively to this proposal. This would have been a good opportunity for General Secretary Gorbachev to demonstrate that his expressed willingness to discuss verification issues is more than an exercise in propagandizing. I was disappointed by the Soviet rejection of the President's offer, because I felt that it offered some hope of progress on the subject of nuclear testing limitations.

President Reagan has made it clear that if there can be agreement on the use of an effective verification system incorporating such a method to verify the TTBT, he would be prepared to move forward and seek ratification of both the Threshold Test Ban and Peaceful Nuclear Explosions agreements.

This amendment expresses the sense of the Congress that the President should submit the Threshold Test Ban Treaty for ratification prior to the resolution of these verification issues. I think this would be highly ill-advised. U.S. concerns about verification are particularly serious in view of the Soviet record of noncompliance with its arms control commitments, including likely violations of the TTBT and unambiguous violations of the Limited Test Ban Treaty of 1963. To submit this agreement before resolving our concerns would reduce any incentive

the Soviets might have to address these verification problems seriously.

Mr. President, as my colleagues know, United States and Soviet technical delegations met in Geneva during the week of July 28, 1986, to discuss nuclear testing issues. While the details of these discussions are confidential, I understand that they went well. The Soviets apparently listened with great interest to our discussion of the CORRTEX verification technology, and I understand that these delegations will be meeting again next month.

It is my firm hope that these discussions will lead to a resolution of U.S. concerns about nuclear testing verification, so that we might move forward with ratification of the TTBT and PNET agreements as the President has indicated he is prepared to do under those circumstances. I believe that a Senate amendment calling for the ratification of the TTBT before our verification concerns have been resolved would undermine any incentive the Soviets might have to agree to improve verification provisions. Adoption of this amendment would thus run counter to our national security interests.

On the subject of the Comprehensive Test Ban Treaty [CTBT], this remains a long-term objective of the United States. The Reagan administration's position on this is similar to that of previous administrations. The last several administrations have supported the goal of an effective and verifiable CTBT, but none of them tried or were able to conclude such an agreement.

A CTBT must be viewed in the context of overall U.S. security requirements. As long as the security of the United States and our allies continues to rely on a credible and effective nuclear deterrent, we must be able to continue nuclear testing. The United States must maintain a credible nuclear deterrent until a better alternative is available. It is only through regular nuclear testing that the reliability of the U.S. nuclear stockpile can be maintained with confidence. Without such testing, there would be strong pressures to increase the size of our stockpile to compensate for the resulting loss of confidence in its reliability.

There are numerous examples in the past when actual nuclear tests have identified serious weapon design problems that were not uncovered through computer simulations. In these cases, actual nuclear tests were required to correct these problems. As the United States continues to incorporate modern safety and security features into its weapons designs, these weapons must be tested to insure that they work. It should be noted that the small ICBM warhead will require such features because of its mobility and potential interface with the public. Without nuclear testing, the U.S. could not incorporate these important safety and security features without some loss of confidence in the reliability of our stockpile.

In addition, an important aspect of nuclear testing is weapons effects testing whereby nonnuclear components, such as electronics, are subjected to the effects of a nuclear explosion to test their hardness to these effects. The United States could not with confidence provide for the survivability of our satellites and command, control, and communications systems without such nuclear testing.

Nuclear testing over the years has enabled the United States to modernize and improve its deterrent force in response to the dynamic requirements of deterrence. As United States targeting policy has evolved, and as the Soviet target base has changed, the weapons needed to support our deterrence requirements have changed as well. Because of these changes, the weapons in the United States stockpile have become smaller, more accurate, and therefore less destructive. They may also have to become more specialized in response to Soviet efforts to make their important targets more difficult to target, either through hardening, construction of facilities deep underground, or mobility. Nuclear testing will be necessary to respond to such Soviet actions.

As a result of weapons developments over the years, the U.S. nuclear stockpile today is one-third smaller than it was in 1967. The total destructive power of our stockpile has been reduced by three-quarters since 1960. As a result, we have been able to maintain a credible nuclear deterrent with a smaller, safer and more secure nuclear stockpile.

As I said earlier, a Comprehensive Test Ban Treaty remains a long term objective of the United States. However, it must be viewed in the context of achieving broad, deep and verifiable arms reductions; substantially improved verification capabilities; expanded confidence building measures; and a greater balance in conventional forces. In addition, there remain serious problems with verifying a CTBT that must be resolved. In the meantime, our highest priority in arms control remains significant, equitable and verifiable reductions in strategic offensive forces.

Mr. President, I will conclude by again urging my colleagues to oppose the Kennedy-Mathias amendment on nuclear testing. The Senate's actions should be supportive of the administration's arms control efforts. These efforts will take time, and they can only be successful if they enjoy the support of the Congress. In view of the actions of the House of Representatives, the burden of supporting the administration's efforts has fallen entirely on the Senate. I am hopeful that we can reach agreement with the Soviet Union on improved verification provisions for the TTBT and PNET agreements. A ban on nuclear testing will remain a long-term goal, but I continue to believe that nuclear testing is in our national security interest until those circumstances exist under which we no longer rely on offensive nuclear weapons for deterrence.

Mr. President, I associate myself with the positions stated by the distinguished chairman of the Foreign Relations Committee and oppose this amendment.

Recently, the Soviets have shown a great and indeed a greater willingness to discuss this very issue that is before us tonight. During the week of July 28, 1986, United States and Soviet technical delegations met in Geneva for bilateral talks on nuclear testing issues.

This change of heart by the Soviets is a vindication of the administration's approach to nuclear testing limitations.

These discussions with the Soviets apparently went quite well and according to the United States representative, the Soviets listened to our discussions of the CORRTEX verification technology.

I also understand that further discussions are scheduled to take place next month.

Senate adoption of this amendment would undermine the administration during these important discussions and eliminate any incentive for the Soviets to agree to improved verification measures.

For that reason and such additional reasons that I have stated, I strongly oppose the amendment.

The PRESIDING OFFICER. Who yields time?

No time is sought.

The question is on agreeing to the amendment of the Senator from Maryland. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi [Mr. STENNIS] is necessarily absent.

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

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—64

Andrews	Chafee	Eagleton
Baucus	Chiles	Exon
Bentsen	Cohen	Ford
Biden	Cranston	Glenn
Bingaman	D'Amato	Gore
Boren	Danforth	Gorton
Bradley	DeConcini	Grassley
Bumpers	Dixon	Harkin
Burdick	Dodd	Hart
Byrd	Durenberger	Hatfield

Heinz	Matsunaga	Rockefeller
Hollings	Melcher	Roth
Inouye	Metzenbaum	Sarbanes
Johnston	Mitchell	Sasser
Kassebaum	Moynihan	Simon
Kasten	Murkowski	Simpson
Kennedy	Nunn	Specter
Kerry	Packwood	Stafford
Lautenberg	Pell	Trible
Leahy	Proxmire	Weicker
Levin	Pryor	
Mathias	Riegle	

NAYS—35

Abdnor	Hatch	Nickles
Armstrong	Hawkins	Pressler
Boschwitz	Hecht	Quayle
Broyhill	Heflin	Rudman
Cochran	Helms	Stevens
Denton	Humphrey	Symms
Dole	Laxalt	Thurmond
Domenici	Long	Wallop
Evans	Lugar	Warner
Garn	Mattingly	Wilson
Goldwater	McClure	Zorinsky
Gramm	McConnell	

NOT VOTING—1

Stennis

So the amendment (No. 2639) was agreed to.

□ 2210

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

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

The motion to lay on the table was agreed to.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, may I have the attention of my colleagues?

The PRESIDING OFFICER. The Senate will be in order.

□ 2220

Mr. LUGAR. Mr. President, let me describe the parliamentary situation. Senator KENNEDY offered an amendment. Senator MATHIAS then offered a second degree amendment, thus blocking the tree. We disposed of the Mathias amendment by adopting it. I am going to offer the substitute amendment now which I described earlier in the debate. In the event it is adopted, it takes out the Mathias amendment and becomes the action of the Senate this evening.

Many Members have asked if you can vote for both. The answer is yes. I presume many Members will do that, and I will be grateful for those votes.

AMENDMENT NO. 2640, SUBSTITUTE FOR AMENDMENT NO. 2638

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR] proposes an amendment numbered 2640.

Mr. LUGAR. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

A. FINDINGS. The Congress finds that:

(1) Ratification of the Threshold Test Ban Treaty (TTBT) and Peaceful Nuclear Explosions Treaty (PNET) with effective verification would be in the national security interest of the United States;

(2) Resolution of compliance questions arising from current verification shortcomings is essential to creating a climate in which TTBT and PNET could contribute to national security and the furthering of arms control objectives;

(3) Technical experts on nuclear testing from the United States and USSR have met in Geneva to discuss each side's views, and Soviet delegates expressed interest in pursuing U.S. concerns on TTBT verification;

(4) The Geneva technical experts meetings will resume in early September of this year;

(5) These meetings represent the best opportunity for moving forward with limitations on nuclear testing;

(6) The President is committed to moving forward on ratification of TTBT with PNET, if effective verification provisions can be negotiated;

(7) The Congress remains interested in the possibilities which may be afforded by a Comprehensive Test Ban (CTB);

(8) In examining the CTB question, innovative ideas have been brought forth which merit the serious attention of the Congress and the Administration; and

(9) Achievement of effective verification and ratification of TTBT and PNET would be a major breakthrough in US-Soviet relations upon which the President should seek to conclude further arms control agreements, especially those for significant reductions in existing nuclear weapons.

B. SENSE OF CONGRESS. It is the sense of Congress that:

(1) The President should be commended for bringing about the recent Geneva meeting on nuclear testing issues;

(2) The President should do everything possible to further the current Geneva talks of nuclear testing experts, including taking into account Soviet views;

(3) The President should seek to expand the experts meeting to the political level as soon as possible in order to negotiate effective verification of TTBT and PNET;

(4) The President should raise this as an issue of high priority with General Secretary Gorbachev at the next summit; and

(5) If effective verification is agreed, the President should seek Senate advice and consent to ratification of TTBT and PNET immediately.

C. REPORT. By February 1, 1987 the President shall submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. This report shall detail:

(1) Whether a CTB, or a ban on tests above the lowest verifiable yield, would contribute to U.S. national security, including our arms control objectives. If the Administration reports that they cannot, the report shall explain why;

(2) Whether a CTB, or a very low permitted yield could ever contribute to U.S. national security, including our arms control objectives, and if so, under what conditions;

(3) Whether a permitted yield below 150 kilotons could contribute to U.S. national security and arms control objectives, and under what conditions; and

(4) Whether an annual quota on tests could contribute to U.S. national security and arms control objectives.

D. COORDINATION OF THE REPORT. The President's report will be coordinated by the Director of The Arms Control and Disarmament Agency, with the Secretry of Defense, Secretary of Energy, Secretary of State, Director of Central Intelligence and all other responsible officials.

The PRESIDING OFFICER. The Chair will advise the Senator he has 3 minutes and 24 seconds remaining and 24 seconds remain to the opposition.

Mr. LUGAR. Mr. President, the Mathias amendment encourages the Soviet Union to focus on a comprehensive test ban instead of focusing on real reductions of existing nuclear weapons. Clearly, the negotiating position of the President of the United States is to reduce nuclear weapons, and not to pursue the illusory benefit which a comprehensive test ban would provide.

The Lugar amendment keeps our focus on real reductions of nuclear weapons. It seeks progress on nuclear testing where progress is possible: toward ratification of the Threshold Test Ban Treaty. It explores new ideas which have promise.

But, Mr. President, the significant difference——

Mr. WALLOP. May we have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. Will those seeking to converse please retire to the cloakroom?

The Senator from Indiana.

Mr. LUGAR. Mr. President, the Mathias amendment urged resumption of the comprehensive test ban talks. I would contend that the comprehensive test ban would harm U.S. security by halting modernization of our weapons, reducing their reliability, and because we could no longer test, a CTB would end efforts to improve safety and security of our weapons.

To leap for the comprehensive test ban at this point, it seems to me, is dangerous policy.

In the past, Senators have had the option of voting for what seemed to be a motherhood issue, and they left with something that seemed to offer peace and security.

Mr. President, that is not the way to proceed into these negotiations. To adopt the Mathias amendment is to undermine, in my judgment, our negotiating position in the coming days in Geneva.

I would hope, Mr. President, that adoption of the Lugar substitute would encourage an early move toward ratification of the Threshold Test Ban Treaty, but we would hold our fire with regard to accelerating movement toward the Comprehensive Test Ban Treaty.

We would, instead, focus upon our real efforts in Geneva to reduce existing nuclear weapons.

For these reasons, Mr. President, I ask Members to vote for the Lugar substitute in the vote we will now have. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 24 seconds.

Mr. MATHIAS. Mr. President, I would simply say that the language that the Senate has adopted tonight is the indentical language the Senate adopted by a vote of 77 to 22, 2 years ago. I think we muddy the waters if we change that language. I would hope we would not adopt the substitute.

The PRESIDING OFFICER. The Senator from Idaho.

SOVIET VIOLATIONS OF TEST BAN TREATIES MUST BE CORRECTED BEFORE SENATE CAN CONSIDER THEM

Mr. McCLURE. Mr. President, I rise in support of the amendment of the Senator from Indiana.

Mr. President, according to unclassified but authoritative information, there have been over 20 Soviet nuclear weapons tests underground believed to be likely or probable violations of the 1974 Threshold Test Ban Treaty. Moreover, according to unclassified but authoritative information, there have been over 30 Soviet underground nuclear weapons tests which have conclusively vented radioactive debris beyond Soviet borders, in violation of the 1963 Limited Test Ban Treaty.

I would like the legislative history of this amendment to show that there are both conclusive, clearcut Soviet violations, and probable or likely Soviet violations of nuclear testing treaties. I believe that the President should not ask the Senate for advice and consent for ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, until and unless United States concerns about Soviet violations can be alleviated, either by Soviet compliance, or by improved, effective verification which allows the United States to confidently conclude that Soviet violations have not occurred. It would be the height of folly for the President to ask the Senate for advice and consent to ratify a treaty which the United States believed that the Soviet Union had violated.

Mr. LUGAR. I yield back any remaining time.

The PRESIDING OFFICER. All time having been yielded back or expired, the question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi [Mr. STENNIS] is necessarily absent.

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

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—42

Abdnor	Hatch	Nickles
Armstrong	Hawkins	Pressler
Boschwitz	Hecht	Quayle
Broyhill	Heflin	Roth
Cochran	Helms	Rudman
D'Amato	Humphrey	Simpson
Denton	Kassebaum	Stevens
Dole	Laxalt	Symms
Domenici	Long	Thurmond
Evans	Lugar	Trible
Garn	Mattingly	Wallop
Goldwater	McClure	Warner
Gramm	McConnell	Wilson
Grassley	Murkowski	Zorinsky

NAYS—57

Andrews	Eagleton	Mathias
Baucus	Exon	Matsunaga
Bentsen	Ford	Melcher
Biden	Glenn	Metzenbaum
Bingaman	Gore	Mitchell
Boren	Gorton	Moynihan
Bradley	Harkin	Nunn
Bumpers	Hart	Packwood
Burdick	Hatfield	Pell
Byrd	Heinz	Proxmire
Chafee	Hollings	Pryor
Chiles	Inouye	Riegle
Cohen	Johnston	Rockefeller
Cranston	Kasten	Sarbanes
Danforth	Kennedy	Sasser
DeConcini	Kerry	Simon
Dixon	Lautenberg	Specter
Dodd	Leahy	Stafford
Durenberger	Levin	Weicker

NOT VOTING—1

Stennis

So the amendment (No. 2640) was rejected.

□ 2240

The PRESIDING OFFICER. The question now is on agreeing to the Kennedy amendment as amended by the Mathias amendment.

The amendment (No. 2638), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I have two amendments. Both of them can be disposed of in a matter of 3 or 4 minutes.

The PRESIDING OFFICER. If the Senator will desist, the question now recurs on the Wilson amendment No. 2595.

The Senator from Arizona.

Mr. GOLDWATER. Mr. President, the Senator from Ohio has yielded to me. We were going to have an amendment on the satellites but we have gotten a time agreement, I believe, with the Senator from Massachusetts on that for 1 hour. Is that correct, I ask the junior Senator from Massachusetts?

Mr. KERRY. Mr. President, that is correct. It is my understanding from the distinguished Senator from Virginia that that will be broken up with 40 minutes to the proponents and 20 minutes to the opponents. Am I correct?

Mr. GOLDWATER. That is all right. With this agreement for time, we begin on that tomorrow. Is that all right with the Senator?

Mr. KERRY. I understand we will go forward tomorrow with that?

Mr. GOLDWATER. Yes, Mr. President.

Mr. NUNN. Mr. President, I think we ought to have that by unanimous-consent agreement.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that on the antisatellite weapons amendment, we have a time agreement of 1 hour, 40 minutes to the Senator from Massachusetts; 20 minutes to our side.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Mr. President, would the Senator from Arizona add to that unanimous-consent request that there be no other amendments in order to that amendment?

Mr. GOLDWATER. Yes, that no amendments will be in order.

Mr. KERRY. Mr. President, and it is my understanding that there will be an up-or-down vote; is that correct?

Mr. NUNN. I do not think we have given that assurance to anyone yet. I do not think we ought to set that precedent. I shall have no desire to move to table, but I do not think we should give that by unanimous consent

Mr. KERRY. Reserving the right to object, may we discuss that for a moment?

Mr. GOLDWATER. Is the Senator asking that there be no tabling motion?

Mr. KERRY. The Senator is asking that.

Mr. GOLDWATER. I could not make that agreement.

Mr. NUNN. We may not move to table but I do not think we should begin doing that because if we do, we are going to run into a lot of problems with other amendments. I think as managers, we have to reserve the right to table.

Mr. KERRY. May I ask, Mr. President——

The PRESIDING OFFICER. Will all those carrying on conversations please retire to the Cloakroom.

The Senator from Georgia may resume.

Mr. NUNN. I yield to the Senator from Massachusetts.

Mr. KERRY. Mr. President, I simply want to ask the distinguished ranking member whether there is an agreement as to the last two amendments

and that there would be an up or down vote.

Mr. NUNN. I do not think there was an agreement not to table.

Mr. GOLDWATER. There was no discussion that I know of about no tabling. We agreed to no amendments, and to change the 1 hour and 20 minutes to 1 hour, with 40 minutes going to the Senator from Massachusetts and 20 minutes to our side.

Mr. KERRY. That is acceptable to the Senator from Massachusetts.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Does that include the provision that there be no other amendments to this amendment?

The PRESIDING OFFICER. That has been stated.

Is there objection? Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I would like to go a little further, because we are not through yet tonight. As to amendments, there will be two by Senator GLENN, but I see no reason for there being any more rollcall votes tonight. I anticipate if we could pick up just a few cats and dogs, we do not need a lot of talk and we could be out of here in another half hour.

Mr. NUNN. Will the Senator from Arizona yield for a brief observation?

Mr. GOLDWATER. Certainly.

Mr. NUNN. The Senator from Delaware [Mr. ROTH] has indicated he has five amendments. One or two of them are going to require a good amount of debate. We hope we can get agreement to start them tomorrow. He is willing to come in as early as we are permitted to come in and we can make a lot of progress early.

I know both managers are willing to get here very early. We cannot order time tonight; we are not trying to. The Senator from Massachusetts may want to follow those with his 1 hour. Then we will have made a great deal of progress. I know Members would like to get out of here at a reasonable hour tomorrow afternoon. We would, too. But we have a lot of work to do so it is going to take unprecedented cooperation.

Mr. GOLDWATER. Mr. President, may I ask the majority leader if we could open up at 9 o'clock?

□ 2250

Mr. DOLE. Mr. President, on that question and other questions, the distinguished minority leader and this Senator have been working on an agreement on a couple of very important issues—Contra aid and South Africa. In my opinion, without trying to guess what will happen, I think we have made some progress. We hope to be meeting again in the minority leader's office, I would say, in the next 15 or 20 minutes.

It has been my hope to try to get this agreement this evening. I know that many of our colleagues may have an interest in that agreement and might want to take that into account. Even though there are no more rollcall votes, they may want to remain on the floor until we come forth with some agreement or announce that we may not be able to do it until tomorrow morning. I am willing to come in early tomorrow morning to accommodate the managers, because we would like to complete action on this bill tomorrow.

We have only one more week before the recess is scheduled to start. We need to take action on the debt ceiling. We need to take action on both Contra aid and South Africa.

I hope there is a good opportunity to finish this bill tomorrow.

Mr. BYRD. Mr. President, will the distinguished majority yield?

Mr. DOLE. Senator GOLDWATER has the floor.

Mr. GOLDWATER. I yield.

Mr. BYRD. Unless these cloture votes are vitiated, we will have to have some rollcall votes tonight—unless they are vitiated or put over. I just want to say that to Senators. We may agree on no more rollcall votes on this bill, but we still have the cloture votes facing us.

Mr. DOLE. If we get an agreement, we can vitiate the votes. that is part of the agreement. If everybody will give us another hour to work on that, I would ask unanimous consent that those cloture votes be postponed until midnight.

Mr. BYRD. I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. I will not object, but I hope we could postpone them until early in the morning; because the probability is that if we stay here until 12 or 12:30 tonight, we will have nothing in the morning. If there is any way we can carry those cloture votes over and let them be the first order of business—if the leaders do not get together—that would give us a much more productive day tomorrow.

Mr. DOLE. The only point I wish to make is that it probably will take an hour to get the agreement once we bring it to the floor. There is an hour right there. I would be happy to delay the cloture votes until tomorrow morning, but I think we should understand——

Mr. LEAHY. Mr. President, reserving the right to object, and I shall not, I am wondering if the distinguished leaders might consider going along the lines of what the Senator from Georgia has said: To postpone the cloture votes to a time, say, a relatively few minutes after the normal time of the leaders in the morning. For one thing, some, like myself get here at 7:30 in the morning. But it would also be an incentive for everybody to get here. It would remove the problem the Senator from Georgia has raised, that maybe a lot more amendments might be offered if we think there is going to be another vote at 12. I will not object to whatever the leadership wants.

Mr. DOLE. I do not have any problem with that. I am perfectly willing to suggest that unless we otherwise have an agreement, we postpone the cloture votes until 1 hour after we convene tomorrow morning.

Mr. BYRD. Mr. President, I will be happy to agree to that, because if further progress can be made on the DOD bill tonight, that will be fine. I am concerned that we may be here until midnight and still not be able to finalize our agreement. If the distinguished majority leader would follow the suggestion to put it over until the morning, it might be better.

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

Mr. DOLE. I yield.

Mr. RUDMAN. It is my understanding that if this agreement is reached, the debt ceiling is ready for third reading and that there would be no need to have any amendments to it. In fact, no other amendments would be in order. Is the Senator from New Hampshire correct?

Mr. DOLE. No other amendments would be in order.

Mr. RUDMAN. If you reach agreement.

I suggest to the leader that no one is more anxious than I am to get this to the House because of the time that remains. The fix for Gramm-Rudman-Hollings is contained therein. If you are going to do it in the morning, it would take about 20 minutes. I agree with the Senator from Georgia.

Mr. DOLE. I am not trying to keep anyone here, but I alert Members that we may be on this floor in 45 minutes, trying to get the agreement. So if anybody has an interest in South Africa or Contra aid, they should be alerted to that. We do not want anybody to lose their rights in the process.

Mr. President, I make that request.

The PRESIDING OFFICER. Is there a unanimous consent request pending?

Mr. DOLE. I ask unanimous consent that the votes on the cloture motions be postponed until 1 hour after we convene tomorrow morning.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, that would include the live quorum.

Mr. DOLE. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Reserving the right to object, could we have an understanding that we are going to come here with the intention of getting started on the DOD bill when we come in, and if cloture intervenes, we will be inter-

rupted? We will start in the morning. The Senator from Delaware is here, and he has five amendments.

Mr. BYRD. Mr. President, as to tomorrow, the cloture on the DOD bill will be up.

Mr. NUNN. It is my hope that that would not be necessary. Everyone has helped and cooperated and no one has tried to hold up this bill, and I believe we can continue this way. I hope we will not have to have a vote on the DOD bill.

Mr. BYRD. Mr. President, if the cloture votes on the Byrd amendment and on the Dole amendment to the Byrd amendment are put over and those votes occur tomorrow and they fail—both of them—then the next vote immediately would be on the cloture motion to shut off debate on the DOD bill. That is what the distinguished Senator from Georgia is hoping to avoid, and I would like to avoid it, too, because there is no desire to filibuster these bills.

Mr. HARKIN. Mr. President, reserving the right to object——

Mr. DOLE. Mr. President, let us get our agreement, if we can.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader?

Mr. HARKIN. Mr. President, reserving the right to object, I inquire of the majority leader: Did he say that they might be back on the floor yet this evening with the unanimous-consent agreement, or will you do it tomorrow morning?

Mr. DOLE. I would like to do it this evening, or we would take about an hour of the time tomorrow from the DOD bill.

Mr. GOLDWATER. Mr. President, we have been here all day. We have worked hard on this bill all this week, and this kind of tactic just delays and delays and delays. I think it is time we knock it off and go home.

We have two amendments of the Senator from Ohio that will not take long. We have an agreement with the distinguished Senator from Massachusetts for a vote tomorrow. We have an understanding with the Senator from Delaware that we will be in and we will be ready to get on the road as soon as 9 o'clock comes and we have had a vote on cloture, if you want to have a vote on cloture.

I would like to see if we can stop the discussion now and get on with the business; and the majority leader and the minority leader can get back in their little hole and talk about it. [Laughter.]

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader? The Chair hears none, and it is so ordered.

Mr. GLENN. Mr. President, I have sent an amendment to the desk, and I ask for its immediate consideration.

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

The PRESIDING OFFICER. The Senate will be in order.

The question recurs now on the Wilson amendment, No. 2595.

Mr. GLENN. I ask unanimous consent that that amendment be set aside for the consideration of these two amendments.

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

The Senator from Ohio is recognized.

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

The PRESIDING OFFICER. All those who wish to carry on conversations will please retire to the cloakroom.

□ 2300

Mr. DOLE. Mr President, will the Senator from Ohio yield?

Mr. GLENN. I yield.

Mr. DOLE. Mr President, let me indicate that we are going to convene at 8 o'clock in the morning, which means the cloture vote, if it will occur, will be at 9.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

AMENDMENT NO. 2641

(Purpose: To establish rights relating to the use, release, and disclosure of technical data)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 2641.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 186, between lines 9 and 10, insert the following new section:

SEC. 963. RIGHTS RELATING TO THE USE, RELEASE, AND DISCLOSURE OF TECHNICAL DATA.

(a) RIGHTS IN TECHNICAL DATA.—Subsection (a) of section 2320 of title 10, United States Code, is amended to read as follows:

"(a)(1) The Secretary of Defense shall prescribe regulations to define the legitimate interest of the United States and of a contractor or subcontractor in technical data pertaining to a product or process. Such regulations shall be included in regulations of the Department of Defense prescribed as part of the Federal Acquisition Regulation. Such regulations may not impair any right of the United States or of any contractor or subcontractor with respect to patents or copyrights or any other right in technical data otherwise established by law.

"(2) Such regulations shall include the following provisions:

"(A) In the case of a product or process that is developed by a contractor or subcontractor exclusively with Federal funds, the United States shall have the unlimited right to use, release, or disclose technical data pertaining to the product or process.

"(B) In the case of a product or process that is developed by a contractor or subcontractor exclusively at private expense, the contractor or subcontrator may limit the right of the government to use (for other than internal operations and maintenance purposes), release, or disclose to persons outside the Government technical data pertaining to the product or process.

"(C) Notwithstanding subparagraph (B), the Government may use, release, or diclose technical data pertaining to a product or process to persons outside the Government if such technical data is otherwise publicly available or if—

"(i) such use, release, or disclosure—

"(I) is necessary for emergency repair and overhaul; or

"(II) is a use, release, or disclosure to a foreign government that is in the interest of the United States and is required for evaluational or informational purposes;

"(ii) such use, release, or disclosure is made subject to a prohibition that the person to whom the data is released or disclosed may not further use, release, or disclose such data; and

"(iii) the contractor or subcontractor asserting the restriction is notified of such use, release, or disclosure.

"(D) In the case of a product or process that is developed in part with Federal funds and in part at private expense, rights in technical data pertaining to such product or process shall be negotiated as early in the acquisition process as practicable (preferably during contract negotiations), based upon consideration of the following factors:

"(i) The statement of congressional policy and objectives in section 200 of title 35, the statement of purposes in section 2(b) of the Small Business Innovation Development Act of 1982 (15 U.S.C. 638 note), and the declaration of policy in section 2 of the Small Business Act (15 U.S.C. 631).

"(ii) The interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture.

"(iii) The interest of the United States in encouraging contractors to develop at private expense items for use by the Government.

"(E) A contractor or subcontractor, or a prospective contractor or subcontractor, that develops a product or process exclusively at private expense may not be required, as a condition of being responsive to a solicitation or as a condition of being responsive to a solicitation or as a condition for the award of a contract, to sell or otherwise relinquish to the United States any rights in technical data that would permit the use by, or release or disclosure of, such data to persons outside the Government except under the conditions described in paragraph (2)(C).

"(F) The Secretary of Defense may—

"(i) negotiate with a contractor or subcontractor to contract for the acquisition of rights in technical data pertaining to a product or process developed by such contractor or subcontractor exclusively at private expense if necessary to develop alternative sources of supply and manufacture; or

"(ii) agree to limit rights of the United States in technical data pertaining to a product or process developed entirely or in part with Federal funds if the United States receives a royalty-free license to use, release, or disclose the data for purposes of the United States (including purposes of competitive procurement).

"(2) In this subsection, the term 'Federal Acquisition Regulation' means the single system of Government-wide procurement regulations as defined in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)).".

(b) VALIDATION OF PROPRIETARY DATA RESTRICTIONS.—Section 2321 of title 10, United States Code, is amended—

(1) in subsection (a)(2), by inserting ", at any time before the end of the 3-year period beginning on the date the final payment is made on the contract," after "may review"; and

(2) in subsection (b)—

(A) by inserting "specific" after "state the" in clause (1); and

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

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

(D) by adding at the end the following new clause:

"(3) state that evidence of acceptance by any Federal agency of a restriction identical to the asserted restriction within the 3-year period preceding the challenge shall serve as justification for the asserted restriction if—

"(A) the acceptance occurred after a review of the accepted restriction under this section; and

"(B) the accepted restriction was asserted by the same contractor or subcontractor to whom such notice is being provided.".

(c) CONFORMING AMENDMENTS.—Section 1202 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2301 note), is amended—

(1) by inserting "and" at the end of paragraph (4);

(2) by striking out "; and" at the end of paragraph (5) and inserting in lieu thereof a period; and

(3) by striking out paragraph (6).

(d) DEADLINE FOR REVISION OF REGULATIONS.—The regulations required by section 2320(a)(1) of title 10, United States Code (as amended by subsection (a)), shall be prescribed not later than 180 days after the date of the enactment of this Act.

Mr. GLENN. Mr. President, I rise for the consideration of an amendment to the DOD authorization bill concerning technical data rights. This amendment is similar to legislation passed by the House Committee on Armed Services as noncontroversial.

The Packard Commission report states that—

DOD must recognize the delicate and necessary balance between the Government's requirement for technical data and the benefit to the Nation that comes from protecting the private sector's proprietary rights. That balance must be struck so as to foster technological innovation and private investment which is so important in developing products vital to our defense.

I agree wholeheartedly with that objective.

As currently drafted, title 10, United States Code, sections 2320 and 2321, which were enacted as part of the Defense Procurement Reform Act, title XII of the fiscal year 1985 DOD authorization bill, establish the parameters for DOD regulations on the right to use technical data provided the Government by its contractors.

There are two problem areas with the exiting language which my amendment addresses in order to preserve the delicate balancing of interests between the Government's need to acquire the right to release technical data to ensure competition and the contractor's interest in preserving valuable property rights in data on products which they develop at their own expense.

First, my amendment would amend section 2320 of title 10 to clarify that: if the item to which the technical data relates was developed at private expense, the contractor retains the unlimited rights in data and cannot be required, as a condition of bidding on a Government contract, to give the Government the right to release to other contractors technical data relating to items the contractor developed at its own expense. This intent was not made clear in the original language.

For those items developed at Government expense, the Government has unlimited rights in the technical data. With respect to items developed with a mixture of Government and contractor money, my amendment states that the Government's rights to use, release, or disclose technical data must be negotiated in the contract for delivery of the item to which the data relates or as soon thereafter as practicable. The determination of such rights should be based on consideration of pertinent factors such as the Government's need to retain the right to use, release, or disclose the data in order to complete future requirements, and the contractor's interest in retaining rights in data relating to innovative products or processes, including those related to items for sale to the general public.

Second, this legislation will amend section 2321 of title 10: First, to prohibit the Government from challenging a contractor's restriction on the release of technical data at any time after the 3-year period beginning on the date the final payment is made; second, to require the Government to state the specific grounds for challenging the asserted restriction; and third, to allow the contractor to assert in response to a challenge, that a Federal agency has reviewed the same data within the 3-year period preceding the challenge, and found the contractor's restriction appropriate.

Mr. President, I am concerned that in our zeal to expand competition in the defense sector and obtain data rights for the Government, we could be causing great damage to private industry. I strongly feel that it is essential to protect the legitimate rights in its privately developed technology. I believe this legislation goes a long way toward providing the balance of the Government's need for technical data and the need to protect the private sector's proprietary rights.

Mr. President, the Packard Commission made certain recommedations with regard to technical data rights that companies should have in the interest of promoting more investment in research and development.

I have put those recommendations into legislative language. We have discussed it with both sides of the aisle. I believe the floor managers are both prepared to accept this.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, We have looked at his amendment and find nothing wrong with it. We will accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 2641) was agreed to.

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

Mr. GOLDWATER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2642

(Purpose: To grant access to the Secretary of Defense to all informatoin regarding nuclear proliferation matters)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 2642.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 229, between lines 14 and 15, insert the following new section:

SEC. 1221. NUCLEAR NON-PROLIFERATION INFORMATION.

Section 602 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3281) is amended—

(1) in subsection (c), by inserting "the Department of Defense," after "Department of State,"; and

(2) by adding at the end the following new subsection:

"(f) Upon request, the Secretary of Defense shall have access to all information regarding nuclear proliferation matters which the Secretary of State or the Secretary of Energy has or is entitled to have, including all communications, materials, documents, and records relating to such matters, including cables from United States diplomatic missions.".

Mr. GLENN. Mr. President, the Nuclear Nonproliferation Act of 1978 [NNPA] contains a reporting provision—section 602(c)—requiring a number of executive branch agencies to keep the Congress fully and currently informed with respect to their activities to carry out the purposes and policies of the NNPA and to otherwise prevent proliferation, as well as with respect to the activities of foreign nations which are of significance from the proliferation standpoint.

The agencies that are required to report to the Congress on such matters are the Department of State, the Arms Control and Disarmament Agency, the Department of Energy, and the Nuclear Regulatory Commission.

By an oversight, the agency most directly responsible for protecting U.S. national security, the Department of Defense, was omitted from this list.

My amendment rectifies this oversight so that the Department of Defense has the same responsibility as the other agencies to report to the Congress on this important issue. It also provides for the Secretary of Defense to have access to all information, including intelligence information, available to the Secretaries of State and Energy regarding nuclear proliferation matters.

Nuclear proliferation matters include agreements for cooperation and negotiations loading thereto, as well as subsequent arrangements.

Mr. President, I believe this amendment has also been accepted on both sides. It corrects a technical oversight in the Nuclear Nonproliferation Act of 1978, which requires certain departments of Government to report to Congress on a regular basis. The Department of Defense, which does have a vital role in this area, was left out. This enters them as another one of those agencies required to report.

It has been accepted on both sides.

I move the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. NUNN. Mr. President, this is a good amendment. I think it is a correction of the oversight in the law. The Department of Defense has a real role to play here.

I think it is a good amendment. I urge its adoption.

Mr. GOLDWATER. Mr. President, we have no objection to this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 2642) was agreed to.

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

Mr. GOLDWATER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. I yield the floor.

Mr. GOLDWATER. Mr. President, I think there is another amendment from Senator ABDNOR.

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

The question automatically recurs on the Wilson amendment No. 2595. It must be set aside by unanimous consent to proceed.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

The Senator from South Dakota is recognized.

AMENDMENT NO. 2643

(Purpose: To limit the use of funds to award of a contract to conduct the Minuteman Education Program)

Mr. ABDNOR. Mr. President, I send an amendment to the desk on behalf of myself and Senator MELCHER and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. ABDNOR], for himself and Mr. MELCHER, proposes an amendment numbered 2643.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 229, between lines 14 and 15, insert the following:

SEC. 1221. MINUTEMAN EDUCATION PROGRAM.

Notwithstanding any other provision of this Act, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended by the Air Force to award a contract for the conduct of the graduate Minuteman Education Program unless the contract requires the contractor—

(1) to integrate class schedules under the program with full-time missile crew duty schedules;

(2) to provide a resident faculty, at each Air Force installation where the program is conducted, each member of which has obtained the terminal educational degree provided in the field the faculty member teaches under the program; and

(3) to provide library resources, at each such installation, adequate to support the program at such installation, including a full-time librarian who has obtained a degree in library science.

Mr. ABDNOR. Mr. President, this amendment is designed to maintain the educational quality of the Strategic Air Command Minuteman Education Program [MMEP] currently offered at the six Minuteman installations to provide incentive for encouraging young officers to volunteer for missile duty. The program provides an opportunity to officers to pursue an MBA while engaged full time in missile crew duty. At three of the six installations, an alternative degree program is also offered.

Last year, students enrolled in the existing MMEP at the Ellsworth Air Force Base in western South Dakota brought to my attention their concerns with respect to a potential change in the program. Pursuant to their objections, and those raised by students at other Minuteman installation, I developed language which was included in the Senate Appropriations Committee report on the fiscal year 1986 DOD appropriations bill (S. Rept. 99-176) directing the Air Force to provide the House and Senate Armed Services and Appropriations Committees with its rationale for pursuing a change in the existing program. The Air Force was asked to pay particular attention to the impact on those students currently enrolled in the MMEP, the Federal budgetary impact, and the admission criteria and academic specifications of the new program.

We finally received this report, which was due 6 months after enactment of the DOD appropriations bill, yesterday, As I mentioned earlier, Mr. President, concerns have been raised about the educational quality of the new program relative to the existing program that began more than 20 years ago. In my view, this long-awaited report does little to put to rest those concerns.

It is my intention to ensure the continued high academic standards of the MMEP as evidenced in the existing program. In the words of the Air Force report,

The current MMEP has an unchallenged reputation for quality.

Mr. President, I do not believe it to be in the best interest of the students or the Air Force to sacrifice this "reputation for quality" in the interest of saving a few dollars—particularly when the report also indicates the Air Force believes it can work with the educational institutions which currently serve the Minuteman installations to reduce program costs.

Mr. President, I applaud and support wholeheartedly efforts to save the Federal taxpayers' dollars. My amendment does not alter current law pertaining to the award of Federal contracts. Rather, it simply is intended to ensure the unique nature of the MMEP—which integrates class scheduling with full-time missile crew members' scheduling—and the academic credentials of the program are maintained. My amendment accomplishes this by requiring the inclusion of several pertinent specifications in the solicitation of bids for the MMEP.

Mr. President, I believe my amendment is acceptable to both sides, and I move its adoption.

Mr. President, I yield to my other sponsor, Senator MELCHER.

Mr. MELCHER. Mr. President, I am pleased to cosponsor this amendment relating to the Minuteman Educational Program conducted by the Air Force.

This amendment establishes certain standards which the Air Force must follow when it puts the Minuteman Education Program out for competitive bidding. In the first place, I am opposed to lowering the quality of education by submitting it to competitive bidding, but since the Minuteman Program is going to be included in the trend of competitive bids on Government services, I believe it is prudent to require some very basic and minimum standards to ensure that the quality of education is not sacrificed for the sake of saving a little money.

The Minuteman Program has been valuable, particularly at isolated Air Force bases. For example, at the Malstrom Air Force base in Montana, more than 400 students have earned M.B.A. degrees since 1967, including civilians who can participate in the program for a modest fee. The University of Montana which currently runs the program provides full-time instructors qualified in their respective fields, full library services and accommodates the schedules of service personnel. It is entirely possibly that unless we provide some direction to the Air Force, these essential criteria may be neglected under competitive bidding.

If we are going to place the Minuteman Educational Program out to bid, let's make sure that quality, rather than penny pinching is the primary concern.

Mr. GOLDWATER. Mr. President, this is a very important part of the Strategic Air Command program to provide master's degrees for those officers who have to spend their time sitting down in silos.

We will be glad to accept it.

The PRESIDING OFFICER. Is there further debate?

Mr. NUNN. Mr. President, I have conversed with the Senator from Montana on this and also the Senator from South Dakota. These are very important bases.

The personnel there are extremely important to our national security in areas of Montana, Wyoming, North Dakota, South Dakota, the upper tier. I recommend we approve this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 2643) was agreed to.

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

Mr. GOLDWATER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GOLDWATER. Mr. President, does the Senator from Virginia have an amendment?

Mr. WARNER. Yes.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

The question recurs on the Wilson amendment and we need unanimous consent to proceed.

Mr. WARNER. Mr. President, I ask unanimous consent to set that pending amendment aside.

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

The Senator from Virginia is recognized.

Mr. WARNER. I thank the President for bringing this to the Senator's attention.

AMENDMENT NO. 2644

(Purpose: To terminate all residuary rights of use held by the United States in certain warehouses owned by the Commonwealth of Virginia)

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of myself and Mr. TRIBLE.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. TRIBLE, proposes an amendment numbered 2644.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 317, after line 22, insert the following:

SEC. 2192. RELEASE OF CERTAIN USE RIGHTS HELD BY THE UNITED STATES.

(a) IN GENERAL.—The Administrator of General Services shall release to the Virginia Port Authority, an instrumentality of the Commonwealth of Virginia, all residuary rights of use held by the United States in three warehouses located in the city of Norfolk, Virginia, within the area operated as a public port facility and known as the Norfolk International Terminals.

(b) TIME LIMITATION; COMPENSATION.—The Administrator of General Services shall execute such documents and take such other actions as may be necessary to release, within 180 days after the date of the enactment of this Act, the rights referred to in subsection (a). The release shall be made without any compensation in addition to compensation paid to the United States for such warehouses and other facilities by the city of Norfolk, Virginia, in 1968.

Mr. WARNER. Mr. President, I have asked the distinguished managers of this bill for clearance. I understand the minority side has it cleared and on the majority side the distinguished chairman of the MilCon Committee has just cleared it.

I represent, Mr. President, the full committee has received the clearance of Senator THURMOND.

Therefore, I ask it be adopted.

Mr. GOLDWATER. Mr. President, just a quick explanation.

Mr. WARNER. Mr. President, this amendment restores the full property ownership rights to three warehouses on the Norfolk terminal waterfront to the Virginia Port Authority.

A restriction on the use of these facilities is traceable back to the original purchase of the former Hampton Roads Army Terminal from the Maritime Administration in 1968.

All other Federal Agencies, including the Army and Navy, who possessed use rights to this property have long since voluntarily relinquished those rights.

The General Services administration [GSA] retained use rights of these warehouse facilities for supply distribution functions until such time as they no longer had such requirements. In June 1985, GSA indicated that they no longer needed these facilities for supply functions, yet in August stated that they intended to make them available to other Government Agencies.

This position gives the GSA virtual perpetual ownership of this Virginia waterfront property and the warehouse facilities thereon.

Mr. President, my office—with the assistance of my colleagues from Virginia, Senator TRIBLE and Congressman WHITEHURST and others—has tried for over a year to resolve this situation to no avail.

Therefore, I ask my colleagues to support this amendment to restore the full, legal rights of ownership of these three warehouses to the Virginia Port Authority within 180 days from the date of enactment of this legislation.

I thank the Chair.

□ 2310

(Mr. MURKOWSKI assumed to chair.)

Mr. GOLDWATER. Mr President, that explanation satisfies me and I will be glad to accept the amendment.

Mr. NUNN. Would the Senator from Virginia indicate whether there is substantial value here? I have no way of knowing what kind of value the Government is giving up.

Mr. WARNER. Mr President, I say to my distinguished colleague from Georgia that there is no great value. We are taking about use rights which may be of some modest value, but they pass from the Federal Government to a State port authority.

Mr. NUNN. Would the Senator indicate what these will be used for? What will the warehouses be used for?

Mr. WARNER. The State will utilize them in conjunction with the expansion of the port facilities down there. We are hopeful that the channel in the Hampton Roads area will be deepened and that will enable this area to grow and prosper.

Mr. NUNN. Is the GSA now occupying these buildings?

Mr. WARNER. They have been.

Mr. NUNN. What will they do in lieu of that?

Mr. WARNER. I am not able to inform the Senator what they will do.

Mr. NUNN. I just wonder, if the Federal Government is actually using these and if we are taking them from the Federal Government and giving them to the State government, I wonder what the Federal Government is going to do in lieu thereof.

Mr. WARNER. Mr. President, I respond to my distinguished colleague, apparently, while the GSA has indicated they no longer need them, they made an offer to other Government agencies to use them. They are badly needed by the State government.

Mr. NUNN. So they are not being used now?

Mr. WARNER. Not by the GSA at the present time as far as I know.

Mr. NUNN. Mr. President, I am not going to object. We just received the amendment. We have not had a chance to check into it and look into it. I will not object.

Mr. WARNER. If I might interrupt my distinguished colleague from Georgia, I would suggest we could adopt the amendment and by the time we go to conference I will provide such assurances as the Senator may require.

Mr. NUNN. I find that acceptable. We will need more information.

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

The amendment (No. 2644) was agreed to.

AMENDMENT NO. 2645

(Purpose: To extend until June 30, 1996, the period during which the Secretary of Energy may enter into contracts to provide community assistance payments to the Los Alamos School Board under the Atomic Energy Community Act of 1955)

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

The PRESIDING OFFICER. Is there objection to setting aside the amendment of the Senator from California?

Without objection, the clerk will report the amendment of the Senator from New Mexico.

The bill clerk read as follows:

The Senator from New Mexico [Mr. Bingaman], for himself and Mr. Domenici, proposes an amendment numbered 2645.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment reads as follows:

On page 339, between lines 2 and 3, insert the following new section:

SEC. 3134. EXTENSION OF DATE FOR CERTAIN CONTRACT AUTHORITY.

Section 94 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2394) is amended by striking out "June 30, 1986" and inserting in lieu thereof "June 30, 1996".

Mr. BINGAMAN. Mr. President, the amendment which my senior colleague from New Mexico and I are proposing amends the Atomic Energy Community Act of 1955 to allow a 10-year extension in the contract for community assistance payments between the Department of Energy and the Los Alamos School Board.

Earlier this year on March 10, 1986, the Secretary of Energy submitted to Congress, a report on the Community Assistance Program carried out under the Atomic Energy Community Act of 1955. One of the recommendations in that report was, and I quote:

In consideration that the tax base and tax revenues of the Los Alamos School Board are limited, and that the financial assistance rendered by DOE to the Los Alamos School Board is instrumental in DOE's capability to attract and retain a highly qualified work force at Los Alamos National Laboratory, DOE believes that annual financial assistance payments should be continued by extending the current contract for an additional 10 years.

I am informed that legislation to implement this recommendation should have been part of the DOE legislative proposal this year that and it was only through oversight that it was omitted. The Department of Energy supports, obviously, the amendment which we are offering. It is vital in attracting and retaining the very highly educated employees whom the national laboratory seeks to employ.

Mr. President, this is a simple amendment. The committee has authorized the $5,844,000 in community assistance payments for the Los Alamos School Board in our bill as requested by DOE, this amendment simply allows the existing relationship between the Department of Energy and the Los Alamos School Board to continue. While we are authorizing the contract to be extended for up to 10 years as DOE desires, any payments under that contract will, of course, continue to be subject to annual appropriations. Mr. President, I believe the amendment has been cleared on both sides. I would yield to my senior colleague from New Mexico prior to moving the adopting of the amendment.

Mr. DOMENICI. Mr. President, I join my colleague from New Mexico, Senator BINGAMAN, in sponsoring this amendment to extend the contract authority for the Department of Energy [DOE] under the Atomic Energy Community Act of 1955.

DOE recently submitted a report entitled "Financial Assistance Under the Atomic Energy Community Act of 1955, As Amended", concerning the community assistance program. In the report, DOE recommends that financial assistance contract be extended for the Los Alamos School Board.

The community of Los Alamos was established in 1942 by the Manhattan District of the U.S. Army Corps of Engineers. It was selected because of its remoteness and topography as the site to conduct research and development activities for the purpose of developing an atomic bomb. During World War II, the activities of the scientists, their administrators and families, and all community services were under military control. Families willingly endured hardships at Los Alamos because of the war. Today, the same remoteness still exists at Los Alamos.

The Los Alamos School District is geographically coincident with Los Alamos County and most of the students are children of employees at the Los Alamos National Laboratory [LANL]. The quality of schools and levels of services provided the community of Los Alamos is a major factor in attracting and retaining highly scientific employees at the national laboratory. Prospective laboratory employees routinely ask for information about the quality of the schools in the area.

DOE and its predecessor agencies have provided annual financial assistance to the school board from 1967 to the present time. DOE's financial assistance is a significant part of the school board budget because the school board is limited in its ability to obtain additional resources because state laws prohibit the local school board from: levying taxes for operational expenses; charging tuition; and charging fees for required courses. The Los Alamos School Board has reviewed various options regarding financial assistance, and it is the school board's position that an extension of the present contract is the most practical and effective means for DOE to provide such financial assistance, and DOE has concurred as stated in the report.

Mr. President, we must maintain the financial assistance program to the Los Alamos school system in order to continue to attract and retain a highly qualified work force at LANL.

DOE's recommendation states that a minimum period of 10 years for contract extension should be continued. Therefore, I urge the adoption of the amendment.

Mr. WARNER. Mr. President, I represent to the chairman that this amendment should be cleared on this side. It has been reviewed by staff and it is a perfectly orderly extension, as I understand it. It should be adopted.

Mr. BINGAMAN. I thank the Senator from Virginia. I know of no opposition to the amendment, Mr. President. I suggest that we are ready for a vote.

Mr. NUNN. Mr. President, we have cleared this amendment and we have no objection.

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

The amendment (No. 2645) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I have two amendments. I am not going to offer the one on the entitlements until tomorrow when the Senator from Arizona has checked it. But there is one with reference to the blue ribbon commission.

Might I ask the managers of the bill if they are ready to accept the Domenici amendment with reference to the blue ribbon commission's recommendations, or would you rather wait until morning?

Mr. GOLDWATER. We are not ready.

Mr. DOMENICI. I am in no hurry.

Mr. GOLDWATER. We will take it up tomorrow.

Mr. President, are there any more amendments?

CORRECTION OF AMENDMENT NO. 2597

Mr. NUNN. Mr. President, I have one small matter here that I think we can dispose of very rapidly.

Mr. President, I offer this amendment to correct a technical error that occurred in the submission of Amendment No. 2597 to the desk last evening. I ask unanimous consent that this amendment reflect the amended text, which I will send to the desk.

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

The amended text of amendment No. 2597 reads as follows:

On page 197, between lines 12 and 13, insert the following new section:

SEC. 1106. CONVERSION OF CHROMIUM AND MANGANESE ORE TO HIGH CARBON FERROCHROMIUM AND HIGH CARBON FERROMANGANESE.

(a) IN GENERAL.—During fiscal year 1987 and during each of the six succeeding fiscal years, the Administrator of General Services shall obtain bids from domestic producers of high carbon ferrochromium and of high carbon ferromanganese and award contracts for the conversion of chromium and manganese ores held in the National Defense Stockpile into high carbon ferrochromium and high carbon ferromanganese, respectively.

(b) STOCKPILE GOALS.—(1) Contracts awarded under subsection (a) shall provide for the addition of not less than 53,500 short tons of high carbon ferrochromium and 67,500 short tons of high carbon ferromanganese to the National Defense Stockpile in each of the fiscal years referred to in the preceding sentence.

(2) If, in any fiscal year referred to in subsection (a), the minimum quantity of high carbon ferrochromium or high carbon ferromanganese to be added to the National Defense Stockpile, as prescribed in paragraph (1), is not met, the quantity of such material to be added to such stockpile in the succeeding fiscal year shall be increased by the quantity of the deficiency.

(c) SEVEN-YEAR MINIMUM QUANTITIES.—The total quantities of high carbon ferrochromium and high carbon ferromanganese to be added to the National Defense Stockpile over the seven fiscal years referred to in subsection (a) shall be as follows:

(1) High carbon ferrochromium, 374,000 short tons.

(2) High carbon ferromanganese, 472,000 short tons.

(d) In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

Mr. NUNN. Mr. President, has this amendment been adopted? Has that correction been made?

The PRESIDING OFFICER. Unanimous consent to make the correction has occurred.

Mr. NUNN. I thank the Chair.

ROLE OF UNDER SECRETARY OF DEFENSE IN POLICY FOR INTELLIGENCE ACQUISITION

● Mr. DURENBERGER. Mr. President, I would like to commend the members of the Armed Services Committee for the heroic efforts they have made in the Defense authorization bill for fiscal year 1988 to reform procedures within the Department of Defense to develop and procure weapon systems. I believe that special praise is due to Senator QUAYLE and other members of the Subcommittee on Defense Acquisition Policy. Their proposal to establish an Under Secretary of Defense for Acquisition is an important step toward insuring that the weapons and support systems this country buys are consistent with our strategy for national security.

I would, however, take this opportunity to pose a few questions to Senator QUAYLE in order to clarify the role and responsibilities of the proposed Under Secretary of Defense for Acquisition.

As chairman of the Select Committee of Intelligence, I have found that the intelligence the Defense Department uses in the development and design of a weapon system is critical to the weapon's effectiveness. Currently, a number of methods—some formal, some informal—are used to bring intelligence estimates into the acquisition cycle. Needless to say, the quality of this intelligence and the way in which it is incorporated into the development of a weapon can determine whether the weapon can carry out its intended mission, or whether a particular weapon is even the best choice for a particular mission.

Therefore, I would first like to ask Senator QUAYLE, since intelligence can be such an important part of defense acquisition, what authority and what responsibilities will the Under Secretary have to determine requirements for the use of intelligence in the acquisition cycle?

● Mr. QUAYLE. Generally speaking, the committee avoids giving detailed instructions to the Secretary of Defense for specific procedures to be used in acquisition decisions. Even so, it is our view that assigning reponsibility for policies concerning how intelligence would be used in the acquisition cycle to the Under Secretary would be consistent with the other duties he is assigned and, in fact, would probably be necessary for him to carry out his mission. It is also our view that the Under Secretary should be the official responsible for establishing requirements for the use of intelligence at various steps in the acquisition cycle.

● Mr. DURENBERGER. This would not imply, however, that the Under Secretary of Defense for Acquisition would be a producer of intelligence, would it?

● Mr. QUAYLE. No; it would not. As recommended by the Packard Commission, we believe that the Joint Chiefs of Staff should be responsible for the actual production of threat assessments and other such estimates for the Department of Defense. The Under Secretary would only be an intelligence consumer. Still, the Under Secretary would determine whether the intelligence supporting an acquisition decision was adequate, and like other Defense officials, he could request whatever additional information he might need from the Intelligence Community through the Director of the Defense Intelligence Agency.

● Mr. DURENBERGER. Thank you. Once again, I commend you and the other members of the committee for the fine work they have done. I would urge my colleagues to give your proposal the support it so well deserves.●

MC ALESTER ARMY AMMUNITION PLANT CONTRACTING-OUT STUDY

Mr. BOREN. Mr. President, my colleague, Mr. NICKLES, and I want to draw to the attention of the full Senate the problems we have discovered in the administration of the Army Materiel Command over the activity of conventional ammunition and ammunition-related components missions/functions. This activity includes renovation, demilitarization and supply depot operation in support of all DOD components including the Army, Navy, and Air Force to meet peacetime, mobilization and sustained combat ammunition requirements.

The Army Materiel Command announced in late February a new decision to again study commerical activities for possible performance by a private contractor at the McAlester, OK, and Crane, IN, Army ammunition plants. We have been amazed at the blatant disregard for DOD directives as well as congressional mandates.

The very basic belief that this mission should be a combination of Government owned-Government operated and Government owned-contractor operated to provide a balance in defense readiness is the driving force that brings us to the floor today.

71-059 O-87-17 (Pt. 14)

I want to thank the committee for inserting language in the fiscal year 1987 Defense authorization bill that prevents funding the present CA activity until GAO completes a study concerning the cost effectiveness of such a conversion and its effects on the defense readiness and mobilization base. I do have concern that the termination date of the ban, March 31, 1987, might impede the thorough investigation that I feel is necessary to find a final and absolute answer to this question of contracting out our entire conventional ammunition and ammunition-related function.

We have written a rather lengthy letter to the Comptroller General listing many of the concerns to which we want answers. We feel so strongly about the impact of contracting out the entire mission of convention ammunition and ammunition missions/functions that we want to bring to the attention of our colleagues and their staff the full text of this letter. We will appreciate a comprehensive review of the findings in the GAO review including a long hard look at what the contracting out of this entire function means in peacetime, mobilization and sustained combat ammunition requirements.

Mr. NICKLES. Mr. President, I rise today to join my good friend and colleague, Mr. BOREN, in voicing grave concern with regard to what I feel is an immediate threat to our national defense readiness.

As you may recall, May 8 of this year, Mr. BOREN and I introduced S. 2430, which would protect the security of the United States by ensuring the quality of munitions manufactured at the McAlester Army Ammunition Plant, McAlester, OK. This legislation would clarify that Congress intended that both ammunition manufacture and depot level maintenance of ammunition were meant to be mission-essential in terms of contracting out by placing both of these missions under core logistics functions.

Because I strongly believe that the manufacture of a Mark 84 bomb, which was similar to those used in the Libyan strike, is "mission-essential" and should not, therefore, be subject to contracting out, I join my colleague in inserting a copy of our letter to the Comptroller General of the United States, to ask clarification and expansion of the study of GAO.

Mr. President, I request unanimous consent that the text of our letter be included in the RECORD.

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

U.S. SENATE,
Washington, DC, August 7, 1986.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States, Washington, DC.

DEAR MR. BOWSHER: We are writing to bring to your attention a matter of great concern—the problems we have discovered in the administration of the Army Material Command over the activity of conventional ammunition and ammunition-related components mission/functions. This activity includes renovation, demilitarization and supply depot operation in support of all DoD components including the Army, Navy and Air Force to meet peacetime, mobilization and sustained combat ammunition requirements. We would appreciate our concerns contained herein incorporated in the study instituted recently by GAO on this subject.

Since late February of this year when an announcement of a new decision to study commercial activities for possible performance by a private contractor at the McAlester, Oklahoma, and Crane, Indiana, Army Ammunition Plants was made, we have been in a very dissatisfactory dialogue with the Army.

We are convinced that this entire mission under AMC should be a combination of government owned-government operated and government owned-contractor operated to provide a balance in defense readiness.

The tactics employed during the initiation of this 1986 contracting-out study are unbelievable in light of directives from Congress and the Department of Defense.

We understand that the Army directives state that CA function expansions shall not include functions under contract to a small or small and disadvantaged business. Yet, AMCCOM directed McAlester to include the 8a set-asides to be included in the new study. We support contracting-out where services are readily available in the private sector and saves taxpayers dollars and does not impact on defense readiness. It was distressing to receive calls from 8a contractors whose contracts were thrust under the contracting out review umbrella.

A letter, dated March 29, 1985, from the Deputy Secretary of Defense to the Chairman of the Senate Armed Services Committee, states in part: "It is the policy of the Department of Defense to maintain an in-house capability, managed by government personnel and operated by either government or contractor personnel (or both), to meet the wartime requirements for depot level logistical support to the armed forces . . . we intend to perform the work in the most cost-effective manner, consistent with the need to maintain both a government and a commercial industrial base." In this letter is a list of Department of Defense core logistics activities including the depot-level distribution and maintenance of mission-essential materiel at the McAlester Army Ammunition Plant in Oklahoma. Yet the entire mission at McAlester was included in the CA review that began in February.

Circular A-76 states that contracting-out cannot be used to justify conversion to contract solely to avoid personnel ceiling or salary limitations. Enclosed is a copy of a directive from the Deputy of Resources and Management for AMC, the purpose of which is the reduction of AMCCOM end strength via commercial activities program.

In November, 1984, a Decision Summary for a CA review of the McAlester Army Ammunition Plant was forwarded to HQDA from the former commanding general at headquarters, U.S. Army Armament, Munitions and Chemical Command in Rock Island, Illinois. His recommendation was to continue in-house performance of the MCAAP mission functions.

In reading through his reasons, one cannot help but come to the same conclusion that contracting-out the entire base of conventional ammunition and ammunition-related components mission impacts drastically on defense readiness. He states that MCAAP, as a government operation, is able to insure direct support to our armed forces "in the world's current volatile environment without the risk of delays due to labor disruptions. . . . the plant has a viable, proven mobilization expansion plan that provides for effective transition of the work force and facilities to meet the substantial increases in ammunition supply support." To quote further, "MCAAP is one of the DoD activities that will take the brunt of initial surge impact for shipping ammunition to various theaters of operation during mobilization. . . . MCAAP has proven its ability to meet mobilization and surge requirements during the Korean Conflict, Vietnam, Lebanon, El Salvador, Grenada and other emergency situations. MCAAP's uninterrupted ability to immediately respond to support US forces is only assured with a continued in-house operation."

The loss of "corporate knowledge" when government operated facilities are contracted out is well documented. The concern expressed by the former commanding general in his recommendation not to contract out McAlester includes the fact that Hawthorne Ammunition Plant, when contracted out, required 2210 days of government employee assistance. If McAlester and Crane, the two remaining government-operated ammunition plants are contracted out, there would be no base from which to draw assistance. He states, "There is no question that a large number of these people will leave for other civil service employment. . . . will result in a loss of knowledge and skills that can never be replaced. The experience of HWAAP will be repeated at MCAAP, with the trained and skilled work force protecting their 15 to 25 year investment in federal service."

We want to do everything to insure that this study provide a complete picture of the entire mission of conventional ammunition and ammunition-related components. For instance, it occurs to us that this mission is a likely candidate that should be considered for possible transfer to the Defense Logistics Agency as a service-wide function in tune with the Department of Defense reorganization. We fully believe that a comprehensive study would prove that this mission should also be listed as core logistics and, therefore, not subject to contracting out.

In addition to the consideration of the transfer of this function to DLA and the definition of this function as core logistics, several questions should be answered including some from the earlier AMC recommendation not to contract out MCAAP:

1. Will contracting out MCAAP missions/functions further worsen an existing situation by dispersing the current skill base at MCAAP and similarly impact on private industry as the successor commercial contractor recruits skills to assemble a replacement skill base to operate MCAAP production facilities?

2. Will contracting-out MCAAP missions/functions increase or decrease skilled workers in the conventional and nonconventional ammunition field?

3. Will contracting-out MCAAP missions/functions prematurely retire MCAAP employees possessing the skills as has been experienced by the Army in the HWAAP experience?

4. Should MCAAP be converted to a contract method of performance and the current on hand government skills do not

accept employment with the contractor, will the unique demilitarization of a variety of military munitions mission at MCAAP come to a standstill?

5. How would contracting-out impact on the side-by-side, hands-on training and supervised handling of munitions McAlester presently provides to National Guard and USAR units, representing 12 states and Puerto Rico? This type of training is not acceptable under contractor operations due to infringement on contractor operations and taking workload away from contractor personnel covered under the union agreements.

We assume that contracted-out operations must be re-competed at proper intervals. What is the track record on these competitions? Are there sufficient bidders or does the operation become sole-sourced by default? If so, what is the economic impact?

We understand that the military personnel assigned to HWAAP are to be transferred. Hawthorne is a small town and cannot support the recreation facilities presently supported by the Morale, Welfare and Recreation Fund that must be discontinued. What problems does this present?

Mr. Bowsher, we are interested in a final and correct decision to the concerns we have listed here today regarding the contracting-out of the conventional ammunition and ammunition-related components mission. We will appreciate any assistance that you can provide to see that there is a comprehensive review of this issue including a long hard look at what the contracting out of this entire function means in peacetime, mobilization and substained combat ammunition requirements. Enclosed are copies of materials that should be helpful.

Sincerely,

DON NICKLES,
U.S. Senator.
DAVID L. BOREN,
U.S. Senator.
WES WATKINS,
Member of Congress.

UNIVERSITY RESEARCH: THE HEART OF FUTURE NATIONAL SECURITY

Mr. PRESSLER. Mr. President, during the current debate on the Department of Defense authorization bill, a great deal of time has been spent on the subject of national security—and rightly so. However, there is one vitally important area to our national security which has received little attention: This is the state of our Nation's research and technology base in our colleges and universities.

Defense modernization in the decades ahead will greatly depend on the investment we make today in basic university research. Our university research facilities and equipment are outdated and in desperate need of renovation. Additionally, the number of foreign students studying in technical and scientific fields in the United States has risen dramatically in recent years—a growth not matched by U.S. students. Over one-half of our graduate degrees in engineering are now being awarded to foreign nationals.

The increase of foreign students studying in the United States is not necessarily bad. In fact, it is a reflection of the high-quality academic institutions and faculty we have here in America. However, many of these foreign students return to their home countries where their U.S. education will make them valuable resources in the development of foreign defense technologies.

We are developing the largest scientific research program in history, the SDI, while university-based research, on which we rely so heavily for technological advancement, is in a weakened state. We are expecting our scientists to develop the most technologically advanced defense system in the world, and they need our support.

Last year, Congress recognized this need. A new line item was added to the Department of Defense authorization bill entitled the "University Research Initiative." This new, unbudgeted item was a badly needed initiative to help revitalize our university research equipment and facilities. It was to be funded at $25 million for fiscal year 1986, with a doubling and redoubling of funding in fiscal years 1987 and 1988. However, on the advice of the President's science policy adviser, Dr. Keyworth, Congress accelerated the funding for this initiative and $100 million was authorized. I applaud Congress and the administration for recognizing the need for an investment in university-based research.

In the fiscal year 1987 Department of Defense authorization bill, approximately $49.5 million is authorized for university research, and a doubling of that funding is suggested for fiscal year 1988. It is my hope that the Armed Services Committee, as well as the Appropriations Committee will reaffirm their commitment to improving university research and include the $99 million in the fiscal year 1988 bill. This might seem to be an odd time to address the fiscal year 1988 DOD bill. However, rebuilding the research infrastructure is a long-term investment. Thus, it requires a long-term commitment, not just year-to-year "quick fixes." I would also urge that when implementing the "undistributed reductions" included in this bill, the Department of Defense take into consideration the crucial role university research plays in national security.

As many of my colleagues know, I have introduced legislation which would provide increased support for university research capabilities, as well as other areas of national need. My legislation, the Strategic Defense Education Act, has received letters of support from well over 50 major colleges and universities across the Nation. Many of them specifically commented on the importance of the University Research Initiative Program in the Department of Defense authorization bill.

Mr. President, the importance of the technology base funding within the research, development, test, and evaluation section of this bill cannot be overstated. In order to develop high-technology and advanced weapon systems, we must first ensure we have top-notch research infrastructure. With our past successes, we tend to take this for granted. Do not forget the technology gap of the 1950's, when the Soviet launching of Sputnik I led Congress to pass the National Defense Education Act [NDEA]. At that time, Congress declared, and I quote, "The national interest requires * * * that the Federal Government give assistance to education for programs which are important to our defense. * * *"

The university research initiative is a reaffirmation of this congressional declaration. I urge my colleagues on the Appropriations Committee to fully fund the university research components of this legislation. Adequate support for university-based research is the heart of our future national security.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond the hour of 11:45 p.m.

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

SOUTH AFRICAN LIBERAL OPPOSES SANCTIONS

Mr. PRESSLER. Mr. President, one of the assumptions underlying the actions of those who support punitive economic sanctions on South Africa is that all progressive people, including South African progressives or liberals, support sanctions.

Nothing could be further from the truth. As I found on a recent trip to South Africa, the principal engine for change in South Africa is the business community. The business community's record of opposition to apartheid and support for progressive reform in their nation's economics and politics is well documented. These people need the encouragement which is made possible by outside investment in, and trade with, white and nonwhite South African businesses. They do not need, nor do they want, the discouragement, despair and economic decline which sanctions will impose on them and the rank and file nonwhite and white citizens of South Africa.

Mr. President, in this regard, I would like to call to the attention of our colleagues and others who read the RECORD, an excellent piece on Helen Suzman's recent article written by William Safire in the August 7, 1986, New York Times. I ask unanimous consent that the article appear at this point in the RECORD. Ms. Suzman is a South African liberal who recently spoke out against sanctions as a way to end apartheid.

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

THE SUZMAN PLAN

(By William Safire)

WASHINGTON.—The Big Lie being sold and swallowed in the debate on South Africa is this: If you are against sanctions, you are for apartheid.

Robert Mugabe, the Marxist who brought one-party black rule to Zimbabwe, said it again this week, denouncing Margaret Thatcher for having "chosen the path of supporting apartheid." A British Labor Party leader predicted that the U.S. Congress would soon force President Reagan to go along with sanctions, making Britain "the only protector of apartheid in the world."

Effective demagoguery, but a lie. The equivalent red herring would be: If you are for sanctions, you favor a bloody race war.

Mrs. Thatcher and Mr. Reagan have spoken out against apartheid—"repugnant" is the favored adjective—but seem to be standing against a tide of public opinion that says "Well, what are you going to do about it?"

They do not have a satisfying answer to that for two reasons. One is that the pace of dismantling apartheid has been too slow; the striking-down of miscegenation laws and the hated pass system shows real progress, but only whets the appetite for more drastic social change that no brutality can beat down nor censorship hide.

The other reason is that the "it" that so many people want something done about is not merely apartheid. By "it," they mean real political equality: one person, one vote. That means majority rule, and nonwhites are the overwhelming majority in South Africa. That means and end to white governments as the Afrikaners have known it for three centuries; that means the same kind of black rule that exists elsewhere in Africa, and most white South Africans would rather remain the oppressors than become the oppressed.

No democrat can oppose the idea of majority rule, but no realist thinks the outside world can bring it about now or soon. Forget about the imposition of black rule in this decade; it will not happen. Some of the whites with English ancestors would flee to Australia, but the Boers would stand and fight for their homeland—and in extremism, would use atomic weapons to "equalize" the fight against a black majority in revolution.

So what are we going to do about it? First, split the "it": one "it" is a transfer of power, which if it is to come soon would have to come on the wings of Communist-backed revolution. Many radicals want just that, and call on us to help by quarantining South Africa, bringing its economy to its knees, spreading misery and hunger—which would invite increased violence, repression and uprising. Mrs. Thatcher and Mr. Reagan are neither racist nor Fascist for refusing to go down that road.

The "it" we can do more about now is apartheid. Moral condemnations at brutal crackdowns, occasional applause at advances, diplomatic pressure to release Nelson Mandela and others imprisoned without trial, and a series of sustained, fine-tuned economic pressures and incentives will have an effect.

Helen Suzman, a longtime apartheid-fighter and a member of the opposition in South Africa's Parliament, wrote a stunning and seminal article in last Sunday's New York Times Magazine making the case against sanctions.

Mrs. Suzman's point is that power comes out of the end of a wallet—that is, the best way for blacks to gain both social standing now and political participation soon is for them to be part of a growing economy.

We should be investing, not disinvesting, with requirements that new industry train and employ skilled blacks; by strengthening labor unions and giving black consumers economic muscle for boycotts, the outside world can help bring about political power-sharing without revolution.

That's the sort of thing now derogated as "constructive engagement" by those impatient with the designated villains. Enough talk, they say, let's show 'em we can throw a thunderbolt from the moral high ground. Sanctions now! We'll all feel better by giving up lobster tails.

Hold on: I have long held that economic sanctions do work, and we should not be shy about using the power of our trade to twist political arms. It upsets me when Robert Dole buys votes in Kansas by euchring Mr. Reagan into subsidizing Soviet consumers with 50 million U.S. tax dollars. We should be putting the squeeze on repressive governments of all ideologies.

But we should put on that heat in a way and on a level to achieve our ends, which in South Africa means symbolic sanctions but no disinvestment. Our purpose is to use what leverage we can get to end apartheid now and start black political participation soon. Our purpose is not to overthrow Pretoria or help start a revolution.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REGULATORY PROGRAM OF THE UNITED STATES GOVERNMENT—MESSAGE FROM THE PRESIDENT—PM 164

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

The publication of the *Regulatory Program of the United States Government* is the second in an annual series begun last year as part of our effort to improve the management of regulatory activity within the Executive branch. A major goal of this publication is to provide the public and the Congress with a greater opportunity to learn about and evaluate our regulatory priorities and procedures.

The *Regulatory Program* describes the 523 most significant regulatory activities planned for the year ending March 31, 1987. Over the coming months and years, the Director of the Office of Management and Budget will report periodically on the agencies' progress in carrying out these initiatives.

Federal regulation is one of the most important and costly activities of government, yet it has been managed even less systematically than government spending. Last year, I established the *Regulatory Program* to complement the other programs I put in place during 1981 to improve the quality and responsiveness of our regulatory efforts.

We have too little information on the benefits provided by the regulations we promulgate each year and even less information on the benefits of those already in effect. By developing better information on benefits, we can improve the setting of priorities that truly meet the Nation's needs. The *Program* will help us do that.

Moreover, we have only rough estimates of the total costs of regulations—ranging between $50 billion and $150 billion each year. While the American people pay such regulatory costs, they tend to be hidden in the prices consumers pay for goods and services. These costs could grow even larger, as there will be a tendency to maintain government programs through regulatory means when funding is not available.

Today, more than ever, it is essential for us to coordinate regulatory activity among the agencies, to increase accountability for regulatory programs, and to ensure that the most significant regulatory activities are given priority and are properly managed. Only through a coordinated executive review can regulatory activities provide the greatest real benefits to society as a whole.

Of course, this *Regulatory Program* by itself cannot ensure that all regulation will be well-conceived and beneficial to society. It can, however, highlight important regulatory activities under consideration. Thus, this *Regulatory Program* is an important addition to our wide-ranging efforts of regulatory oversight and review—designed to make government regulation the servant, not the master, of the American people.

RONALD REAGAN.

THE WHITE HOUSE, *August 7, 1986.*

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that the

President has approved and signed the following bills and joint resolutions:

On July 29, 1986:

S.J. Res. 274. Joint resolution to designate the weekend of August 1, 1986, through August 2, 1986, as "National Family Reunion Weekend".

S.J. Res. 279. Joint resolution to designate the month of October 1986, as "Lupus Awareness Month".

On July 31, 1986:

S. 1068. An act to eliminate unnecessary paperwork and reporting requirements contained in section 15(1) of the Outer Continental Shelf Lands Act, and sections 601 and 606 of the Outer Continental Shelf Lands Act Amendments of 1978.

On August 4, 1986:

S. 1874. An act to authorize quality educational programs for deaf individuals, to foster improved educational programs for deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes.

On August 5, 1986:

S. 415, An act to amend the Education of the Handicapped Act to authorize the award of reasonable attorneys' fees to certain prevailing parties to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition of discrimination, and for other purposes.

On August 6, 1986:

S.J. Res. 371, Joint resolution to designate August 1, 1986, as "Helsinki Human Rights Day".

MESSAGES FROM THE HOUSE

At 2:10 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, with amendments, in which it requests the concurrence of the Senate:

S. 140. An act to amend the Child Abuse Prevention and Treatment Act to establish a program to encourage States to enact child protection reforms which are designed to improve legal and administrative proceedings regarding the investigation and prosecution of the child abuse cases, especially child sexual abuse cases.

At 7:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4333. An act to amend title 38, United States Code, to improve veterans' benefits for former prisoners of war; and

H.R. 4623. An act to amend title 38, United States Code, to improve the delivery of health-care services by the Veterans' Administration, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4333. An act to amend title 38, United States Code, to improve veterans' benefits for former prisoners of war; to the Committee on Veterans' Affairs, and

H.R. 4623. An act to amend title 38, United States Code, to improve the delivery of health-care services by the Veterans' Administration, and for other purposes; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment:

S. 1319: A bill to relieve the Washoe County Water Conservation District, Nevada, of certain Federal repayment obligations (Rept. No. 99-381).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with amendments:

S. 1542: A bill to amend the National Trails System Act by designating the Nez Perce (Nee-Me-Poo) Trail as a component of the National Trails System (Rept. No 99-382).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment:

S. 1772: A bill to authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District (Rept. No. 99-383).

By Mr. D'AMATO, from the Committee on Appropriations, with amendments:

H.R. 5203: A bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1987, and for other purposes (Rept. No. 99-384)

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

H.R. 1260: A bill for the relief of Joe Herring.

By Mr. GOLDWATER, from the Committee on Armed Services, with an amendment:

S. 2477: A bill to authorize appropriations for fiscal year 1987 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 322: Joint resolution to designate December 7, 1986, as "National Pearl Habor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

S.J. Res. 345: Joint resolution to designate the week beginning November 9, 1986, as "National Reye's Syndrome Awareness Week."

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment and an amendment to the title and with a preamble:

S.J. Res. 367: Joint resolution to designate July 31, 1986, as "National Kidney program Day."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 368: Joint resolution to designate the month of October 1986, as "National Spina Bifida Month."

S.J. Res. 386: Joint resolution to designate October 6, 1986, as "National Drug Abuse Education Day."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Louis G. DeFalaise, of Kentucky, to be United States Attorney for the Eastern District of Kentucky for the term of four years.

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation:

James Eugene Burnett, Jr., of Arkansas, to be Chairman of the National Transportation Safety Board for a term of two years.

(The above nominations were reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. DANFORTH. Mr. President, as in executive session, I also report favorably from the Committee on Commerce, Science, and Transportation, a nomination list in the Coast Guard which appeared in the CONGRESSIONAL RECORD on July 22, 1986, and, to save the expense of reprinting them on the Executive Calendar, I ask unanimous consent that they may lie on the Secretary's desk for the information of Senators.

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

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. STEVENS (by request):

S. 2724. A bill to amend title 5, United States Code, to establish a simplified management system for Federal employees, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CRANSTON:

S. 2725. A bill to increase the amount of capital available to financial institutions and other agricultural lenders for loans to farmers by providing a secondary market for farm mortgages through the establishment of a federally chartered corporation, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BRADLEY:

S. 2726. A bill to provide for a minimum price and an alternative production rate for petroleum produced from the naval petroleum reserves, and for other purposes; to the Committee on Armed Services.

By Mr. KERRY (for himself, Mr. SARBANES, Mr. DECONCINI, Mrs. HAWKINS, and Mr. D'AMATO):

S. 2727. A bill to extend the life of the Department of Justice Assets Forfeiture Fund and the Customs Forfeiture Fund through fiscal year 1989, to make amounts from the funds available to the Secretary of Education and the Secretary of Health and Human Services for drug abuse education and prevention programs, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS (by request):

S. 2724. A bill to amend title 5, United States Code, to establish a simplified management system for Federal employees, and for other purposes; to the Committee on Governmental Affairs.

CIVIL SERVICE SIMPLIFICATION ACT

● Mr. STEVENS. Mr. President, today, at the request of the administration, I am introducing the "Civil Service Simplification Act of 1986." This proposal would expand the personnel systems demonstrated at the two Navy laboratories in China Lake and San Diego, CA.

We are all too familiar with the shortcomings of the Federal pay and personnel systems. The pay comparability system has broken down. There is evidence to suggest that agencies are experiencing significant recruitment and retention problems in a wide variety of occupations. The General Schedule classification system is inflexible and its administration leads to the micromanagement of the Federal work force.

Several bills have been introduced which would establish separate agency personnel systems or otherwise address our recruitment and retention problems. Some Members believe we should amend the current special pay rate authority to provide higher minimum rates of pay for shortage occupations. Some Members believe we should test a variety of possible solutions, such as locality pay and collective bargaining. Some Members believe we should restructure the pay comparability system.

The administration believes that the Navy experiments are a success and should now be implemented Governmentwide. I agree they are successful, and I believe the Federal pay and personnel systems need to be retuned, and perhaps, restructured. I am not prepared at this time, however, to endorse the Governmentwide expansion of the concepts tested at these two Government laboratories.

Nonetheless, I look forward to working with the administration and other Members in the months and years ahead to come as we search for solutions to our pay and personnel problems. Mr. President, I ask that the bill and a section-by-section analysis appear in the RECORD following my remarks.

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

S. 2724

A bill to amend title 5, United States Code, to establish a simplified management system for Federal Employees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Service Simplification Act of 1986".

SEC. 2. (a) Title 5, United States Code, is amended by inserting after chapter 51 the following new chapter:

"CHAPTER 52—SIMPLIFIED MANAGEMENT SYSTEM

"Sec.
"5201. Purpose.
"5202. Definitions.
"5203. Implementation.
"5204. Career Paths and Pay Bands.
"5205. Pay-for-Performance Plan.
"5206. Conversion Procedures.
"5207. Evaluation and Oversight.
"5208. Regulation.

"§ 5201. Purpose.

"It is the purpose of this chapter to promote better management of the Federal work force by establishing a Simplified Management System that will vest in Federal agencies the authority and responsibility to use flexibilities in assigning rates of basic pay in order to recruit, motivate, and retain a well-qualified work force. The Simplified Management System established by this chapter is an alternative to the classification and pay system established under chapter 51, subchapter III of chapter 53, and chapter 54 of this title. The Simplified Management System shall be incrementally expanded throughout the Federal work force in a controlled, measured, and budget-neutral manner.

"§ 5202. Definitions

"For the purposes of this chapter—

"(1) 'agency', 'class', 'grade', and 'position' have the same meanings as provided in section 5102(a) of this title;

"(2) 'budget-neutral' means that the aggregate costs (including administrative costs) directly and indirectly incurred under the Simplified Management System do not exceed the costs which would have been incurred had the Simplified Management System not been implemented;

"(3) 'career path' means a grouping of occupations that are determined by the Office to be sufficiently similar to warrant the assignment of the same set of pay bands;

"(4) 'employee' means an individual employed in or under an agency, but does not include—

"(A) an employee described by section 5102(c) or (d) of this title;

"(B) a member of the Senior Executive Service; or

"(C) an administrative law judge appointed under section 3105 of this title;

"(5) 'occupation' means a group of positions that are similar as to the kind of work and the kind of qualifications required;

"(6) 'Office' means the Office of Personnel Management; and

"(7) 'pay band' means a range of rates of basic pay encompassing the rates of pay for two or more grades (or, when determined appropriate by the Office in a particular situation, for a single grade) of the General Schedule under section 5332 of this title.

"§ 5203. Implementation

"(a) Subject to the requirements for approval provided in subsection (c) of this section, the head of an agency may implement the Simplified Management System for the agency, or for any component or location in the agency, or for any occupation or group of occupations within the agency, under a plan established under subsection (b) of this section. Any change in the coverage of the Simplified Management System in the agency, or in the plan, shall be subject to approval under subsection (c) of this section.

"(b) Prior to implementing the Simplified Management System, the head of an agency shall develop and submit for approval, in accordance with subsection (c) of this section, a plan for the operation of the Simplified Management System in the agency, component or location, or occupation or group of occupations affected. The plan shall set forth—

"(1) the proposed extent of coverage of the Simplified Management System under the plan;

"(2) the means by which the agency will ensure that the Simplified Management System will operate in a budget-neutral manner under the plan;

"(3) any career paths, pay bands, criteria, or qualification requirements proposed for the plan under section 5204(e) of this title;

"(4) the performance appraisal system under the plan, as required by chapter 43 of this title;

"(5) the pay-for-performance plan under section 5205 of this title;

"(6) the merit promotion plan, as required by regulations of the Office under authority of sections 3301 and 3302 of this title;

"(7) procedures for designating individuals for conversion to coverage under the plan, as required by section 5206(c) of this title; and

"(8) any other information required by the Office, including any required plans for evaluating the operation of the Simplified Management System.

"(c)(1) The President, or his designee, shall review each plan submitted by the head of an agency under subsection (b) of this section with respect to the adequacy of those provisions of the plan described in paragraph (2) of subsection (b), and shall approve the plan if he determines such provisions are adequate to ensure that the Simplified Management System will operate under the plan in a budget-neutral manner.

"(2) The Office shall review each plan submitted by the head of an agency under subsection (b) of this section with respect to the adequacy of those provisions of the plan described in paragraphs (1) and (3) through (8) of subsection (b), and shall approve the plan if the Office determines that such provisions comply with the provisions of this chapter and any regulations and criteria prescribed by the Office pursuant to this chapter, and that the Simplified Management System will operate under the plan in a manner that will accomplish the purpose of this chapter.

"(3) An agency plan for operation of the Simplified Management System must be approved under both paragraph (1) and paragraph (2) of this subsection before the agency may implement the Simplified Management System.

"(d) Notwithstanding any other provision of law, the coverage of an employee's position under the Simplified Management System shall not be subject to review or appeal, except as may be provided by the Office in its sole discretion.

"§ 5204. Career Paths and Pay Bands

"(a) The Office shall establish career paths and pay bands to be used by agencies which implement the Simplified Management System.

"(b) The Office, after consulting the agencies, shall develop and publish criteria, in such form as the Office may determine, which agencies shall follow for placing positions included in the Simplified Management System in the career paths and pay bands that are established by the Office. To

accomplish the purposes of this chapter, the Office may issue criteria which are derived from standards published under chapter 51 of this title, if such criteria provide for the grouping of classes of positions into career paths, and the consolidation of grades into pay bands.

"(c) Except as provided in subsection (e)(2), each agency shall assign positions under the Simplified Management System to career paths and pay bands on the basis of the criteria issued by the Office.

"(d) Except as provided in subsection (e)(2), the determination of the basic qualifications of individuals for positions under the Simplified Management System, in each career path and in each pay band, shall utilize qualification standards issued by the Office for positions under chapter 51 of this title, including subsequent changes or additions to those standards, or criteria developed and applied specifically for positions under the Simplified Management System. The determination of what standards or criteria to utilize shall be at the sole discretion of the Office.

"(e) When the Office determines that the career paths, pay bands, or criteria developed under subsection (a) or (b) of this section or the qualification requirements described in subsection (d) of this section are not appropriate to accomplish the purposes of this chapter for a particular agency, a component or location of an agency, or an occupation or group of occupations, the Office may, in its sole discretion—

"(1) develop career paths, pay bands, criteria, or qualification requirements for the agency, component or location, or occupation or group of occupations; or

"(2) authorize an agency to develop and submit to the Office for approval, proposed career paths, pay bands, criteria, or qualification requirements to accomplish the purposes of this chapter.

"(f) The minimum rate of basic pay for the Simplified Management System shall be the minimum rate for GS-1 under section 5332 of this title, and the maximum rate of basic pay shall be the rate payable for GS-18 under section 5308 of this title. The range of rates of pay for any given pay band shall be equivalent to the range of rates of basic pay for one or more grade levels of the General Schedule under Section 5332 of this title, and shall be adjusted to maintain such equivalency whenever the rates of pay of the General Schedule are adjusted under section 5305 of this title.

"(g) An individual shall be initially appointed as an employee under the Simplified Management System at the lowest rate in the applicable pay band that the agency determines, on the basis of the individual's qualifications and labor market conditions, is sufficient to recruit the individual.

"(h) When an agency determines that the recruitment or retention of well-qualified employees under the Simplified Management System is, or is likely to become, seriously handicapped by higher pay rates paid by Federal or non-Federal employers, or by undesirable working conditions, or a remote geographical location, the agency may—

"(1) increase pay rates within the pay band by an amount sufficient to recruit or retain such employees;

"(2) submit a request, if the maximum rate of the pay band is not sufficient to recruit or retain such employees, for approval of an increase of the pay band by an amount sufficient to recruit or retain the employees, except that—

"(i) such an increase in a pay band may not exceed twice the difference between the minimum and maximum rate of basic pay for the highest grade of the General Schedule encompassed by the pay band; and

"(ii) no pay band may exceed the maximum rate payable under section 5308 of this title; or

"(3) pay bonuses to such employees, either in lieu of establishing higher rates of pay under this subsection or in addition to such higher rates of pay, as appropriate, subject to the conditions specified in section 5303(b)(2)-(5) of this title.

The authority to approve or disapprove a request under paragraph (2) of this subsection shall be exercised by the President, or, in the event the President has authorized the Office to exercise the authority conferred on him by section 5303 of this title, by the Office.

"(i) An employee whose rate of basic pay falls below the minimum for the employee's pay band because of a failure to receive pay increases due to performance shall be placed in the next lower pay band, unless such action would place the employee in a pay band below the minimum pay band specified for the employee's career path. An employee who is placed in a lower pay band under this subsection shall not have his rate of basic pay reduced as a result of such placement.

"(j) For the purposes of section 5941 of this title, rates of basic pay fixed under this chapter shall be considered rates of basic pay fixed by statute.

"(k) The Office shall prescribe regulations to provide linkages between pay bands established under this chapter and General Schedule grade levels and rates of basic pay for purposes of administering chapter 55 of this title and any other provision of law or regulation.

"§ 5205. Pay-for-Performance Plan

"(a) Each agency which implements the Simplified Management System shall prepare a pay-for-performance plan, which shall be subject to the approval of the Office, and which shall include—

"(1) a method for determining progression within a pay band which (except as provided by section 5204(h)) shall be based on performance as determined by the performance appraisal system and which may take into account relative position in the range of rates of basic pay for the pay band;

"(2) an incentive and performance awards system which meets the requirements of chapter 45 of this title; and

"(3) a method to be used to determine the funds available to the agency for incentive awards, performance awards, and advancement of employees within the pay bands.

"(b) The Office shall prescribe regulations governing the application of a pay-for-performance plan in the case of an employee for whom a determination under section 4302 of this title for the latest appraisal period is not available.

"§ 5206. Conversion Procedures

"(a) The Office shall prescribe regulations governing the procedures to be used—

"(1) to convert individuals to coverage under the Simplified Management System;

"(2) to appoint individuals to coverage under the Simplified Management System for other Federal pay systems, or from the Simplified Management System in other components or locations of the agency or another agency; and

"(3) to terminate the Simplified Management System in an agency, or component or location thereof, or for an occupation or group of occupations in an agency, if the Simplified Management System is terminated under section 5207 of this title.

"(b) The Office may provide for restrictions on increases in rates of basic pay as appropriate for individuals who are appointed to positions under the Simplified Management System in an agency from another Federal pay system, or from the Simplified Management System in another agency.

"(c) Each agency which implements the Simplified Management System shall specify procedures for designating individuals for conversion to coverage under the Simplified Management System. Such procedures shall provide for written notification of conversion to each individual serving in a position at the time it is identified for conversion to the Simplied Management System. A conversion to coverage under the Simplified Management system shall be accomplished with no reduction in the rate of basic pay of the individual.

"§ 5207. Evaluation and Oversight

"(a) The President, or his designee, shall review the operation of the Simplified Management System in each agency to ensure that such System is operating in a budget-neutral manner. The President, or his designee, may require the agency to modify or terminate use of the Simplified Management System if he determines that it is not so operating.

"(b)(1) In addition to the review required under subsection (a) of this section, the Office shall monitor and evaluate the operation of the Simplified Management System in each agency to ensure compliance with the requirements of this chapter and other applicable laws, rules, and regulations.

"(2) If at any time the Office determines that the Simplified Management System in an agency, or a component or location thereof, or for an occupation or group of occupations in an agency, is not operating in compliance with the provisions of this chapter, or the regulations and approved plan under this chapter, the Office may require modification or termination of the use of the Simplified Management System.

"(c) An employee may request at any time that the Office—

"(1) ascertain currently the facts as to the duties, responsibilities, and qualification requirements of the employee's position;

"(2) decide whether the employee's position is in its appropriate career path and pay band; and

"(3) change a position from one career path or pay band to another career path or pay band when the facts warrant.

A decision made by the Office on the basis of an employee's request under this subsection is binding on the employing agency and is not subject to appeal or review by any other entity.

"§ 5208. Regulations

"The Office shall prescribe regulations to carry out this chapter.".

(b) The table of chapters for part III of title 5, United States Code, is amended by adding after the item relating to chapter 51 the following new item:

"52—Simplified Management System 5201".

CONFORMING AMENDMENTS

SEC. 3. Title 5, United Stated Code is further amended—

(1) in section 4302 by adding at the end thereof the following new subsection:

"(c) For the purposes of this chapter, a reduction to a lower pay band of an employee assigned to a position under the Simplified Management System under chapter 52 of

this title shall be considered a reduction in grade, except as provided in section 4303(f)(4) of this chapter.";

(2) in section 4303(f)—

(A) in paragraph (2) by striking out "or" at the end thereof;

(B) in paragraph (3) by striking out the period at the end thereof and inserting in lieu thereof ", or"; and

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

"(4) the reduction to a lower pay band of an employee under chapter 52 of this title who falls below the minimum rate of the pay band by failing to receive a pay increase as specified in section 5204(i) of this title.";

(3) in chapter 45—

(A) by adding the following new section after section 4507:

"§ 4508. Performance awards for employees under the Simplified Management System

"An agency may pay a performance award to an employee covered under the Simplified Management System under chapter 52 of this title, under a pay-for-performance plan approved under section 5205 of this title. Such a performance award shall be related to the employee's performance as rated under a performance appraisal system, and shall be considered a cash award for purposes of this chapter.";

(B) the analysis for chapter 45 is amended by inserting after the item relating to section 4507 the following new item:

"4508. Performance awards for employees under the Simplified Management System.";

(4) in section 5102 by adding at the end thereof the following new subsection:

"(e) This chapter does not apply to an employee who is covered under the Simplified Management System under chapter 52 of this title.";

(5) in section 5363 by adding at the end thereof the following new subsection:

"(d) For an individual covered under the Simplified Management System under chapter 52 of this title, pay retention may be provided, under regulations prescribed by the Office of Personnel Management, when an individual's rate of basic pay is reduced, and the reduction is not the result of action initiated by the individual and is not based on the conduct or unacceptable performance of the individual.";

(6) in section 5948—

(A) in subparagraph (g)(1)(H) by striking out "or" at the end thereof;

(B) in subparagraph (g)(1)(I) by striking out "and" and inserting in lieu thereof "or";

(C) in paragraph (1) by adding at the end thereof the following new subparagraph:

"(J) chapter 52 of this title, relating to the Simplified Management System; and";

(7) in section 7103(a)(14)(B) by striking out "; or" at the end thereof and inserting in lieu thereof ", including the assignment of a postion to a career path or pay band under chapter 52 of this title, and the method for determining progression of an employee within a pay band; or";

(8) in section 7106—

(A) in subparagraph (a)(2)(C)(ii) by striking out at the end thereof "and";

(B) in subparagraph (a)(2)(D) by striking out the period at the end thereof and inserting at the end thereof "; and";

(C) by adding at the end of paragraph (a)(2) the following new paragraph:

"(E) to place positions under the Simplified Management System or to convert employees to or from the Simplified Management System under chapter 52 of this title."; (9) in section 7121(c)—

(A) in paragraph (4) by striking out "or" at the end thereof;

(B) in paragaph (5) by striking out the period at the end thereof and inserting in lieu thereof "; or";

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

"(6) The assignment of a position to a career path or pay band under the Simplified Management System under chapter 52 of this title (unless such assignment results in the reduction to a lower pay band, or a reduction in basic pay for an employee, and the reduction is not caused by a performance deficiency as specified in section 5204(i) of this chapter) or the method for determining progression of an employee within a pay band,";

(10) in section 7511(a)(3) by striking out the semicolon at the end thereof and inserting in lieu thereof ", or a pay band under the Simplified Management System established under chapter 52 of this title;";

(11) in section 7512—

(A) in paragraph (4) by striking out "and" at the end thereof;

(B) in paragraph (5) adding at the end thereof "and";

(C) by adding as a new paragraph the following:

"(6) a reduction to a lower the pay band of an employee assigned to the Simplified Management System under chapter 52 of this title";

(D) in paragraph (D) by striking out "or" at the end thereof;

(E) in paragraph (E) by striking out the period at the end thereof and inserting in lieu thereof ", or"; and

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

"(F) the reduction to a lower pay band of an employee assigned to the Simplified Management System under chapter 52 of this title who falls below the minimum rate of the pay band by failure to receive a pay increase as specified in section 5204(i) of this title.";

SPECIAL RATES AMENDMENTS FOR GENERAL SCHEDULE EMPLOYEES

SEC. 4. (a) Section 5303 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "pay rates in private enterprise for one or more occupations in one or more areas of locations are so substantially above the pay rates of statutory pay schedules as to handicap significantly the";

(B) by striking out "he may establish for the areas" and inserting in lieu thereof the following: "is, or is likely to become, significantly handicapped by higher pay rates paid by Federal or non-Federal employers, or by undersirable working conditions or the remote geographic location of such positions, he may establish, as appropriate, for one or more areas"; and

(C) in the second sentence—

(i) by striking out "maximum" and inserting in lieu thereof "minimum"; and

(ii) by adding after "level" the following "by more than twice the amount by which the maximum rate of pay for that grade or level exceeds the minimum rate of pay for that grade or level. The President may authorize the appointment of an individual who would be covered by higher rates established under this section at a rate above the higher minimum rate so established"; and

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) When the President makes a finding under subsection (a) of this section, he may pay bonuses to individuals in positions covered by such finding, either in lieu of establishing higher rates of pay under that subsection or in addition to such higher rates of pay, as appropriate.

"(2) A bonus under this subsection may, as appropriate, be provided under a service agreement between the head of an agency and the individual, requiring the individual to complete a specified period of service in return for such bonus, but not over two years of service may be required under a single such agreement, subject to regulations prescribed by the President. An individual who does not complete the specified period of service shall repay the amount of the bonus unless—

"(A) the period of service is not completed by reason of the death or disability of the individual; or

"(B) the head of the agency determines, pursuant to regulations prescribed by the President, that such failure to complete the specified period of service is for the convenience of the Government,

"(3) A bonus paid under this subsection may not be considered as basic pay for the purposes of subchapter V, subchapter VI or section 5595 of chapter 55, chapter 81, 83, or 87 of this title, or other benefits or entitlements related to basic pay.

"(4) A bonus under this subsection may be paid in a lump sum or in two or more separate payments.

"(5) The sum of the basic pay and a bonus under this subsection paid to an individual in any 12-month period may not exceed the amount of basic pay payable to an individual in a position in level V of the Executive Schedule during the same 12-month period.

"(6) The President may authorize the exercise of the authority conferred on him by this subsection by the Office of Personnel Management or, in the case of individuals not subject to the provisions of this title governing appointment in the competitive service, by such other agency as he may designate.".

(b) Section 5333(a) of title 5, United States Code, is amended in the second sentence—

(1) by inserting after "case" the following, "(except to the extent that authority for such approval is delegated under section 1104 of this title)"; and

(2) by striking out "to a position in GS-11 or above".

SEC. 5. The amendments made by sections 2, 3, and 4 of this Act shall be effective on October 1, 1986.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

The first section of the bill provides a title, the "Civil Service Simplification Act of 1986."

SECTION 2. CHAPTER 52

The second section of the bill amends title 5, United States Code, by inserting a new chapter 52, "Simplified Management System."

Section 5201. Purpose.

The first section of chapter 52 explains the purpose of the Simplified Management System, which is modelled on the successful personnel management demonstration projects conducted at two Navy laboratories in China Lake and San Diego, California.

The Simplified Management System will be expanded Governmentwide in a controlled, measured, and budget-neutral manner.

Section 5202. Definitions

This section defines the terms used in the Simplified Management System, and specifies that the coverage of the System may include any employee whose position would otherwise be in grades GS-1 through GS-8 of the General Schedule. The System would not include members of the SES, administrative law judges, and prevailing rate employees.

Section 5203. Implementation

Subsection (a) provides authority for the head of an agency to implement the Simplified Management System and to determine coverage of the System within the agency. This subsection also provides that the Simplified Management System may only be implemented with the approval of the President, or his designee, and that, once approved, changes in coverage of the System, or in the plan implementing the System, must be approved by the President or his designee.

Subsection (b) specifies the requirements of the Simplified Management System plan that must be approved before an agency may implement the System. The plan must include: the proposed extent of coverage; the means for assuring budget-neutrality; any career paths, pay bands, criteria or qualification requirements proposed under section 5204(e); the performance appraisal system; the pay-for-performance plan; the merit promotion plan; the conversion procedures; and the evaluation plan.

Subsection (c) provides that the President, or his designee, shall review each Simplified Management System Plan submitted for approval and shall approve the plan if he determines that the System will operate under the plan in a budget-neutral manner. The Office of Personnel Management (OPM) shall review and approve the plan if it determines that the plan complies with the legal and regulatory provisions of the Simplified Management System and will operate in a manner that will accomplish the purposes of the System. An agency may not implement the System unless its plan is approved for budget-neutrality by the President, or his designee, and unless the other required provisions of the plan are approved by OPM.

Subsection (d) provides that coverage under the Simplified Management System may not be appealed or reviewed, unless so provided by OPM.

Section 5204. Career paths and pay bands

Subsection (a) provides that the career paths and pay bands for the Simplified Management System will be established by OPM.

Subsection (b) requires OPM to publish the criteria for placing positions in the Simplified Management System into the appropriate career paths and pay bands. OPM may use standards developed under the General Schedule to define criteria for the Simplified Management System, as long as the criteria define career paths and pay bands under the Simplified Management System. This provision will allow for a quick implementation of a simplified position classification system, which is one of the key features of the Simplified Management System.

Subsection (c) provides that, with the exception specified in subsection (e)(2), agencies will determine career paths and pay bands on the basis of criteria issued by OPM.

Subsection (d) provides that, with the exception specified in subsection (e)(2), qualification determinations will be made on the basis of existing qualification standards published by OPM, including subsequent changes or additions to those standards. OPM will have sole discretion to determine whether to use existing standards, or whether to develop new ones.

Subsection (e) allows the tailoring of career paths, pay bands, criteria, or qualification requirements to specific problem areas in two situations: (1) when OPM determines that the regular governmentwide career paths, pay bands, criteria, or qualification requirements are not accomplishing the purposes of the Simplified Management System in a given instance, it may develop individual career paths, pay bands, criteria, or qualification requirements for that situation; or (2) OPM may authorize an agency to develop proposed career paths, pay bands, criteria, or qualification requirements which must be submitted to OPM for approval.

Subsection (f) provides that the minimum and maximum rates of basic pay under the Simplified Management System will be the same as those payable under the General Schedule, and that pay bands will have the same range of basic pay as one or more grades of the General Schedule. This subsection also provides that the range of rates of pay bands shall be adjusted to maintain equivalency with the General Schedule whenever the General Schedule receives a comparability adjustment.

Subsection (g) requires agencies to initially appoint an individual to the Simplified Management System at the lowest rate in a pay band which the agency determines is necessary to recruit the individual, based on the individual's qualifications and labor market conditions.

Subsection (h) provides a "special rate" and a bonus authority under the Simplified Management System to provide additional agency flexibility in recruiting and retaining employees in hard-to-fill occupations. Paragraph (1) allows agencies to adjust pay rates within pay bands by the amount necessary to recruit or retain employees. Paragraph (2) allows agencies to request increases to the maximum rate of an approved pay band, if the range of the pay band is not sufficient to recruit or retain well-qualified employees. Such requests for special rates must be submitted to the President, or to OPM if the President's authority to set General Schedule special rates under section 5303 of title 5 is delegated to OPM, for approval. Special rates are limited to a maximum rate which does not exceed the maximum rate of the pay band by an amount equivalent to twice the range of the highest General Schedule grade encompassed by the pay band, and may not exceed the rate of basic pay payable for level V of the Executive Schedule. Paragraph (3) allows for the payment of bonuses to recruit or retain employees for hard-to-fill positions, under the same restrictions as will apply to General Schedule employees. A bonus could be paid under an agreement between the employee and the agency requiring the employee to perform a specified period of service in return for the bonus, but not over two years of service could be required under a single agreement. An employee who does not complete the specified period of service would have to repay the amount of the bonus, unless the service is not completed because of death or disability, or the head of the agency determines that an employee's failure to complete the service is for the convenience of the Government. In any 12-month period, the combination of basic pay and a bonus could not exceed the basic pay payable to an individual in a position in level V of the Executive Schedule for the same 12-month period. A bonus would not be part of basic pay for the purpose of any benefit related to basic pay.

Subsection (i) provides that an employee who fails to receive pay increases because of less than fully successful performance and who drops below the mininum rate of pay for the pay band will be placed in the next lower pay band, unless the employee is already at the minimum pay band of the career path. A reduction of a pay band under this provision will be conducted without reducing the employee's rate of basic pay.

Subsection (j) continues the existing authority for payment of a cost-of-living allowance and, if applicable, post differential to employees under the Simplified Management System stationed in areas and possessions of the United States outside the 48 coterminous States.

Subsection (k) provides the Office of Personnel Management the authority to prescribe regulations which establish linkages between pay bands and General Schedule grade levels for purposes of administering the premium pay provisions and other provisions of title 5, United States Code, and any other provisions of law or regulation which are linked to the General Schedule.

Section 5205. Pay for performance plan

Subsection (a) specifies the requirements for the pay-for-performance plan which must be submitted to OPM for approval by each agency implementing the Simplified Management System. The plan must comply with the performance appraisal requirements of chapter 43 and the incentive and performance awards provisions of chapter 45 of this title. In addition, the plan must specify the method to be used to advance employees through the pay band. The method must be based on the employee's performance and may not depend on length of service, though it may consider an employee's relative position in the range of rates of basic pay for a pay band in determining the rate of progression through the band. The plan must also specify the method the agency will use to determine the funds available to the agency for incentive awards, performance awards, and for providing pay increases to employees.

Subsection (b) requires OPM to prescribe regulations for administering the pay-for-performance plan for employees who have not received a performance rating under an approved performance appraisal system.

Section 5206. Conversion procedures

Subsection (a) requires OPM to prescribe regulations governing the procedures to be used in converting employees to the Simplified Management System; appointing employees into the Simplified Management System; and terminating the Simplified Management System.

Subsection (b) authorizes OPM to provide restrictions on pay increases for employees who are appointed into the Simplified Management System from other agencies. The purpose of this provision is to ensure that agencies do not escalate salaries when competing among themselves for valuable employees.

Subsection (c) requires agencies to specify procedures for designating employees for conversion to the the Simplified Management System. These procedures must provide for written notification to employees who will be converted. Conversions to the Simplified Management System must be accomplished without a reduction of basic pay of the converted employee.

Section 5207. Evaluation and oversight

Subsection (a) requires the President, or his designee, to review the operaton of the Simplified Management System to ensure budget-neutrality. The President, or his designee, may require an agency to modify or terminate use of the System if it is not operating in a budget-neutral manner.

Subsection (b) provides that OPM shall have an active responsibility for monitoring and evaluating the Simplified Management System to ensure compliance with applicable laws, rules, and regulations. It also authorizes OPM to modify or terminate any use of the Simplified Management System if it determines that the System is not being implemented in compliance with applicable laws, rules, or regulations, or is not being implemented in a manner consistent with the purposes of the Simplified Management System.

Subsection (c) establishes an adminstrative appeals procedure which allows an employee to request a decision from OPM as to whether the employee's career path and pay band are appropriate under the Simplified Management System. A final OPM determination under this procedure is binding on the employing agency, and may not be appealed, or reviewed by any party.

Section 5208. Regulations

This section authorizes OPM to provide regulations to carry out the Simplified Management System.

Section 3. Conforming Amendments

Paragraph (1) provides that reductions in pay bands are generally treated as reductions in grade for purposes of the performance appraisal provisions of chapter 43 of title 5, United States Code.

Paragraph (2) has the effect of excluding reductions to a lower pay band which result from poor performance from the notice requirements of 5 U.S.C 4303(b), and also provides that such reductions are not appealable to the Merit Systems Protection Board.

Paragraph (3) adds a section to subchapter I of chapter 45 of title 5, United States Code, to provide a specific authority for performance awards for employees under the simplified Management System which are linked directly to an employee's performance rating. Performance awards will be treated as cash awards for purposes of chapter 45.

Paragraph (4) excludes employees under the Simplified Management System from the General Schedule.

Paragraph (5) provides authority for pay retention, under OPM regulations, for reductions in pay of employees in the Simplified Management System. Pay retention is appropriate only for involuntary reductions which do not result from poor performance and which are not based on the conduct of the employee.

Paragraph (6) extends the physicians comparability allowances provisions under 5 U.S.C. 5948 to appropriate employees under the Simplified Management System.

Paragraph (7) excludes the assignment of a position to career path or pay band from "conditions of employment" for purposes of labor-management relations. In effect, such decisions are to be treated as classification decisions for labor-management purposes. This paragraph also provides that the method for determining progression within a pay band is not a condition of employment.

Paragraph (8) provides that the decision to place positions under the Simplified Management System or to convert employees to or from the system is a management right and may not be abridged by any labor-management provision.

Paragraph (9) provides that employees under the Simplified Management System may not pursue a grievance through a negotiated grievance procedure concerning the placement in a career path or pay band, unless the placement results in a reduction to a lower pay band or a reduction in pay and the reduction is not a result of failure to receive pay increases because of poor performance. This paragraph also provides that the method for determining progression within a pay band is also not grievable.

Paragraph (10) establishes "pay band" as an equivalent to "grade" for adverse action purposes.

Paragraph (11) provides that reductions of employees to lower pay bands are covered by the adverse action procedures of subchapter II of chapter 75 of title 5, United States Code, except that reductions of employees to lower pay bands cause by failure to receive pay increases because of poor performance are excluded from these procedures.

Section 4. Special Rates Amendments for General Schedule Employees.

This section expands flexibilities available for the recruitment and retention of employees who remain under the General Schedule or who are paid under certain other white-collar pay systems. These flexibilities will allow agencies to address critical recruitment and retention problems prior to conversion to the Simplified Management System. This section would broaden the current authority for special rates of pay when the Govenment experiences difficulty in recruiting or retaining well-qualified employees due to higher pay rates paid by Federal or non-Federal employers. The proposal would allow such special rates in a greater variety of circumstances, increase the available rate range for such special rates when necessary, and permit the hiring of individuals covered by special rates at a rate above the minimum of the special rate range. In addition, the proposal would permit recruitment or retention bonuses, either in lieu of or injunction with special rates.

Subsection (a)(1) amends section 5303 of title 5, United States Code, which allows the President to establish special rates of pay for certain white-collar Federal employees when private sector pay for an occupation is so substantially above the Government's pay rates that the Government's recruitment or retention of well-qualified individuals in the occupation is significantly handicapped. The amendments broaden the authority to also allow special rates where the cause of the significant recruitment or retention problem is higher pay of Federal or non-Federal employers, undesirable working conditions of the Federal job, or the remote geographic location of the Federal job. Under the amendments, special rates could be established when any of these conditions is likely to cause a significant recruitment or retention problem, even if the problem has not yet fully materialized. In addition, the amendments increase the pay range available for fixing needed special rates. The current authority limits the special rate minimum to no more then the maximum—step 10—of the regular rate range. The amendments permit higher special rates, up to an additional width of the rate range, so that the special rate minimum may not exceed the regular step 1 by more than twice the amount by which the regular step 10 exceeds the regular step 1. Further, the amendments would allow the hiring of individuals who would be covered by a special rate range at a rate above the minimum rate of the special rate range, as needed to help resolve the recruitment or retention problem.

Paragraph (2) of subsection (a) redesignates current subsections (b), (c), and (d) of section 5303 as subsections (c), (d), and (e), respectively, and inserts a new subsection (b), concerning bonuses for recruitment and retention. Under the new subsection (b), whenever the President finds that there is a significant recruitment and retention problem, he may provide for bonuses for individuals in affected positions, to be paid either instead of establishing special rates of pay or in addition to special rates of pay, as appropriate. A bonus could be paid under an agreement between the individual and the agency requiring the individual to perform a specified period of service in return for the bonus, but not over two years of service could be required under a single agreement. An individual who does not complete the specified period of service would have to repay the amount of the bonus, unless the service is not completed because of death or disability, or the head of the agency determines that an employee's failure to complete the service is for the convenience of the Government. In any 12-month period, the combination of basic pay and a bonus could not exceed the basic pay payable to an individual in a position in level V of the Executive Schedule for the same 12-month period. A bonus would not be a part of basic pay for the purpose of any benefit related to basic pay.

The President could delegate the responsibility for administering this new program of bonuses to the Office of Personnel Management, or to a different agency in the case of individuals not appointed in the competitive service.

Subsection (b) amends section 5333(a) of title 5, United States Code, which allows the hiring of an individual at a within-grade rate above the minimum rate of the grade based on such factors as the individual's unusually high or unique qualifications. The amendment removes the limitation of this authority under current law to only those positions at GS-11 and higher grades, so that the authority could be used at any grade level as appropriate for a qualifying individual. The amendment also makes a conforming change to reflect that the authority to approve the hiring of individuals at advanced within-grade rates may be delegated by OPM to the head of an agency under section 1104 of title 5, United States Code.

Section 5. Effective Date

This section makes the amendments to law authorizing implementation of the Simplified Management System and amending the General Schedule special rates authority effective on October 1, 1986.●

By Mr. CRANSTON:

S. 2725. A bill to increase the amount of capital available to financial institutions and other agricultural

lenders for loans to farmers by providing a secondary market for farm mortgages through the establishment of a federally chartered corporation, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FARM MORTGAGE MARKETING RESTORATION ACT

Mr. CRANSTON. Mr. President, today I am introducing a bill to set up a secondary market for agriculture real estate loans. The bill embodies recommendations of the joint task force of the American Bankers Association and the Independent Bankers Association of America. This bill is a companion bill to H.R. 5132 introduced by my distinguished colleague in the House, Congressman RICHARD LEHMAN.

The purpose of the legislation is the stabilization and enhancement of the flow of capital for long-term financing of agricultural real estate loans. This new corporation as proposed in the bill would be similar to other existing secondary market intermediaries such as the Federal Home Loan Mortgage Corporation [FHLMC], the Federal National Mortgage Association [FNMA], and the Student Loan Marketing Association [Sallie Mae]. All of these entities enhance access to credit by the pooling of loans from cash scarce areas of the country and selling securities represented by the pools to cash surplus areas of the country. I believe this bill will help significantly in making more affordable long-term financing available to farmers.

In the bill, secondary market entities will purchase mortgage loans from qualified agricultural lenders, repackage them as securities and sell them in the capital market to institutional investors such as pension funds, insurance companies and other large investors. The bulk of agriculture real estate loans are farmers guaranteed home loans. Today there is no liquidity in the agricultural market—when times get tough, bank lenders stop lending. This proposal could be used to shift the emphasis from costly direct lending by the Farmers Home Administration to lending through the guaranteed loan process via commercial banks. Many more commercial banks would become interested in long-term agricultural lending if they knew there was a viable secondary market for those loans. One of the biggest benefits of a secondary market for farm loans is liquidity for commercial banks that may want to make local loans but do not have adequate funding to hold on to the loans. A secondary market will benefit farmers by bringing new money into the agricultural land lending business, increasing competition and driving down interest rates. A number of entities, including insurance companies and commercial banks, have loanable funds available, but restrict their volume of farm mortgages to avoid tying up large portions of their available loan funds for the 20 to 30 years it takes an individual farmer to pay off his mortgage. By being able to sell farm loans immediately into the secondary market a farm bank can improve its capital, roll its fund over for new farm lending and increase fees from origination and servicing of the loans.

The secondary market is basically a private sector operation, but the Federal Government needs to be involved to structure its guarantee so such a market can work. My bill would provide $200 million in stock as seed capital to get the Corporation started. The Treasury capital would be repaid by the mortgage sellers who would be required to buy equity in the Corporation. Ultimately the debt would be retired and the Corporation would be privately owned by its share holders. This bill embodies a very simple concept that has already proven successful in providing a stable source of capital to meet the needs of the Nation in areas of housing and education.

There are, of course, as with any new idea, a great number of concerns which need to be addressed before a final bill is passed. I hope that the introduction of this proposal can be the focal point for in-depth discussions on what further steps need to be taken to make this idea workable. I consider this bill a first step in that process. We have seen that the creation of a secondary market facility for mortgage has been the single most important development in expanding the flow of credit to the U.S. mortgage market. I think it is time to move forward and explore the suitability of the concept to the farm credit system. While the enactment of this proposal will not solve the existing problems in our farm credit system, I believe that its enactment will help us avoid in the future, the credit crunch faced today by the farm segment of our economy.

I ask unanimous consent that the text of the bill together with a section-by-section analysis be printed at this point in the RECORD.

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

S. 2725

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farm Mortgage Marketing Corporation Act of 1986".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that—

(1) economic stability would be enhanced and the availability of long-term credit for agricultural borrowers would be ensured if a mechanism to access secondary markets was created; and

(2) economic stability would be enhanced and the liquidity of investment funds available to lend to agricultural borrowers by financial institutions and other agricultural lenders would be ensured by providing a secondary market for the purchase of sound agricultural real estate mortgages.

(b) PURPOSE.—It is the purpose of this Act to establish a quasi-private corporation chartered by the Federal Government which will purchase and insure agricultural mortgages and sell pools of such agricultural mortgages in order to—

(1) facilitate the availability of long-term credit for agricultural borrowers;

(2) provide liquidity for financial institutions and other agricultural lenders; and

(3) provide an institutional mechanism to allow capital markets to invest in and provide funding for agricultural loans.

SEC. 3. ESTABLISHMENT OF CORPORATION.

There is hereby established a corporation to be known as the Farm Mortgage Marketing Corporation.

SEC. 4. BOARD OF DIRECTORS.

(a) NUMBER AND APPOINTMENT.—

(1) 5 MEMBERS.—The powers of the Corporation shall be vested in the Board of Directors which shall consist of 5 members.

(2) INTERIM APPOINTED BOARD.—Until a determination is made by the President under paragraph (3), the Board of Directors shall be composed of the following members:

(A) The Comptroller of the Currency.

(B) The Chairman of the Federal Deposit Insurance Corporation.

(C) 3 members appointed by the President, by and with the advice and consent of the Senate, from among individuals who have substantial experience and expertise in the fields of agricultural lending and mortgage investments and are representative of agricultural lending institutions.

(3) REGULAR ELECTED BOARD.—When in the judgment of the President, sufficient common stock of the Corporation has been sold to qualified agricultural lenders, the interim Board shall turn over the affairs of the Corporation to regular Board members elected from holders of common stock.

(b) TERMS.—

(1) APPOINTED MEMBERS.—Directors appointed by the President shall serve at the pleasure of the President until their successors have been elected pursuant to subsection (a)(3).

(2) ELECTED MEMBERS.—Directors shall be elected for a term ending on the date of the next annual meeting of the common stockholders of the Corporation.

(3) VACANCY.—

(A) ELECTED MEMBER.—Any elective seat on the Board shall be filled by the Board, but only for the unexpired portion of the term.

(B) APPOINTED MEMBER.—Any appointive seat which becomes vacant shall be filled by the President in the manner provided in subsection (a)(2).

(c) CHAIRPERSON.—The Chairperson of the Board shall be designated by and from among the members of the Board.

(d) MEETINGS.—The Board shall meet semiannually at the call of its Chairperson to determine the general policies which shall govern the operations of the Corporation. A majority of members of the Board shall constitute a quorum.

(e) EMPLOYMENT OF STAFF.—

(1) APPOINTMENT.—The Board may appoint and fix the pay of such personnel as the Board considers appropriate.

(2) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Board may be appointed without regard to the provision of title 5, United States Code, governing appointments in the competitive service, and

may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excees of the maximum annual rate of basic pay in effect for the Senior Executive Service pursuant to section 5382 of such title.

SEC. 5. PURCHASE AND SALE OF MORTGAGES.

(a) IN GENERAL.—

(1) AUTHORITY TO PURCHASE.—Except as provided in subsection (c), the Corporation may purchase, and make commitments to purchase, farm mortgage loans from any qualified agricultural lender.

(2) AUTHORITY TO SELL.—The Corporation may sell or otherwise dispose of, any farm mortgage or interest in a mortgage purchased under paragraph (1).

(3) CERTIFICATION OF APPLICATIONS.—The Corporation shall receive applications for the certification of qualified agricultural lenders for the purpose of this Act and establish criteria for determining the eligibility of an agricultural lender for certification.

(b) AGREEMENTS FOR SERVICING MORTGAGES.—The Corporation may enter into agreements with the seller of any farm mortgage which the Corporation purchases, or with any qualified agricultural lender, to further provide for the servicing of such mortgage.

(c) LIMITATIONS.—No farm mortgage may be purchased by the Corporation under this section unless—

(1) the seller of the mortgage agrees—

(A) to retain a participation of not less than 10 percent in the mortgage; or

(B) to repurchase or replace the mortgage upon demand of the Corporation during such period and under such circumstances as the Association may require when the borrower is in default with respect to such mortgage only if there are no reserves established to cover losses on such mortgages.

(2) at the time of purchase—

(A) the outstanding principal balance of the mortgage is less than 80 percent of the value of the property securing the mortgage; or

(B) the portion of the unpaid balance of the mortgage is in excess of 80 percent of the value securing the mortgage is guaranteed or insured by a qualified insurer, as determined by the Association.

(d) MORTGAGE-BACKED SECURITIES.—

(1) ISSUANCE AUTHORIZED.—To provide a greater degree of liquidity to the farm mortgage investment market and as an additional means of financing the operations of the Corporation, the Corporation may issue and sell securities which provide for the payment of principal and interest in relation to payments of principal and interest on farm mortgages purchased and held by the Corporation under this section.

(2) TERMS AND CONDITIONS.—Securities issued under this subsection shall have such term to maturity and bear such rate of interest as the Corporation may prescribe with the approval of the Secretary of the Treasury.

(3) PRIVATE ISSUANCE OF PAYMENTS.—The Corporation shall issue or purchase from private sources commitments to insure the timely payment of principal and interest to purchasers of the securities backed by farm mortgages held by the Corporation.

(4) NOT EXEMPT SECURITIES.—No security issued by the Corporation under this subsection shall be—

(A) an exempted security under section 3 of the Securities Act of 1933; or

(B) an exempted security within the meaning given to such terms by section 3(a)(12) of the Securities Exchange Act of 1934.

(5) MINIMUM AMOUNT ESTABLISHED FOR FARM MORTGAGES BACKING SECURITIES.—The Corporation shall at all times hold such number of farm mortgages as may be necessary to enable the Corporation to make timely principal and interest payments on securities issued under this subsection from the principal and interest payments received by the Association with respect to such mortgages.

(6) NOTICE THAT SECURITIES ARE NOT FEDERALLY GUARANTEED.—The Corporation shall insert such language in each security issued under this subsection as the Corporation determines to be appropriate to clearly indicate that—

(A) the payment of principal and interest with respect to such security is not guaranteed by the United States;

(B) the security does not constitute a debt or obligation of the United States or any agency or instrumentality of the United States other than the Association; and

(C) the securities issued under this section shall be deemed nonbank eligible for the purposes of underwriting, selling and distribution.

(7) REPURCHASE AUTHORIZED.—The Corporation may repurchase in the open market any security issued under this subsection at any time and at any price.

(e) CLASSIFICATION OF SELLERS FOR CERTAIN PURPOSES.—

(1) CLASSIFICATION AUTHORIZED.—The Corporation may establish a system for classifying sellers of farm mortgages, or qualified agricultural lenders which services such mortgages, according to type, size, location, assets, or on such other basis the Corporation may consider appropriate.

(2) PURPOSES OF CLASSIFICATION.—The Corporation may take any classification system established under paragraph (1) into account and may distinguish between classes established under such system in prescribing regulations and imposing charges or fees.

SEC. 6. CAPITALIZATION.

(a) INITIAL CAPITALIZATION; GENERAL PROVISIONS.—

(1) INITIAL CAPITALIZATION.—The Corporation shall have capital stock of $200,000,000 subscribed by the Secretary of the Treasury from funds appropriated for such purchase.

(2) SHAREHOLDER VOTING RIGHTS.—Owners of common stock shall be vested with all voting rights, each share being entitled to one vote with rights of cumulative voting at all elections of directors.

(3) UNRESTRICTED TRANSFERABILITY.—The free transferability of the common stock at all times to any person shall not be restricted except that, as to the Corporation, it shall be transferable only on the books of the Corporation.

(b) CONTRIBUTIONS TO CAPITAL; FEES.—

(1) REQUIRED CONTRIBUTIONS ALLOWED.—The Corporation may accumulate funds for its capital surplus account by requiring each mortgage seller to make nonrefundable capital contributions equal to not more than 2 percent of the unpaid principal amounts or mortgages purchased by the Corporation from such seller.

(2) FEES.—The Corporation may impose charges or fees in such amounts as may be necessary to meet all costs and expenses incurred in connection with the administration of this Act.

(c) MANAGEMENT OF CAPITAL AND EARNINGS.—

(1) TRANSFER TO GENERAL SURPLUS ACCOUNT.—All earnings from the operations of the Corporation shall be transferred annually to its general surplus account.

(2) TRANSFER TO RESERVES.—At any time, funds of the general surplus account may, at the discretion of the Board, be transferred to reserves.

(3) DIVIDENDS.—Any dividends paid by the Corporation on stock issued under this section shall be charged against the general surplus account.

(d) STOCK FOR CONTRIBUTIONS TO CAPITAL.—

(1) CONTRIBUTIONS BY MORTGAGE SELLERS.—The Corporation shall issue, from time to time to each mortgage seller, its common stock evidencing any capital contributions made by such seller pursuant to subsection (b).

(2) OTHER CONTRIBUTIONS.—In addition to the shares of common stock issued under paragraph (1), the Corporation may issue additional shares of common stock in return for any other contributions to capital or capital and surplus.

(e) RETIREMENT OF STOCK.—The Corportion may at any time retire any stock of the Corporation which was purchased by the Secretary of the Treasury.

SEC. 7. POWERS OF THE CORPORATION.

(a) IN GENERAL.—The Corporation shall have the following powers:

(1) To adopt, alter, and use a corporate seal.

(2) To have succession until dissolved by an Act of Congress.

(3) To prescribe such regulations as may be necessary to carry out the provisions of this Act.

(4) To make and perform contracts, agreements, and commitments.

(5) To borrow, give security, pay interest or dividends, and issue notes, debentures, bonds, preferred stock, or other obligations or securities under terms and conditions which the Corporation may prescribe.

(6) To settle, adjust, compromise, and release any claim, demand, or right of, by, or against the Corporation, whether in whole or in part and with or without consideration or benefit to the Corporation.

(7) To sue and be sued in its corporate capacity, against to prosecute or defend any action brought by or against the Corporation in any State or Federal court of competent jurisdiction.

(8) To acquire, hold, and dispose of any property.

(9) To determine the Corporation's expenditures and the manner in which such expenditures shall be incurred and paid.

(10) To exercise such incidental powers which are not inconsistent with the provisions of this Act and are necessary to carry out the purposes of this Act.

SEC. 8. DEFINITIONS.

For purposes of this Act—

(1) CORPORATION.—The term "Corporation" means the Farm Mortgage Marketing Corporation established under section 3.

(2) BOARD.—The term "Board" means the Board of Directors of the Corporation.

(3) FARM MORTGAGE.—The term "farm mortgage" means any loan to an agricultural producer which—

(A) is secured by fee-simple or leasehold mortgage with status as a first lien on agri-

cultural real estate located in the United States;

(B) is originated after the date of enactment of this Act; and

(C) is an obligation of—

(i) an individual who is a citizen of the United States; or

(ii) any person other than an individual a majority interest in which is held by individuals who are citizens of the United States,

whose training or farming experience is sufficient, under criteria established by the Corporation, to assure a reasonable likelihood that such loan will be repaid according to its terms.

(4) AGRICULTURAL REAL ESTATE.—The term "agricultural real estate" means a parcel or parcels of land used for the production of one or more agricultural commodities or products and consisting of a minimum acreage or producing minimum annual receipts as determined by the Corporation;

(5) QUALIFIED AGRICULTURAL LENDER.—The term "qualified agricultural lender" means any bank, business and industrial development company, savings and loan institution, commercial finance company, trust company, credit union, insurance company, or other person approved by the Corporation.

(6) SECURITY.—The term "security" has the meaning given to such term in section 3(a)(10) of the Securities Exchange Act of 1934.

SEC. 9. DESIGNATION OF ASSOCIATION AS MIXED-OWNERSHIP GOVERNMENT CORPORATION.

Section 9101(2) of title 31, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(K) The Farm Mortgage Marketing Corporation."

SEC. 10. AUTHORIZATION.

There is authorized to be appropriated to the Secretary of the Treasury for any fiscal year beginning after September 30, 1986, not to exceeed $200,000,000 for the purchase of stock of the Corporation to carry out the provisions of this Act.

FARM MORTGAGE MARKETING CORPORATION ACT OF 1986

It is the intent of this Act to establish a secondary market entity similar to those which already serve the needs of the nation's housing and education sectors. This secondary market mechanism will serve as a means of enhancing and stabilizing the flow of capital for long-term financing of agricultural real estate credit needs by serving as a conduit between primary commercial agricultural lenders and the captial markets.

SECTION-BY-SECTION SUMMARY

SECTION 1. TITLE.—"Mortgage Marketing Corporation Act of 1986".

SEC. 2. FINDINGS AND PURPOSE.— The purpose of this Act is to establish a quasi-private organization chartered by the Federal Government to purchase and insure agricultural mortgages from commercial agricultural lenders and to sell pools of agricultural mortgages to the capital market. Such a secondary market entity will facilitate the availability of long-term credit for agricultural borrowers and provide liquidity for financial institutions and other agricultural lenders.

SEC. 3. ESTABLISHMENT OF CORPORATION.—There is hereby established a corporation to be known as the Farm Mortgage Marketing Corporation.

SEC. 4. BOARD OF DIRECTORS.—The Act establishes a five-member Board of Directors. An initial interim Board will be appointed by the President, with the advice and consent of the Senate, and be comprised of the following: the Comptroller of the Currency, the Chairman of the Federal Deposit Insurance Corporation [FDIC], and three appointees with expertise and training in agricultural lending and mortgage investments. When sufficient common stock of the Corporation has been sold to qualified lenders, the interim Board shall turn over the affairs of the Corporation to a regular Board elected from among the holders of the stock.

SEC. 5. PURCHASE AND SALE OF MORTGAGES.—The Corporation, with certain limitations, may purchase farm mortgages from any qualified agricultural lender and dispose of those mortgages through the issuing of securities.

The Corporation may purchase farm mortgages if the mortgage seller agrees to retain a 10-percent participation in the mortgage, or to repurchase or replace the mortgage upon demand by the Corporation if the borrower defaults on the loan. In addition, at the time of the purchase of the mortgage, the outstanding principal balance of the mortgage must be less than 80 percent of the value of the property securing the mortgage, or the portion of the unpaid balance of the mortgage in excess of 80 percent is guaranteed by or insured by a qualified insurer. No repurchase shall be required on defaulted loans if there are sufficient reserves established to cover such losses.

The Corporation shall issue securities which provide for the payment of principal and interest on farm mortgages purchased and held by Corporation.

SEC. 6. CAPITALIZATION.—The Corporation shall be initially capitalized by the purchase of $200,000,000 in stock by the U.S. Treasury. In addition the Corporation shall have the authority to require that each mortgage seller make a nonrefundable capital contribution equal to not more than two percent of the unpaid principal amounts of the mortgages purchased from the seller, charge appropriate fees to meet all costs and expenses, and issue stock in return for any contribution to capital and capital surplus accounts.

The Corporation may at any time retire any stock of the Corporation which was purchased by the Treasury.

SEC. 7. POWERS OF THE CORPORATION.—The Corporation will have the authority to prescribe such regulations to carry out the provisions of the Act and meet the normal obligations the Corporation.

SEC. 8. DEFINITIONS.—Defines the terms of the Act.

"Farm mortgage" is defined as any loan to an agricultural producer which is secured by a fee-simple or leasehold mortgage with status as a first lien on agricultural real estate originated after the date of enactment of this Act and which is an obligation of a person who is a citizen or business entity whose majority interest are citizens of the United States.

"Qualified agricultural lender" is defined as meaning any bank, business and industrial development company, savings and loan institution, commercial finance company, trust company, credit union, insurance company, or other person approved by the Corporation.

SEC. 9. DESIGNATION OF CORPORATION AS MIXED-OWNERSHIP GOVERNMENT CORPORATION.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.—$200,000,000 shall be appropriated beginning after September 30, 1986.

By Mr. BRADLEY:

S. 2726. A bill to provide for a minimum price and an alternative production rate for petroleum produced from the naval petroleum reserves, and for other purposes; to the Committee on Armed Services.

MINIMUM PRICE FOR NAVAL PETROLEUM RESERVES

● Mr. BRADLEY. Mr. President, today I introduce a bill which will correct a serious aberration in domestic energy policy.

We've heard a lot in recent months about oil being dumped on the world markets, driving prices down and sending many U.S. producers into bankruptcy. Most often, the fingers are pointed at the Saudi Arabians as the coldly calculating nemesis to the U.S. oil interests. The fact of the matter, however, is that the cheapest oil available in the world today is not Saudi crude—which sells at the world market price—but crude oil produced in California by the U.S. Government from the Elk Hills Naval Petroleum Reserve [NPR]. Last week oil from the NPR sold for as low a $4.90 per barrel—about $7 per barrel below the prevailing price in the region. This week's prices might be as low as $4.50 per barrel. These ridiculously low prices represent an unfair attack on other oil producers, a loss of revenue to U.S. taxpayers and a squandering of a national and strategic resource.

This dumping of the Nation's oil reserves is obviously bad policy. It is not anyone's intended goal. Rather, these low prices are the inadvertent result of contract policies and legislation that did not anticipate the possibility of rapidly fluctuating oil prices. The Secretary of Energy has recently enacted a number of reforms which will help reduce the chance of a recurrence of this ill-advised outcome. The legislation I am introducing today, however, will go further and ensure that this dumping of U.S. oil never again occurs.

The bill would do two things:

First, it will prohibit the sale of Naval Petroleum Reserve oil (Elk Hills) for less than 90 percent of the prevailing market value for oil sold in the area, or less than the price of oil purchased for the Strategic Petroleum Reserve, minus the cost of transporting the oil from the Naval Reserve to the Strategic Petroleum Reserve.

If either of these conditions is met, the Secretary can reduce the production of oil and conserve the oil resource. Current law requires production only at a "maximum efficient rate," which is in excess of 100,000 barrels per day.

Second, the bill reduces from 30 to 15 days the period of time that the Justice Department has to review NPR sales contracts for antitrust consideration. By reducing the period between receipt of bids and first delivery

of oil, this will make bids more accurately reflect market conditions at the time of sale. This action is also consistent with the Department of Energy's administrative action which reduced the length of the contracts from 180 to 90 days.

Mr. President, the Secretary of Energy recently wrote to the Speaker of the House in support of legislation which would revise NPR oil sales contracts along these lines. In that letter he said, "I cannot overemphasize the importance of rapid congressional action to assure that the taxpayers of this country receive a fair return from the Naval Petroleum Reserves." I hope that my colleagues here in the Senate also appreciate the urgency of the situation and act accordingly.●

By Mr. KERRY (for himself, Mr. SARBANES, Mr. DECONCINI, Mrs. HAWKINS, and Mr. D'AMATO):

S. 2727. A bill to extend the life of the Department of Justice assets forfeiture fund and the Customs forfeiture fund through fiscal year 1989, to make amounts from the funds available to the Secretary of Education and the Secretary of Health and Human Services for drug abuse education and prevention programs, and for other purposes; to the Committee on Finance.

DRUG ABUSE EDUCATION AND PREVENTION ACT

Mr. KERRY. Mr. President, I am introducing today legislation to make Federal forfeiture funds available for drug abuse education and prevention programs. This initiative, the Drug Abuse Education and Prevention Act of 1986, will transfer money from the Justice Department assets forfeiture fund and the U.S. Customs Service forfeiture fund to the Department of Education and the Department of Health and Human Services to assist States in their drug education programs.

During the past several years States and local communities have begun to respond as never before in the development of strategies and initiatives for comprehensive substance abuse prevention programs in our schools, and it is these education programs that my legislation responds to. Drug education programs are in critical need of financial assistance for school education material and teacher training. The Drug Abuse Education and Prevention Act of 1986 attempts to meet this need, without requiring any additional expenditure of Federal funds or taking any money away from law enforcement efforts.

Nationwide, the statistics revealing use of drugs and alcohol by our children and young adults are alarming. In my home State of Massachusetts Gov. Michael Dukakis surveyed 5,000 high school students in 1984 and found that 60 percent admitted having used illegal drugs: 28 percent reported using illicit drugs at age 12 or younger.

The Commonwealth responded to this distressing data with the Governor's Alliance Against Drugs, which has successfully enlisted more than 200 Massachusetts communities in a unified and comprehensive effort to combat substance abuse by young people. A large portion of their activities have been performed without cost or with resources that have been marshaled from private groups and corporations, major media outlets, and professional and amateur sports organizations. However, the future success of programs like this will be based on their ability to pay for teaching curriculum and training programs for the instructors, and private contributions are not picking up the whole tab.

Our law enforcement authorities seize over $1 billion in drug trafficker's assets each year—cash, stocks, bonds, and real estate—but the money is not going to help reduce demand for drugs. In some cases, drug traffickers gross more each year than the Drug Enforcement Administration has in its budget.

The Justice Department's asset forfeiture fund only began operating last year in response to important provisions in the 1984 Comprehensive Crime Control Act. Although there is a lagtime between a seizure and the actual forefeiture of assets, the fund promises to be a major step forward in our war against drugs. Even after Federal, State, and local law enforcement agencies recoup their share of the forfeiture assets, including the costs of seizure and forfeiture, it is estimated that at least $50 million from this fund will pour into the Treasury at the close of this fiscal year.

I believe it makes a great deal of sense to use drugpusher profits in our attempt to meet the challenges before us. I recognize that this is just one step in what has to be a much broader plan to address drug demand and supply both here and internationally, but I am convinced it is a necessary step.

Mr. President, I ask unamimous consent that the bill be printed in the RECORD.

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

S. 2727

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Abuse Education and Prevention Act of 1986".

SEC. 2. EXTENSION OF LIFE OF DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND AND CUSTOMS FORFEITURE FUND; INCREASE IN AUTHORIZATION OF APPROPRIATIONS FROM CUSTOMS FORFEITURE FUND.

(a) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—The first sentence of section 524(c)(8) of title 28, United States Code, is amended by striking out "and 1987" and inserting in lieu thereof "1987, 1988, and 1989".

(b) CUSTOMS FORFEITURE FUND.—

(1) The first sentence of section 613A(a) of the Tariff Act of 1930 (19 U.S.C. 1613b(a)) is amended by striking out "1987" and inserting in lieu thereof "1989".

(2) Section 613A(c) of the Tariff Act of 1930 (19 U.S.C. 1613b(c)) is amended by striking out "1987" and inserting in lieu thereof "1989".

(e) Section 613A(f)(1) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(1) is amended—

(A) by striking out "four" and inserting in lieu thereof "three"; and

(B) by adding at the end the following new sentence:

"There are authorized to be appropriated from the fund for fiscal years 1987, 1988, and 1989, such sums as may be necessary to carry out this section."

(4) The first sentence of section 613A(f)(2) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(2)) is amended by striking out "of the first three of such four fiscal years" and inserting in lieu thereof "fiscal year referred to in paragraph (1) (other than fiscal year 1989)".

(5) The second sentence of section 613A(f)(2) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(2)) is amended by striking out "the last of such four fiscal years" and inserting in lieu thereof "fiscal year 1989".

SEC. 3. USE OF DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAM ASSISTANCE TO THE STATES.

Section 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(10) In addition to the purposes described in paragraph (1) of this subsection, the fund shall be available without fiscal year limitation, in such amounts as may be specified in appropriations Acts—

"(A) to the Secretary of Health and Human Services, to assist the States in providing drug abuse education and prevention programs; and

"(B) to the Secretary of Education to assist the States in providing statewide elementary school and secondary school drug abuse education programs, including curricula, teaching materials, demonstration projects, technical assistance, and administrative support.

Each Secretary shall determine the amounts to be made available to a State, based on the number of persons served by such programs in the State, the level of non-Federal support for such programs in the State, the amounts deposited in the fund as a result of forfeitures in the State, and other relevant factors. Amounts made available to a State under this paragraph shall supplement, and shall not replace, amounts made available for such programs from other sources. Not less than 50 percent of the total of amounts appropriated for all purposes under this subsection with respect to a fiscal year shall be appropriated for purposes under this paragraph.".

SEC. 4. USE OF CUSTOMS FORFEITURE FUND FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAM ASSISTANCE TO THE STATES.

Section 613A of the Tariff Act of 1930 is amended by adding at the end the following new subsection:

"(g) In addition to the purposes described in subsection (a) of this section, the fund shall be available to the Secretary of Health and Human Services and the Secretary of

Education for the programs described in section 524(c)(10) of title 28, United States Code. Not less than 50 percent of the total of amounts appropriated for all purposes under this section with respect to a fiscal year shall be appropriated for such programs.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) AMENDMENT TO TITLE 28, UNITED STATES CODE.—Section 524(c)(6) of title 28, United States Code, is amended by inserting after "this subsection" the following: ", except that the Secretary of Health and Human Services and the Secretary of Education shall prepare (for transmittal by the Attorney General) the portions of the report relating to expenditures under paragraph (10)(A) and paragraph (10)(B) of this subsection, respectively".

(b) AMENDMENT TO TARIFF ACT OF 1930.—Section 613A(c) of the Tariff Act of 1930 (19 U.S.C. 1613(c)) is amended by inserting after "such year" the following: ", except that the Secretary of Health and Human Services and the Secretary of Education shall prepare (for transmittal by the Commissioner of Customs) the portions of the report relating to expenditures under subsection (g) of this section".

SEC. 6. EFFECTIVE DATE.

This Act shall take effect on the date of the enactment of this Act, except that the amendments made by sections 3, 4, and 5 shall apply with respect to fiscal years beginning with fiscal year 1987.

ADDITIONAL COSPONSORS

S. 89

At the request of Mr. INOUYE, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 89, a bill to recognize the organization known as the "National Academies of Practice."

S. 1820

At the request of Mr. DECONCINI, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1820, a bill to provide financial assistance to State and local educational agencies for the development and expansion of demonstration chemical substance abuse prevention programs in the public elementary and secondary schools of such agencies, and for other purposes.

S. 2209

At the request of Mr. DOLE, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 2209, a bill to make permanent and improve the provisions of section 1619 of the Social Security Act, which authorizes the continued payment of SSI benefits to individuals who work despite severe medical impairment; to amend such act to require concurrent notification of eligibility for SSI and Medicaid benefits and notification to certain disabled SSI recipients of their potential eligibility for benefits under such section 1619; to provide for a GAO study of the effects of such section's work incentive provisions; and for other purposes.

S. 2454

At the request of Mr. MURKOWSKI, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as cosponsor of S. 2454, a bill to repeal section 1631 of the Department of Defense Authorization Act, 1985, relating to the liability of Government contractors for injuries or losses of property arising out of certain atomic weapons testing programs, and for other purposes.

S. 2515

At the request of Mr. WEICKER, the names of the Senator from Ohio [Mr. METZENBAUM], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 2515, a bill to reauthorize the Rehabilitation Act of 1973, and for other purposes.

S. 2537

At the request of Mr. CRANSTON, the names of the Senator from Oregon [Mr. HATFIELD], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 2537, a bill to protect and preserve the Federal interest and the historic and natural features of the National Capital.

S. 2661

At the request of Mr. GRASSLEY, the names of the Senator from Wyoming [Mr. WALLOP], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 2661, a bill to improve the quality of teaching in American secondary schools and enhance the competence of American secondary students and thereby strengthen the economic competitiveness of the United States, and for other purposes.

SENATE JOINT RESOLUTION 299

At the request of Mr. COCHRAN, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 299, a joint resolution to designate the week of December 7, 1986, through December 13, 1986, as "National Alopecia Areata Awareness Week".

SENATE JOINT RESOLUTION 322

At the request of Mr. LAUTENBERG, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Joint Resolution 322, a joint resolution to designate December 7, 1986, as "National Pearl Harbor Rememberance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 338

At the request of Mr. RIEGLE, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of Senate Joint Resolution 338, a joint resolution to designate November 18, 1986, as "National Community Education Day."

SENATE JOINT RESOLUTION 352

At the request of Mr. METZENBAUM, the names of the Senator from Kansas [Mr. DOLE], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 352, a joint resolution to designate the week beginning September 7, 1986, as "Gaucher's Disease Awareness Week."

SENATE JOINT RESOLUTION 368

At the request of Mr. DIXON, the names of the Senator from Ohio [Mr. GLENN], the Senator from Tennessee [Mr. GORE], the Senator from Maryland [Mr. MATHIAS], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Joint Resolution 368, a joint resolution to designate the month of October 1986, as "National Spina Bifida Month."

SENATE CONCURRENT RESOLUTION 154

At the request of Mr. D'AMATO, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Nebraska [Mr. EXON], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Concurrent Resolution 154, a concurrent resolution concerning the Soviet Union's persecution of members of the Ukrainian and other public Helsinki Monitoring Groups.

SENATE RESOLUTION 435

At the request of Mr. MOYNIHAN, the names of the Senator from Florida [Mr. CHILES], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Tennessee [Mr. GORE], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of Senate Resolution 435, a resolution to recognize Mr. Eugene Lang for his contributions to the education and the lives of disadvantaged young people.

AMENDMENT NO. 2588

At the request of Mr. DECONCINI, the names of the Senator from Florida [Mr. CHILES], the Senator from New York [Mr. MOYNIHAN], the Senator from Tennessee [Mr. SASSER], the Senator from California [Mr. WILSON], the Senator from New Mexico [Mr. DOMENICI], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of amendment No. 2588 proposed to S. 2638, a bill to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1987, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize certain construction at military installations for fiscal year 1987, to authorize appropriations for national security programs of the Department of Energy for fiscal year 1987, and for other purposes.

At the request of Mr. ABDNOR, his name was added as a cosponsor of amendment No. 2588 proposed to S. 2638, supra.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1987

PRESSLER AMENDMENT NO. 2598

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to amendment No. 2417 to the bill (S. 2638) to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1987, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize certain construction at military installations for fiscal year 1987, to authorize appropriations for national security programs of the Department of Energy for fiscal year 1987, and for other purposes; as follows:

Delete Section 309 from Senate Amendment 2417.

PRESSLER AMENDMENT NO. 2599

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to amendment No. 2414 to the bill S. 2638, supra, as follows:

Delete Section 309 from Senate Amendment 2414.

McCLURE AMENDMENT NOS. 2600 AND 2601

(Ordered to lie on the table.)

Mr. McCLURE submitted two amendments intended to be proposed by him to the bill No. 2638, supra, as follows:

AMENDMENT No. 2600

At the end add the following:

Notwithstanding any other provision of this act, Section 309 as added by amendment 2417 shall be null and void.

AMENDMENT No. 2601

At the end add the following:

Notwithstanding any other provision of this act, Section 309 as added by amendment 2414 shall be null and void.

SPECTER (AND HEINZ) AMENDMENT NO. 2602

(Ordered to lie on the table.)

Mr. SPECTER (for himself and Mr. HEINZ) submitted an amendment intended to be proposed by them to the bill S. 2638, supra, as follows:

At the appropriate place in the bill insert the following:

None of the provisions of this Act shall be effective unless the Secretary of Defense makes available, under current authority, from the funds available in the Army Industrial Fund, $25,000,000 which shall be available to be used to implement immediately, or to transfer to another appropriation account in this Act to be used to implement immediately, the program proposed by the Department in its letter of August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics, to rehabilitate and convert current steam generating plants at defense facilities in the United States to cool burning facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: Provided, That anthracite or bituminous coal shall be the source of energy at such installations: Provided further, That during the implementation of this proposal, the amount of anthracite coal purchased by the Department shall remain at least at the current annual purchase level, 302,000 short tons.

HUMPHREY AMENDMENT NOS. 2603 THROUGH 2605

(Ordered to lie on the table.)

Mr. HUMPHREY submitted three amendments intended to be proposed by him to the bill S. 2638, supra, as follows:

AMENDMENT No. 2603

At the end add the following:

None of the provisions in Section 306 shall take effect until the same restrictions are applied relative to air services between the United States and the Union of Soviet Socialist Republics, pursuant to existing authority to impose such restrictions.

AMENDMENT No. 2604

On page 23, between lines 16 and 17, insert the following:

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in subsection (a) shall remain available until expended, to the extent provided in appropriation Acts.

AMENDMENT No. 2605

On page 229, between lines 14 and 15, insert the following new section:

SEC. 1221. SUBMARINE OVERHAUL STUDY.

The Secretary of the Navy shall conduct a detail study and investigation on the desirability and feasibility of applying production line techniques for the overhaul of Los Angeles class submarines. The Secretary shall submit the results of such study and investigation, together with such comments and recommendations as he determines appropriate, to Congress not later than May 1, 1987.

HATFIELD AMENDMENT NO. 2606

Mr. HATFIELD proposed an amendment to the bill S. 2638, supra, as follows:

On page 10, strike out lines 9 through 16 and insert in lieu thereof the following:

SEC. 109. BINARY CHEMICAL WEAPONS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the Presidential certification of July 29, 1986, transmitted to Congress pursuant to section 8093 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1217)), does not meet the requirements of such section and, therefore, the conditions necessary to begin production of binary chemical munitions pursuant to such section do not yet exist.

(b) PROHIBITION ON USE OF FUNDS.—None of the funds appropriated pursuant to an authorization contained in this or any other Act may be used—

(1) for the procurement or assembly of binary chemical munitions (or components of such munitions); or

(2) for establishment of production facilities necessary for procurement or assembly of binary chemical munitions (or components of such munitions),

until legislation has been enacted, after the date of the enactment of this Act, declaring that the certification requirements of section 8093 of the Act referred to in subsection (a) have been met.

(c) EXCEPTION.—The prohibition in subsection (b) does not apply to funds used exclusively for research, development, test, and evaluation of binary chemical munitions.

MELCHER AMENDMENTS NOS. 2607 AND 2608

(Ordered to lie on the table.)

Mr. MELCHER submitted two amendments intended to be proposed by him to the bill S. 2638, supra, as follows:

AMENDMENT No. 2607

Notwithstanding any other provisions the figures on the following pages are deemed to be the following:

On page 10, line 24, "$4,093,318,650" in lieu of "$4,815,669,000".

On page 11, line 2, "$7,875,571,300" in lieu of $9,265,378,000".

On page 11, line 3, "$12,672,542,050" in lieu of $14,908,873,000".

On page 11, line 4, "$6,214,327,900" in lieu of $7,310,974,000".

AMENDMENT No. 2608

On page 229, between lines 14 and 15, add the following new section:

"SEC. 1221. REQUIREMENT FOR RETURN OF UNOBLIGATED FUNDS TO THE TREASURY.

Notwithstanding any other provision of this Act, twenty (20) percent of any funds appropriated pursuant to the Department of Defense Authorization Act for FY 1986 to or for the use of the Department of Defense for fiscal year 1986 that remain unobligated as of September 30, 1986, shall be returned to the general fund of the Treasury. The preceding sentence shall not apply to funds necessary for carrying out multiyear contracts."

ROTH AMENDMENT NO. 2609

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill S. 2638, supra, as follows:

On page 283, line 1, strike section 2172 and redesignate the following sections accordingly.

ANDREWS AMENDMENT NO. 2610

(Ordered to lie on the table.)

Mr. ANDREWS submitted an amendment intended to be proposed by him to the bill S. 2638, supra, as follows:

On page 203, strike out lines 1 through 13.

FEDERAL-AID HIGHWAY ACT

LAUTENBERG (AND OTHERS) AMENDMENT NO. 2611

(Ordered to lie on the table.)

Mr. LAUTENBERG (for himself, Mr. HEINZ, Mr. METZENBAUM, and Mr. SIMON) submitted an amendment intended to be proposed by them to the bill (S. 2405) to authorize appropriations for certain highways in accordance with title 23, United States Code, and for other purposes; ans follows:

After section 145, insert the following:

S. 2405

SEC. 146. Sections 146 through 168 of this Act may be cited as the "Disaster Relief Act Amendments of 1986".

SEC. 147. The short title of the Disaster Relief Act of 1974 (Public Law 93-288) is hereby amended by deleting the words "Disaster Relief Act of 1974" and inserting in lieu thereof "Major Disaster Relief and Emergency Assistance Act".

SEC. 148. Section 102(1) of the Disaster Relief Act of 1974 (42 U.S.C. 5122(1)) is amended to read as follows:

"(1) 'Emergency' means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property, public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.".

SEC. 149. Title VIII of the Public Works and Economic Development Act of 1965, as amended (Public Law 89-136; 42 U.S.C. 3231-3236) is hereby repealed, and title V of the Disaster Relief Act of 1974 (Public Law 93-288) is hereby amended to read as follows:

"TITLE V—FEDERAL EMERGENCY ASSISTANCE PROGRAMS

"PROCEDURES

"SEC. 501. (a) All requests for a determination by the President that an emergency exists shall be made by the Governor of the affected State. Such request shall be based upon the Governor's finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. The Governor's request will furnish information describing State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. As a part of this request, and as a prerequisite to emergency assistance under the act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. Based upon such Governor's request, the President may declare that an emergency exists.

"(b) The President may exercise any authority vested in him by section 502 and section 503 of this Act with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority. The President may determine that such an emergency exists only after consultation with the Governor of the affected State, if practicable. The President's determination, however, may be made without regard to the provisions of section 501(a) of this Act.

"FEDERAL ASSISTANCE

"SEC. 502. In any emergency, the President may—

"(a) direct any Federal agency with or without reimbursement to utilize its authorities and the resources granted to it under other Acts, including but not limited to personnel, equipment, supplies, facilities, and managerial, technical and advisory services in support of State and local emergency assistance efforts to save lives and to protect property, public health and safety or to lessen or avert the threat of a catastrophe;

"(b) coordinate all Federal agencies and voluntary relief or disaster assistance organizations providing emergency assistance, and coordinate emergency assistance with State and local officials; and

"(c) provide technical and advisory assistance to affected State and local governments in the performance of essential community services, warning of risks of hazards, public information and assistance in health and safety measures, management and control, and reduction of immediate threats to public health and safety.

"EMERGENCY ASSISTANCE

"SEC. 503. (a) In an emergency, when the Federal assistance provided pursuant to section 502 of this title is inadequate, the President may provide assistance to save lives and protect property, public health and safety, or to lessen or avert the threat of a catastrophe. When debris removal assistance is appropriate under this section, it shall be provided in accordance with the terms and conditions of section 406 of this Act.

"(b) In any emergency and except as provided by subsection (c) of this section, the costs of providing emergency assistance under this section shall not exceed $5,000,000 of funds appropriated to carry out this Act.

"(c) The limitation of subsection (b) of this section may be exceeded when the President determines that continued emergency assistance is immediately required; that there is a continuing and immediate risk to lives, property, public health or safety; and that necessary assistance will not otherwise be provided on a timely basis. In the event that the limitation of subsection (b) is exceeded, the President shall report to Congress on the nature and extent of the emergency assistance requirements and propose additional legislation if necessary."

SEC. 150. Section 102(2) of the Disaster Relief Act of 1974 (42 U.S.C. 5122(2)) is amended to read as follows—

"(2) 'Major disaster' means any natural catastrophe, including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought, or any fire, flood, or explosion, regardless of cause, in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby."

SEC. 151. Title II of the Disaster Relief Act of 1974 (42 U.S.C. 5131-5132) is amended by—

(1) striking the words "(including the Defense Civil Preparedness Agency)" in section 201(a);

(2) adding the words "including evaluations of natural hazards and development of the programs and actions required to mitigate such hazards," between the words "plans" and "except" in section 201(d); and

(3) striking "$25,000" in section 201(d) and inserting in lieu thereof "$50,000".

SEC. 152. Title III of the Disaster Relief Act of 1974 (42 U.S.C. 5141-5158) is amended by—

(1) deleting sections 301, 305, and 306 and renumbering subsequent sections appropriately;

(2) deleting the caption "FEDERAL ASSISTANCE" of section 301, as redesignated by paragraph (1) of this section, and inserting in lieu thereof "RULES AND REGULATIONS";

(3) deleting the first and second sentences of subsection (a) of section 301, as redesignated by paragraph (1) of this section, and amending the final sentence thereof by adding ", with or without reimbursement," immediately before "through"; and

(4) deleting ", or economic status" in the second sentence of section 308(a) as redesignated by paragraph (1) of this section, and adding "or" before "age,".

SEC. 153. Section 302(a) of the Disaster Relief Act of 1974 (42 U.S.C. 5143(a)), as designated by section 152(1) of this Act, is amended by adding at the end thereof the following: "The Federal coordinating officer shall represent the President in coordinating the emergency or the major disaster response and recovery effort.".

SEC. 154. Section 311 of the Disaster Relief Act of 1974 (42 U.S.C. 5154), as redesignated by section 152(1) of this Act, is amended by redesignating subsections (a), (b), and (c) as (b), (c), and (d), respectively, and by adding at the beginning thereof a new subsection as follows:

"(a) As a condition of assistance, any public facility and private nonprofit facility which is:

"(1) located in a special flood hazard area as identified by the Director pursuant to the National Flood Insurance Act of 1986, as amended (42 U.S.C. 4001 et seq.);

"(2) damaged or destroyed by flooding; and

"(3) otherwise eligible for assistance under section 405 of this Act, must be covered, on the date of the flood damage, by reasonable and adequate flood insurance. Assistance under section 405 for any such facility not so covered shall be reduced by the maximum amount of benefits which could have been received had reasonable and adequate flood insurance been in force: *Provided, however,* That this reduction of assistance shall not apply to uninsured facilities where such communities have been identified for less than one year as having special flood hazard areas. The limitations of assistance required by this subsection shall not apply unitl final regulations are promulgated by the President. Such regulations shall define reasonable and adequate flood insurance.".

SEC. 155. Section 312 of the Disaster Relief Act of 1974 (42 U.S.C. 5155), as redesignated by section 152(1) of this Act, is amended to read as follows:

"DUPLICATION OF BENEFITS

"SEC. 312. (a) Agencies or other organizations providing Federal assistance for needs or losses resulting from a major disaster or emergency shall assure that no person, business concern, or other entity receives any such Federal assistance if said person, busi-

ness concern, or entity receives or is entitled to receive benefits for the same purposes from insurance or any other Federal or non-Federal source: *Provided*, That nothing in this section shall prohibit the provision of Fedeal assistance to a person, business concern, or other entity who is or may be entitled to receive benefits for the same purposes from insurance or any other Federal or non-Federal source when any such applicant for Federal assistance has not received such other benefits by the time of application for Federal assistance, so long as the applicant for Federal assistance agrees as a condition of receipt of Federal assistance to repay duplicative assistance from insurance or any other Federal or non-Federal source to the agency or other organizations providing the Federal assistance. The President shall establish such procedures as are deemed necessary to insure uniformity in preventing such duplication of benefits. Receipt of partial benefits for a loss or need resulting from a major disaster or emergency does not preclude provision of additional Federal assistance for any part of such loss or need for which benefits have not been provided.

"(b) A person, business concern, or other entity receiving Federal assistance for needs or losses resulting from a major disaster or emergency shall be liable to the United States to the extent that such Federal assistance has duplicated benefits available to the person, business concern, or other entity for the same purpose from insurance or any other Federal or non-Federal sources. The agency or other organization which provided the duplicative assistance shall collect such duplicative assistance from the recipient in accordance with the Claims Collection Act of 1966, as amended, when in the best interest of the Government. The repayment shall not exceed the amount of Federal assistance received.

"(c) Federal disaster assistance and comparable disaster assistance provided by States, local governments, and disaster assistance organizations to individuals and families shall not be considered as income or a resource when determining eligibility or benefit levels for federally funded income assistance or resource tested benefit programs.".

SEC. 156. (a) Title III of the Disaster Relief Act of 1974 (42 U.S.C. 5141-5158) is amended by adding at the end thereof four new sections as follows:

"PROTECTION OF ENVIRONMENT

"SEC. 315. No action taken or assistance provided pursuant to section 402, 403, 406, 502, or 503, of this Act, or any assistance provided pursuant to section 405 of this Act that has the effect of restoring facilities substantially as they existed prior to the disaster, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 (83 Stat. 852) to other Federal actions taken under this Act or under any other provisions of law.

"RECOVERY OF FUNDS

"SEC. 316. The Attorney General of the United States is authorized to institute actions in the United States District Court for the district in which an emergency or major disaster occurred, or in such district as otherwise provided by law, against any party whose acts or omissions may in any way have caused or contributed to the damage or hardship for which Federal assistance is provided pursuant to this Act. Upon the showing that an emergency or major disaster or the associated damage or hardship was caused in whole or in part by an act or omission of such party, then such party shall be liable to the United States for the full amount of Federal expenditures made to alleviate the suffering or damage attributable to such act or omission. The authority of this section shall also apply to the recovery of Federal funds expended under the authority of section 419 of this Act for fire suppression.

"AUDITS AND INVESTIGATIONS

"SEC. 317. (a) The President, when deemed necessary to assure compliance with any provision of this Act or related regulations, shall conduct audits and investigations and in connection therewith may enter such places and inspect such records and accounts and question such persons as deemed necessary to determine the facts relative thereto.

"(b) The President, when deemed necessary to assure compliance with any provision of this Act or related regulations, may require audits by State and local governments in connection with assistance provided under the Act.

"(c) The President and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of investigation, audit, and examination, to any books, documents, papers, and records of any person or entity relating to any activity or program undertaken or funded pursuant to this Act.

"CRIMINAL AND CIVIL PENALTIES

"SEC. 318. (a) Any person, organization, or other entity who knowingly makes a false statement or representation of a material fact, or who knowingly fails to disclose a material fact, in any application or other document in connection with a request for assistance under this Act, or who knowingly falsifies or withholds, conceals, or destroys any documents, books, records, reports, or statements upon which such request for assistance is based, shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each violation.

"(b) Any person, organization, or other entity who knowingly makes a false statement or representation of a material fact, or who knowingly fails to disclose a material fact, in any bill, invoice, claim, or other document requesting reimbursement for work or services performed in connection with assistance provided under this Act, or who knowingly falsifies or withholds, conceals, or destroys any documents, books, records, reports, or statements upon which such request for reimbursement is based, shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each violation.

"(c) Any person, organization, or other entity who knowingly misapplies the proceeds of a loan or other cash benefit obtained under any section of this Act shall be subject to a find in an amount equal to one and one-half times the misapplied amount of the loan or cash benefit.

"(d) Whenever it appears that any person, organization, or other entity has violated or is about to violate any provision of this Act, including rules and regulations issued and civil penalties imposed, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in the district court of the United States having jurisdiction where the violation occurred or, at the option of the parties, in the United States District Court for the District of Columbia.

"(e) The President, or the duly authorized representative of the President, shall expeditiously refer to the Attorney General of the United States for appropriate action such evidence developed in the performance of functions under this Act as may be found to warrant consideration for criminal prosecution under the provisions of this Act or other Federal law.".

(b) Title III of the Disaster Relief Act of 1974 is amended by deleting subsections (a) and (c) of section 314 (42 U.S.C. 5157), as redesignated by section 152(1) of this Act, and by renumbering "(b)" from the remaining subsection of section 314 as subsection "(f)" of section 318 as added by section 156(a) of this Act.

(c) Title IV of the Disaster Relief Act of 1974 is amended by deleting section 405 (42 U.S.C. 5175) and by renumbering subsequent sections appropriately.

(d) Section 315 of the Disaster Relief Act of 1974 (42 U.S.C. 5158), as redesignated by section 152(1) of this Act, is further redesignated as section 314.

SEC. 157. Title IV of the Disaster Relief Act of 1974 (42 U.S.C. 5171-5189) is amended by adding three new sections as follows and by renumbering subsequent sections appropriately:

"PROCEDURES

"SEC. 401. (a) All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State, Such Governor's request shall be based upon a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of this request, and as a prerequisite to major disaster assistance under the Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. He shall furnish information on the extent and nature of State resources which have been or will be used to alleviate the conditions of the disaster, and shall certify that for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such disaster, including, but not limited to, the cost-sharing provisions pursuant to sections 405, 406, 407, and 410 of this Act. Based upon such Governor's request, the President may declare that a major disaster exists.

"(b) In any case where an eligible applicant (or the State) is unable to assume its financial responsibility under the cost-sharing provisions of sections 405, 406, and 407 of this Act, the President is authorized to lend or advance to the State such 25 per centum share. For the purposes of section 405, such loan or advance shall be authorized only after the occurrence of concurrent, multiple major disasters in a given jurisdiction, or the extraordinary costs of a particular major disaster, and when the damages caused by such major disasters are so overwhelming and severe that it is not possible for the applicant or the State to assume their financial responsibility under this Act immediately. Except as provided by

subsection (c) of this section, any such loan or advance is to be repaid to the United States there shall be no deferral of the repayment of loans or advances authorized by this subsection or of accrued interest. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the loan or advance.

"(c) The President may cancel all or any part of such loan or advance made regarding section 405 or section 406 for concurrent, multiple major disasters or a single catastrophic major disaster if a determination is made that following the three full fiscal years after the loan or advance is made, the applicant demonstrates substantial and continuing inability to repay all or part of the loan or advance.

"(d) The President shall issue regulations describing the terms and conditions under which any loans or advances authorized by this section may be made or canceled.

"FEDERAL ASSISTANCE

"SEC. 402. In any major disaster, the President may—

"(a) direct any Federal agency with or without reimbursement to utilize its authorities and the resources granted to it under other Acts including, but not limited to, personnel, equipment, supplies, facilities, and managerial, technical, and advisory services in support of State and local assistance efforts;

"(b) coordinate all Federal agencies and voluntary relief or disaster assistance organizations providing disaster assistance, and coordiante disaster assistance with State and local officials; and

"(c) provide technical and advisory assistance to affected State and local governments in the performance of essential community services, warning of risks and hazards, public information and assistance in health and safety measures, management and control, and reduction of immediate threats to public health and safety.

"COOPERATION OF FEDERAL AGENCIES IN RENDERING DISASTER ASSISTANCE

"SEC. 403. (a) In any major disaster, Federal agencies are hereby authorized, on the direction of the President, to provide assistance by—

"(1) utilizing or lending, with or without compensation therefore, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

"(2) distribution or rendering, through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations, or otherwise, medicine, food, and other consumable supplies, other services to disaster victims, or emergency assistance;

"(3) donating or lending equipment and supplies, including that determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government, to State and local governments for use or distribution by them for the purposes of this Act; and

"(4) performing on public or private lands or waters any emergency work or services essential to save lives and to protect and preserve property, public health and safety, including, but not limited to: Search and rescue, emergency medical care, emergency mass care, emergency shelter, and provisions of food, water, medicine, and other essential needs, including movement of supplies or persons; construction of temporary bridges necessary to the performance of emergency tasks and essential community services; provision of temporary facilities for schools and other essential community services; warning of further risks hazards; public information and assistance on health and safety measures; technical advice to State and local governments on disaster management and control; reduction of immediate threats to life, property, and public health and safety; and making contributions to State or local governments for the purpose of carrying out the provisions of this paragraph. Such contributions for emergency work under this section and section 402 of this Act shall not exceed 100 per centum of the net eligible cost, or for small projects 100 per centum of the Federal estimate of the net eligible cost, of such emergency work or services performed by State and local governments: *Provided,* That where debris removal assistance is appropriate under this section or section 402 of this Act it shall be provided in accordance with the terms and conditions of section 406 of this Act.".

SEC. 158. (a) Section 405 of the Disaster Relief Act of 1974 (42 U.S.C. 5172), as redesignated by section 157 of this Act, is amended to read as follows:

"(a) The President is authorized to make contributions to State or local governments to help repair, restore, reconstruct, or replace public facilities belonging to such State or local government which were damaged or destroyed by a major disaster. Notwithstanding any other provision of law, such contribution shall be limited to 75 per centum of the net eligible cost, or for small projects 75 per centum of the Federal estimate of the net eligible cost, of repairing, restoring, reconstructing, or replacing any such facility estimated on the basis of the design of such facility as it existed immediately prior to such major disaster and in conformity with current applicable codes, specifications, and standards. For the purposes of this section, 'public facility' includes any publicly owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, any other public building, structure, or system including those used for educational or recreational purposes and any part.

"(b) The President is authorized to make contributions to help repair, restore, reconstruct, or replace eligible private nonprofit facilities which were damaged or destroyed by a major disaster. Notwithstanding any other provision of law, such contributions shall be 75 per centum of the net eligible cost, or for small projects 75 per centum of the Federal estimate of the net eligible cost, of repairing, restoring, reconstructing, or replacing any such facility estimated on the basis of the design of such facility as it existed immediately prior to such major disaster and in conformity with current applicable codes, specifications, and standards. For the purposes of this section, 'eligible private nonprofit facility' means private nonprofit educational utility, emergency, medical, and custodial care facilities, including those for the aged and disabled, and such private nonprofit facilities on Indian reservations, which were damaged or destroyed by a major disaster.

"(c) No authority under this section shall be exercised unless the affected State, local government, or eligible private nonprofit organization first agrees that such facility shall be repaired, restored, reconstructed, or replaced in compliance with flood plain management and hazard mitigation criteria required by the President, with the provisions of the Coastal Barrier Resources Act and other applicable Federal statutes, and in conformity with other applicable codes, specifications, and standards, except as otherwise provided in section 315 of this Act.

"(d) For those facilities eligible under this section which were in the process of construction when damaged or destroyed by a major disaster, the contribution shall be 75 per centum of the net eligible costs of restoring such facilities substantially to their predisaster condition: *Provided,* That the term 'net eligible costs' shall not include cost which, under a contract, are the responsibility of a contractor.

"(e) In those cases, except for small projects, where a State or local government determines that public welfare would not be best served by repairing, restoring, reconstructing, or replacing particular public facilities owned or controlled by that State or that local government and which have been damaged or destroyed in a major disaster, it may elect to receive, in lieu of the contribution described in subsection (a) of this section, a contribution that shall be 50 per centum of the Federal estimate of the net eligible cost of repairing, restoring, reconstructing, or replacing such damaged facilities owned by it within its jurisdiction. The cost of repairing, restoring, reconstructing, or replacing damaged or destroyed public facilities shall be estimated on the basis of the design of each facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications, and standards. Funds contributed under this subsection may be expended either to repair or restore certain selected damaged public facilities or to construct new public facilities which the State or local government determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area.".

(b) The Disaster Relief Act of 1974 is amended by deleting section 421 (42 U.S.C. 5189), as redesignated by sections 156(c) and 157 of this Act, and by striking "or 419" each place that this phrase appears in section 311 (42 U.S.C. 5154), as redesignated by section 152(l) of this Act.

(c) Section 406 of the Disaster Relief Act of 1974 (42 U.S.C. 5173), as redesignated by section 157 of this Act, is amended by adding at the end thereof the following:

"(c) Notwithstanding any other provision of law, whether carried out directly through Federal departments, agencies, or instrumentalities or through grants to State or local governments, Federal assistance provided under authority of this section shall be 75 per centum of the net eligible costs, or for small projects 75 per centum of the Federal estimate of the net eligible costs, of debris removal.".

SEC. 159. Section 407(a) of the Disaster Relief Act of 1974, as redesignated by section 157 of this Act, is amended to read as follows:

"(a) The President is authorized to provide, either by purchase or lease, temporary housing including, but not limited to, unoccupied habitable dwellings, suitable rental housing, mobile homes, or other readily fabricated dwellings for those who, as a result

of a major disaster, require temporary housing. Whenever he determines it to be in the public interest, the President is authorized to provide temporary housing assistance by using Federal departments, agencies, or instrumentalities. In addition, the President is authorized to provide temporary housing assistance by contributing not to exceed 100 per centum (or 75 per centum for group site development pursuant to paragraph (2) of this subsection) of the costs of temporary housing assistance to a State or local government which provides such assistance to those who require it as a result of a major disaster. Federal financial and operational responsibilities for temporary hosing assistance shall not exceed eighteen months from the date of the major disaster declaration by the President, unless he determines that due to extraordinary circumstances it would be in the public interest to extend the eighteen month period.

"(1) Temporary housing assistance pursuant to this subsection shall be provided only when adequate alternative housing is unavailable, unless there is compelling need to do so because of extreme hardship.

"(2) Any mobile home or other readily fabricated dwelling supplied pursuant to this subsection shall be placed on a site complete with utilities provided either by the State or local government, or by the owner or occupant of the site who was displaced by the major disaster. When the President determines such action to be in the public interest, he may authorize installation of essential utilities at Federal expense and he may elect to provide other more economical or accessible sites. However, in the event the President authorizes the development of a group site, that is, a site for two or more households, the Federal share shall be 75 per centum of the development costs, and the remainder shall be met by funds provided by the State or local government.".

SEC. 160. Section 408 of the Disaster Relief Act of 1974 (42 U.S.C. 5176), as redesignated by sections 156(c) and 157 of this Act, is amended by adding "(a)" after "408." and by adding a new subsection "(b)" as follows:

"(b) The President is authorized to contribute up to 50 per centum of the cost of implementing hazard mitigation projects which he has determined would be cost effective and would substantially reduce the risk of future damage, hardship, loss, or suffering in the area affected by a major disaster. Such projects shall be identified following the evaluation of natural hazards provided for the subsection (a) of this section and shall be subject to approval by the President. The total of the contributions made under this subsection shall not exceed 10 per centum of the Federal estimate of grants made under the authority of section 405 of this Act for each major disaster.".

SEC. 161. Section 409(a) of the Disaster Relief Act of 1974 (42 U.S.C. 5177), as redesignated by sections 156(c) and 157 of this Act, is amended to read as follows: "The President is authorized to provide such disaster unemployment assistance as he deems appropriate to individuals who are unemployed as a result of a major disaster. Disaster unemployment assistance authorized by this section shall be available to an eligible individual for a period not to exceed fifty-two weeks after the week in which an eligible individual became unemployed as a result of a major disaster, and such period shall be regarded as the disaster assistance period for that individual for the purposes of this section. Disaster unemployment assistance shall not be payable with respect to any week for which an individual is entitled to unemployment compensation (as defined in section 85(c) of the Internal Revenue Code of 1954, as amended) or waiting week credit. The maximum amount of disaster unemployment assistance payable to any individual with respect to a major disaster shall not exceed twenty-six times the maximum weekly amount for which the individual establishes eligibility minus the amount of any unemployment compensation paid to the individual during the fifty-two week benefit period established pursuant to this section. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred, and the amount of assistance under this section for a week of unemployment shall be reduced by any amount of private income protection insurance compensation available to such individual for such week of unemployment. The payment of unemployment compensation to an individual with respect to any week subsequent to the exhaustion of eligibility of such individual for disaster unemployment assistance and within the fifty-two week benefit period established pursuant to this section shall not be regarded as duplication of benefits under section 312 of this Act. The President is directed to provide disaster unemployment assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.".

SEC. 162. (a) Section 410(b) of the Disaster Relief Act of 1974 (42 U.S.C. 5178), as redesignated by sections 156(c) and 157 of this Act, is amended by adding a period after the word "share" in the second sentence of that subsection and by deleting the following phrase from the second sentence of section 410(b): "and any such advance is to be repaid to the United States when such State is able to do so.".

(b) Section 410(b) of the Disaster Relief Act of 1974 (42 U.S.C. 5178), as redesignated by sections 156(c) and 157 of this Act, is further amended by adding the following sentence between the second and third sentences of this subsection: "Such advances shall bear interest from the date of the advance at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the loan or advance. Repayment of such advances and of interest which accrues on the advances may be deferred for no longer than two years from the date of the major disaster declaration.".

SEC. 163. Section 410(b) of the Disaster Relief Act of 1974 (42 U.S.C. 5178), as redesignated by sections 156(c) and 157 of this Act, is amended by striking "$5,000" in the last sentence and inserting in lieu thereof "$7,500".

SEC. 164. Section 415 of the Disaster Relief Act of 1974 (42 U.S.C. 5183), as redesignated by sections 156(c) and 157 of this Act, is amended by striking "(through the National Institute of Mental Health)".

SEC. 165. Section 420(d) of the Disaster Relief Act of 1974 (42 U.S.C. 5188), as redesignated by sections 156(c) and 157 of this Act, is deleted.

SEC. 166. The Disaster Relief Act of 1974 (42 U.S.C. 5121-5202) is amended by—

(1) striking paragraph (7) of section 101(b) (42 U.S.C. 5121), striking "; and" from paragraph (6) and adding in lieu thereof a period, and adding "and" at the end of paragraph (5);

(2) striking "the Canal Zone," in paragraphs (3) and (4) of section 102 (42 U.S.C. 5122);

(3) striking "DISASTER" in the caption of title III (42 U.S.C. 5141-5158) and inserting in lieu thereof "MAJOR DISASTER RELIEF AND EMERGENCY";

(4) striking "section 402 or 404 of" in section 308(b) (42 U.S.C. 5151), as redesignated by section 152(i) of this Act;

(5) adding "emergency or" before the word "major" each of two places that word appears in section 307 (42 U.S.C. 5150), as redesignated by section 152(i) of this Act;

(6) striking in section 310(b) (42 U.S.C. 5153), as redesignated by section 152(1) of this Act, everything after the word "areas" and inserting in lieu thereof a period;

(7) striking "or section 803 of the Public Works and Economic Development Act of 1965," each place the phrase appears in section 311 (42 U.S.C. 5154), as redesignated by section 152(1) of this Act;

(8) striking "402" each place that number appears in section 311 (42 U.S.C. 5154), as redesignated by section 152(1) of this Act, and inserting in lieu thereof "405";

(9) adding "emergency and major" before the word "disaster" in section 313 (42 U.S.C. 5156), as redesignated by section 152(1) of this Act;

(10) adding the word "MAJOR" between the words "FEDERAL" and "DISASTER" in the caption to title IV (42 U.S.C. 5171-5189);

(11) striking "in emergencies or in major disasters" in the third sentence of paragraph (2) of section 407(d) (42 U.S.C. 5174), as redesignated by section 157 of this Act;

(12) striking "311" in section 407(d)(2) (42 U.S.C. 5174), as redesignated by section 157 of this Act, and inserting in lieu thereof "308";

(13) striking "an emergency or" in section 417 (42 U.S.C. 5185), as redesignated by sections 156(c) and 157 of this Act, and inserting in lieu thereof "a";

(14) striking "408" in section 605 (42 U.S.C. 5121) and inserting in lieu thereof "410";

(15) striking "301" in subtitle C of title I of the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512; 86 Stat. 919) and inserting in lieu there of "401";

(16) striking "President" each place that word appears in section 309(a), as redesignated by section 152(1) of this Act, and inserting in lieu thereof "Federal coordinating officer".

(17) striking "rent" in section 310(a)(2) (42 U.S.C. 5153), as redesignated by section 152(1) of this Act, and inserting in lieu thereof "income"; and

(18) striking paragraph (1) of section 310(a) (42 U.S.C. 5153), as redesignated by section 152(1) of this Act, and renumbering subsequent paragraphs appropriately.

SEC. 167. (a) Section 6(a)(6)(E) of the Coastal Barrier Resource Act, 16 U.S.C. 3505(a)(6)(E), is amended by striking out "pursuant to sections 305 and 306 of the Disaster Relief Act of 1974" and inserting in lieu thereof" pursuant to sections 402, 403, 502, and 503 of the Major Disaster Relief and Emergency Assistance Act".

(b) Whenever any reference is made in any provision of law (other than this Act), regulation, rule, record, or document of the United States to provisions of the Disaster Relief Act of 1974 repealed or renumbered

by sections 146 through 168 of this Act, such reference shall be deemed to be a reference to the appropriate provisions of the Major Disaster Relief and Emergency Assistance Act.

SEC. 168. (a) Except as provided in subsection (b), sections 146 through 168 of this Act shall take effect on October 1, 1986.

(b)(1) Sections 146 through 168 of this Act shall not affect the administration of any assistance provided under the authority of the Disaster Relief Act of 1974, for any major disaster or emergency declared by the President prior to October 1, 1986.

(2) Except with regard to section 409(a) of the Disaster Relief Act of 1974, as redesignated by sections 156(c) and 157 of this Act (relating to disaster unemployment assistance)—

(A) rules and regulations issued under statutory provisions which are repealed, modified, or amended by this Act shall continue in effect as though issued under the authority of this Act until they are expressly abrogated, modified, or amended by the President; and

(B) provision of disaster assistance authorized by statutory provisions repealed, modified, or amended by this Act or rules and regulations issued thereunder, or proceedings involving violations of statutory provisions repealed, modified, or amended by this Act or rules and regulations issued thereunder which are in process prior to the effective date of this Act, may be continued to conclusion as though the applicable statutory provisions had not been repealed, modified, or amended.

(3) Violations of statutory provisions or rules and regulations issued under the authority of statutory provisions repealed, modified, or amended by this Act or rules and regulations issued thereunder which are committed prior to the effective date of this Act may be proceeded against under the law in effect at the time of the specific violation.

(C) Title IV of the Disaster Relief Act of 1974 (42 U.S.C. 5171-5189) is amended by adding at the end thereof a new section as follows:

"SEC. 421. No State shall be ruled ineligible to receive assistance under this Act solely by virtue of an arithmetic formula based on income or population."

● Mr. LAUTENBERG. Mr. President, today I am submitting along with Senator HEINZ, an amendment to the Federal-Aid Highway Act of 1986 to prevent drastic and ill-advised changes to the Federal Disaster Relief Program.

On April 18, the Federal Emergency Management Agency issued regulations which would deny Federal disaster assistance for the repair and reconstruction of public facilities in thousands of communities nationwide. These regulations have been greeted by a storm of protest by cities and States across the country.

Mr. President, the FEMA regulations would result in 61 of the last 111 disaster declarations not being made. In the event of a disaster, if a State did not exceed a given dollar threshold, no Federal aid would be available. The cost sharing with local governments when a disaster is declared would be increased from 75/25 percent Federal to local match to 50/50 percent.

It is time the Congress stepped in to prevent these regulations from taking effect. Absent congressional action, the regulations will take effect on October 1.

Mr. President, I had intended to offer a simple amendment to the debt ceiling bill to prevent these regulations from taking effect and giving the Congress time to authorize changes in the Disaster Relief Program. I was persuaded to offer an amendment on the highway bill, because the disaster relief legislation would then be in conference with the proper House committee. As ranking member on the Community and Regional Development Subcommittee of the Environment and Public Works Committee, I want to move this legislation forward in a manner which respects the committee's jurisdiction.

The amendment Senator HEINZ and I are offering will prevent FEMA from establishing an arbitrary ability to pay threshold. It would also establish in law the 75/25 percent Federal to local cost sharing in current practice. In addition, the amendment makes changes in the Disaster Relief Program sought by FEMA and previously supported by the Senate.

Mr. President, this amendment will go far to resolving the controversy over the FEMA regulations and I hope it will be accepted as part of the highway bill.●

PRYOR (AND OTHERS) AMENDMENT NO. 2612

Mr. PRYOR (for himself, Mr. GORTON, and Mr. HATFIELD) proposed an amendment to the bill S. 2638, supra, as follows:

On page 4, line 3, strike out "$6,121.657,000" and insert in lieu thereof "$6,093,124,000".

On page 6, line 20, strike out "$10,374,848,000" and insert in lieu thereof "$10,346,448,000".

On page 10, between lines 16 and 17, insert the following new section:

SEC. 110. RESTRICTIONS OF THE BIGEYE BOMB PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds appropriated pursuant to an authorization contained in this or any other Act may be used for procurement or assembly of the Bigeye binary chemical bomb, for the procurement of any component or subcomponent for such bomb, or for the procurement of any construction facilities or equipment associated with the production of such bomb until specific, subsequent legislation has been enacted authorizing the obligation, and expenditure of funds for production of the Bigeye binary chemical bomb.

(b) EXCEPTION FOR RESEARCH, DEVELOPMENT, TESTING, AND EVALUATION.—The requirements of this section shall not apply to funds obligated solely for the purpose of carrying out research, development, testing, and evaluation in connection with the Bigeye binary chemical bomb program.

(c) LIMITATION OF FISCAL YEAR 1986 FUNDS.—Except as provided in Subsection (b), the funds appropriated to carry out the Bigeye binary chemical bomb program in fiscal year 1986, and which remain unexpended on the date of the enactment of this Act, may not be used to carry out such program.

HARKIN AMENDMENTS NOS. 2614 AND 2615

(Ordered to lie on the table.)

Mr. HARKIN submitted two amendments intended to be proposed by him to the bill S. 2638, supra, as follows:

At the end of the amendment, add the following new section:

Notwithstanding any other provision of law, no member of the United States Armed Forces, or any agent, or contractor thereof, may provide training, or any other service, or otherwise participate directly or indirectly in the provision of any assistance, to the Nicaraguan democratic resistance within the territory of the countries of Honduras, Costa Rica, and El Salvador.

At the end of Section 208 of the amendment, insert the following new subsection:

(c) Of the amounts transferred under Section 206(a), $50,000,000 shall be transferred only to the Agricultural Credit Insurance Fund established under Section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) for use by the Secretary of Agriculture to make and insure real estate and operating loans in accordance with subtitles A and B, respectively of such Act (7 U.S.C. 1922 et seq.).

KERRY AMENDMENT NO. 2616

(Ordered to lie on the table.)

Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2638, supra, as follows:

At the appropriate place, add the following:

SEC. . (a) The Congress finds that—

(1) the Republic of South Africa has made little progress in the elimination of apartheid or in the enfranchisement of a majority of its citizens;

(2) the Republic of South Africa has recently intensified its crackdown on journalists by severely restricting written and electronic coverage of news that relates to social, economic, and political unrest in that country;

(3) the Republic of the Philippines has recently demonstrated to the world the power and virtues of democracy;

(4) the Republic of the Philippines relies heavily on the export of sugar to generate needed capital; and

(5) an increase in sugar exports at this crucial transitional time for the Philippines would tend to help their economy and improve the close and historic relationship between our two countries.

(b)(1) Notwithstanding any other provision of law, no sugars, sirups, or molasses that are products of the Republic of South Africa may be entered after the date of enactment of this Act.

(2) The aggregate quantity of sugars, sirups, and molasses that—

(A) are products of the Philippines, and

(B) may be entered (determined without regard to this paragraph) under any limitation imposed by law on the quantity of all sugars, sirups, and molasses that may be entered during any period of time occurring after the date of enactment of this Act,

shall be increased by the aggregate quantity of sugars, sirups, and molasses that are products of the Republic of South Africa which may have been entered under such limitation during such period if this section did not apply to such period.

(c)(1) Paragraph (c)(i) of headnote 3 of subpart A of part 10 of schedule 1 of the Tariff Schedules of the United States is amended—

(A) by striking out "13.5" in the item relating to the Philippines in the table and inserting in lieu thereof "15.8", and

(B) by striking out the item relating to the Republic of South Africa in the table.

(2) Paragraph (c) of headnote 3 of subpart A of part 10 of schedule 1 of the Tariff Schedules of the United States is amended by adding at the end thereof the following new subparagraph:

"(iii) Notwithstanding any authority given to the United States Trade Representative under paragraphs (e) and (g) of this headnote—

"(A) the percentage allocation made to the Philippines under this paragraph may not be reduced, and

"(B) no allocation may be made to the Republic of South Africa,

in allocating any limitation imposed under any paragraph of this headnote on the quantity of sugars, sirups, and molasses described in items 155.20 and 155.30 which may be entered.".

(d) For purposes of this section—

(1) The Term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "customs territory of the United States" means the States, the District of Columbia, and Puerto Rico.

DECONCINI AMENDMENT NO. 2617

Mr. DECONCINI proposed an amendment to the bill S. 2638, supra, as follows:

At the appropriate place in the bill, insert the following new section:

RESTRICTION ON THE SALE OF STINGER ANTIAIRCRAFT MISSILES

SEC. . Notwithstanding any other provision of law, no STINGER antiaircraft missiles may be sold, donated, or otherwise provided, directly or indirectly, to democratic resistance forces unless the President certifies to the Congress that the proposed recipient has agreed to the following conditions:

(1) Physical security of such missiles shall consist of the following:

(A) Magazines of reinforced concrete, arch-type, and earth-covered whose construction is at least equivalent in strength to the requirements of the Chief of Engineers (Department of the Army) drawings, 652-686 through 652-693, 27 Dec 1941 as revised 14 Mar 42, shall be provided.

(B) Lighting shall be provided for exterior doors and along perimeter barriers.

(C) Exterior doors shall be class 5 steel vault doors secured by two-key operated high security padlock and hasp (mil spec P-43607), and keys shall be secured separately to insure effective two-man control of access.

(D) Fencing shall be 6-foot (minimum) steel chain link on steel or reinforced concrete posts over firm base, and clear zones shall be established inside and outside fencing.

(E) A full-time guard force or combination guard force and instrusion detection system shall be provided.

(2) Such missiles shall be accounted for as follows:

(A) A 100 percent physical count shall be taken monthly with two-man verification, and records shall be available for United States inspection.

(B) A United States Military Training Mission shall conduct the United States inspection and inventory annually, and weapons expended outside of hostilities shall be accounted for.

(C) When missiles are deployed and assembled, the recipient shall be responsible for a daily accounting of such missiles. Records shall be maintained by the recipient and, upon request, shall be available for United States Government review, United States representatives, shall have the right, upon request, to inspect the missiles at the deployed sites.

(3) Movements shall meet United States standards for safeguarding classified material in transit.

(4) Access to such missiles and to classified information relating thereto shall be as follows:

(A) Access to hardware and related classified informaton shall be limited to military and civilian personnel who have the proper security clearance and who have an established need-to-know. Information released shall be limited to that necessary for assigned functions or operational responsibility and, where possible, shall be oral or visual only.

(B) No maintenance shall be authorized which required access to the interior of the operational system. Such maintenance shall be performed under United States control.

(5) The recipient shall report to the United States by the most expeditious means any instance of compromise, loss, or theft of any material or related information. This report shall be followed by prompt investigation and the results provided to the United States

(6) The recipient shall agree that no information on Basic STINGER shall be released to a third government or any other party without United States approval.

(7) The security standards applied by the recipient to protection of Basic STINGER information and material shall be at least equivalent to those of the United States at the identified security classification.

(8) The recipient shall use the information of Basic STINGER only for the purpose for which it was given.

(9) United States officers shall be allowed to inspect and assess physical security measures and procedures established for implementation of these security controls on an announced random access basis.

(10) Damaged launchers shall be returned to United States Armed Forces for repair or demilitarization prior to disposal by United States authorities.

(11) Two principal components of the STINGER system, the gripstock and the missile in its disposable launch tube, shall be stored in separate locations. Each location shall meet all physical security requirements applicable to the STINGER system as a whole. The two locations shall be physically separated sufficiently so that a penetration of the security at one site shall not place the second at risk.

(12) The principle components of the STINGER system, the gripstock, missile, and launch tube, may be brought together and assembled only under the following circumstances:

(A) In the even of hostilities or imminent hostilities.

(B) For firing as part of regularly scheduled training (only those rounds intended to be fired shall be withdrawn from storage and assembled).

(C) For lot testing (only proof rounds) shall be withdrawn and assembled).

(D) When STINGER systems are deployed as part of the point of defenses of high priority installations or activities.

(13) Field exercises or deployments wherein the use of STINGER system is simulated shall not create conditions for the assembly of the system.

SIMON AMENDMENT NOS. 2618 AND 2619

(Ordered to lie on the table.)

Mr. SIMON submitted two amendments intended to be proposed by him to amendment No. 2414 to the bill S. 2638, supra, as follows:

On page 7, line 4 add "as well as any territory occupied by South Africa on violation of international law.

AMENDMENT NO. 2619

On page 33, line 4 insert the following "consumption".

"(9) fluorspar,"

THURMOND AMENDMENT NO. 2620

Mr. THURMOND proposed an amendment to the bill S. 2638, supra, as follows:

On page 241, line 7, strike out "$2,950,806,000" and insert in lieu thereof "$2,949,746,000".

On page 241, line 24, strike out "$131,640,000" and insert in lieu thereof "$130,580,000".

On page 260, between lines 19 and 20, insert the following new item:

Andrews Air Force Base, Maryland, $25,000,000.

On page 263, strike out line 8.

On page 264, strike out "$12,800,000" and insert in lieu thereof "$9,400,000".

On page 268, line 12, strike out "$670,057,000" and insert in lieu thereof "$695,057,000".

On page 268, line 15, strike out "$329,543,000" and insert in lieu thereof "$321,243,000".

On page 268, line 17, strike out "$218,320,000" and insert in lieu thereof "$210,280,000".

On page 268, line 20, strike out "$124,860,000" and insert in lieu thereof "$117,260,000".

MURKOWSKI (AND MCCONNELL) AMENDMENT NO. 2621

(Ordered to lie on the table.)

Mr. MURKOWSKI (for himself and Mr. MCCONNELL) submitted an amendment to the bill S. 2638, supra, as follows:

Strike section 307a and add "Notwithstanding any other section of law, no funds may be expended for any cooperation, directly or indirectly, with the armed forces of the government of South Africa, except activities which are reasonably designed to facilitate the collection of necessary intelligence."

DURENBERGER AMENDMENT NOS. 2622 THROUGH 2625

(Ordered to lie on the table.)

Mr. DURENBERGER submitted four amendments intended to be proposed by him to the bill S. 2638, supra, as follows:

AMENDMENT NO. 2622

At the appropriate place in the bill, add the following new section:

SEC. . No agency or entity of the United States may engage in any form of cooperation, direct or indirect, with the armed forces of the government of South Africa, except activities which are reasonably designed to facilitate the collection of necessary intelligence. Each such activity shall be considered a significant anticipated intelligence act for the purpose of Sec. 501 of the National Security Act of 1947.

AMENDMENT NO. 2623

At the appropriate place in the amendment, add the following new section:

SEC. . No agency or entity of the United States which is involved in intelligence activities may, directly or indirectly, provide any intelligence information to the Republic of South Africa which pertains to the African National Congress or any other South African Group, movement, organization or individual which is engaged in activities in opposition to the government of the Republic of South Africa, except if the information credibly indicates the imminent likelihood of violent action calculated to threaten human life. In the event that any intelligence information pertaining to opposition activities is transmitted to the Republic of South Africa, either in an authorized or unauthorized manner, the Director of Central Intelligence shall promptly inform the Select Committee on Intelligence of the Senate and Permanent Select Committee of Intelligence of the House of Representatives of the facts and circumstances regarding the nature of the information and its transmission.

AMENDMENT NO. 2624

At the appropriate place in the bill, add the following new section:

SEC. . No agency or entity of the United States which is involved in intelligence activities may, directly or indirectly, provide any intelligence information to the Republic of South Africa which pertains to the African National Congress or any other South African Group, movement, organization or individual which is engaged in activities in opposition to the government of the Republic of South Africa, except if the information credily indicates the imminent likelihood of violent action calculated to threaten human life. In the event that any intelligence information pertaining to opposition activities is transmitted to the Republic of South Africa, either in an authorized or unauthorized manner, the Director of Central Intelligence shall promptly inform the Select Committee on Intelligence of the Senate and Permanent Select Committee of Intelligence of the House of Representatives of the facts and circumstances regarding the nature of the information and its transmission.

AMENDMENT NO. 2625

At the appropriate place in the amendment, add the following new section:

SEC. . No agency or entity of the United States may engage in any form of cooperation, direct or indirect, with the armed forces of the government of South Africa, except activities which are reasonably designed to facilitate the collection of necessary intelligence. Each such activity shall be considered a signficant anticipated intelligence act for the purpose of Sec. 501 of the National Security Act of 1947.

MILITARY CONSTRUCTION APPROPRIATIONS

SIMON AMENDMENT NO. 2626

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to the bill (H.R. 5052) making appropriations for military construction of the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . (a) The Congress finds that—

(1) the United States historically has supported international law;

(2) every American President since World War II has attempted to strengthen international law and the role of the International Court of Justice; and

(3) the United States helped to create international legal standards and helped to formulate international agreements such as—

(A) the Charter of the United Nations;

(B) four conventions done at Geneva on August 12, 1949, relative to the treatment of civilians, prisoners of war, and the wounded and sick during time of war;

(C) the Charter of the Organization of American States; and

(D) the Statute of the International Court of Justice.

(b) None of the funds appropriated or otherwise made available by this Act may be available for any program or activity in Nicaragua which violates customary international law or conflicts with treaty obligations of the United States under the international agreements described in subsection (a).

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1987

WALLOP (AND OTHERS) AMENDMENT NO. 2627

Mr. WALLOP (for himself, Mr. QUAYLE, and Mr. WILSON) proposed an amendment to the bill S, 2638, supra, as follows:

At the end thereof, add the following:

SEC. . REPORT ON THE ANTI-BALLISTIC MISSILE TREATY.—The Secretary of Defense shall, not later than February 1, 1987, transmit to Congress a report concerning the impact of the less restrictive interpretation of the Anti-Ballistic Missile Treaty. Such report shall include, but not be limited to the following:

(1) an analysis of the ramifications of the less restrictive interpretation on the development under the Strategic Defense Initiative program, of strategic defenses, including comprehensive strategic defense systems, and more limited defenses designed to protect vital U.S. military and command and control assets, based on "other physical principles". This analysis should compare research and development programs pursued under both the restrictive and less restrictive interpretations of the ABM Treaty, including a comparative analysis of—

(A) the overall cost of the research and development programs

(B) the schedule of the research and development programs, and

(C) the level of confidence attained in the research and development programs with respect to supporting a full-scale engineering development decision in the early 1990s; and (2) a list of options under the less restrictive interpretation of the ABM Treaty that meet one or more of the following objectives: (a) reduce the overall development cost, (b) to advance the schedule for a full-scale engineering development decisions, or (c) to increase the level of confidence in the results of the research by the original full-scale development date.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 2628

Mr. LAUTENBERG (for himself, Mr. LEVIN, Mr. D'AMATO, Mr. KERRY, Mr. WILSON, Mr. SIMON, Mr. BOSCHWITZ, Mr. SPECTER, Mr. GRASSLEY, and Mr. MOYNIHAN) proposed an amendment to the bill S. 2638, supra, as follows:

On page 229, between lines 14 and 15, insert the following new section:

SEC. 1221. WEARING RELIGIOUS APPAREL NOT PART OF THE OFFICIAL UNIFORM.

(a) IN GENERAL.—Chapter 45 of title 10, United States Code, is amended—

(1) by redesignating section 774 as section 775; and

(2) inserting after section 773 the following new section:

"§ 774. Wearing religious apparel

"(a) Except as provided in subsection (b), a member of the armed forces may wear an item of religious apparel if—

"(1) the wearing of the item of apparel is part of the religious observance of the religious faith practiced by the member; and

"(2) the item of apparel is neat and conservative.

"(b) The Secretary concerned may prohibit a member from wearing an item of religious apparel if the Secretary determines that the wearing of such item significantly interferes with the performance of the member's military duties.".

(b) CONFORMING AMENDMENTS.—The table of chapters at the beginning of such chapter is amended—

(1) by redesignating the item relating to section 774 as 775; and

(2) by inserting below the item relating to section 773 the following new item:

"774. Wearing religious apparel.".

HARKIN AMENDMENT NOS. 2629 THROUGH 2631

(Ordered to lie on the table.)

Mr. HARKIN submitted three amendments intended to be proposed by him to the bill S. 2638, supra, as follows:

AMENDMENT NO. 2629

At the end of the amendment, insert the following:

Notwithstanding any other provision of this act, $50,000,000 of the amount authorized under Section 206(a) shall not be effective unless, pursuant to subsequent legislation, $50,000,000 is transferred from funds available for the purposes described in section 105(a) of the Intelligence Authorization Act for Fiscal Year 1986, and all the requirements, terms and conditions of such section and sections 101 and 102 of such Act, section 502 of the National Security Act of 1947, and section 106 of the Supplemental Appropriations Act, 1985 (Public Law 99-88) to the Agricultural Credit Insurance Fund established under section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) for use by the Secretary of Agriculture to make and insure real estate and operating loans in accordance with subtitles A and B, respectively of such Act (7 U.S.C. 1922 et seq.).

AMENDMENT No. 2630

At the end of the amendment, add the following section:

Notwithstanding any other provision of this act, no member of the United States Armed Forces, or any agent, or contractor thereof, may provide training, or any other service, or otherwise participate directly or indirectly in the provision of any assistance authorized under this act, to the Nicaraguan democratic resistance within the territory of the countries of Honduras, Costa Rica, and El Salvador.

AMENDMENT No. 2631

At the end of the amendment, insert the following:

Notwithstanding any other provision of this act, the figure specified in 206(a)(2) as amended by the Senator from Kansas shall be $50,000,000.

PROXMIRE AMENDMENT NO. 2632

(Ordered to lie on the table.)

Mr. PROXMIRE submitted the following amendment intended to be proposed by him to the bill S. 2638, supra, as follows:

On page 19, between lines 18 and 19, insert the following new section:

SEC. 206. REPORT ON PROJECTED COSTS OF SDI PROGRAM.

Subsection (b) of section 223 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 613), is amended to read as follows:

"(b) REPORT ON PROCUREMENT AND DEPLOYMENT COSTS.—(1) The Secretary of Defense shall submit to Congress a report on the cost estimates for procurement and deployment of Strategic Defense Initiative programs.

"(2) The Secretary shall include in such report such projected cost data as may be necessary or appropriate to inform Congress fully on anticipated future costs associated with the Strategic Defense Initiative program. The Secretary shall specifically include in such report the following information:

"(A) The cost goals or cost objectives for the production and deployment of a Strategic Defense Initiative System determined on the basis of capabilities expected to be developed in the future and the cost goals or cost objectives for the individual components of such system (determined on the basis of capabilities expected to be developed in the future).

"(B) The estimated cost for the production and deployment of the Strategic Defense Initiative System referred to in subparagraph (A) and determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report and the estimated cost for the production and deployment of the individual components of such system (determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report).

"(3) The Secretary shall submit an interim report to Congress under this subsection not later than the time of the submission of the budget request of the Department of Defense for fiscal year 1988. The interim report shall contain the information specified in paragraph (2) on as many of the individual components of the Strategic Defense Initiative System as possible.

"(4) The Secretary shall submit a final report to Congress under this subsection not later than the time of the submission of the budget request of the Department of Defense for fiscal year 1989.

"(5) The Secretary shall submit the reports referred to in paragraphs (3) and (4) in both classified and unclassified forms.

"(6) As used in this subsection, the term 'Strategic Defense Initiative System' means a defense system designed to eliminate the threat posed to the United States by ballistic missiles.".

DANFORTH (AND OTHERS) AMENDMENT NO. 2633

Mr. DANFORTH [for himself, Mr. GORTON, Mr. GARN, and Mr. RIEGLE] proposed an amendment to the bill S. 2638, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . AUTHORIZATION OF APPROPRIATIONS FOR THE AIR FORCE.

Notwithstanding any other provision of this Act, funds are hereby authorized to be appropriated for fiscal year 1987 for the Air Force as follows:

For missiles, $8,866,000,000.

For research, development, test, and evaluation, $15,334,573,000.

For expenses, not otherwise provided for, for operation and maintenance, $19,687,171,000.

Of the funds authorized to be appropriated under this section, not less than $556,300,000 shall be available for the purpose of payment to the National Aeronautics and Space Administration to reimburse such agency for launch services and related expenses of the space shuttle system as agreed to between such agencies.

BOSCHWITZ AMENDMENT NOS. 2634 THROUGH 2637

(Ordered to lie on the table.)

Mr. BOSCHWITZ submitted four amendments intended to be proposed by him to the bill S. 2638, supra, as follows:

AMENDMENT No. 2634

Section 105, paragraph (a)(2), after the words "should seek", insert "within six months".

AMENDMENT No. 2635

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

SEC. . (a) The President is hereby directed to provide humanitarian assistance from the funds made available under Chapter 4 of Part II of the Foreign Assistance Act of 1961, as amended, to any black South African whose livelihood is impaired due to American actions taken under this Act or any Executive Order. Such humanitarian assistance shall provide at least the Minimum Effective Level for a family of 6 as determined by the University of Port Elizabeth.

(b) The President is hereby authorized to waive or modify any provision in the Act in the event that more than 10,000 black South Africans have become unemployed and qualifying for assistance under paragraph (a) of this section if the President determined that the humanitarian assistance required under paragraph (a) would necessitate a drastic reduction in economic assistance provided to other nations in Africa.

AMENDMENT No. 2636

Add the following new paragraph to Section 312:

(c) The prohibition contained in this section shall not apply to investments in or loans to a firm owned by black South Africans, or a joint venture business entity with a black South African, or a corporation whose board of directors are predominantly black South Africans.

AMENDMENT No. 2637

In Section 308 of the bill, paragraph b, sentence 1, after the word "officials" add the following ", other than judges and employees of the judicial system,"

KENNEDY (AND MATHIAS) AMENDMENT NO. 2638

Mr. KENNEDY (for himself and Mr. MATHIAS) proposed an amendment to the bill S. 2638, supra, as follows:

On page 229, between lines 14 and 15, insert the following:

SEC. 1221. SENSE OF THE CONGRESS ON NUCLEAR EXPLOSIVE TESTING.

(a) FINDINGS.—The Congress finds that—

(1) the United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time;

(2) a comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons;

(3) the Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification;

(4) the entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and to make completion of a comprehensive test ban treaty more probable;

(5) a comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means;

(6) at present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty; and

(7) the past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) *Sense of Congress.*—It is the sense of Congress that at the earliest possible date, the President of the United States should—

(1) request advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

MATHIAS AMENDMENT NO. 2639

Mr. MATHIAS proposed an amendment to amendment No. 2638 proposed by Mr. KENNEDY (and Mr. MATHIAS) to the bill S. 2638, supra, as follows:

At the end of the amendment add the following:

(2) a comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons:

(3) the Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification;

(4) the entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable;

(5) a comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means;

(6) at present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty; and

(7) the past administrations have supported the achevement of a comprehensive test ban treaty.

(b) Sense of Congress.—It is the sense of Congress that at the earliest possible date, the President of the United States should—

(1) request advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Theshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

LUGAR AMENDMENT NO. 2640

Mr. LUGAR proposed an amendment to amendment No. 2638 proposed by Mr. KENNEDY (and Mr. MATHIAS) to the bill S. 2638, supra, as follows:

In lieu of the language proposed to be inserted, insert the following:

A. *Findings.* The Congress finds that:

(1) Ratification of the Threshold Test Ban Treaty (TTBT) and Peaceful Nuclear Explosions Treaty (PNET) with effective verification would be in the national security interest of the United States;

(2) Resolution of compliance questions arising from current verification shortcomings is essential to creating a climate in which TTBT and PNET could contribute to national security and the furthering of arms control objectives;

(3) Technical experts on nuclear testing from the United States and USSR have met in Geneva to discuss each side's views, and Soviet delegates expressed interest in pursuing U.S. concerns on TTBT verification;

(4) The Geneva technical experts meetings will resume in early September of this year;

(5) These meetings represent the best opportunity for moving forward with limitations on nuclear testing;

(6) The President is committed to moving forward on ratification of TTBT with PNET, if effective verification provisions can be negotiated;

(7) The Congress remains interested in the possibilities which may be afforded by a Comprehensive Test Ban (CTB);

(8) In examining the CTB question, innovative ideas have been brought forth which merit the serious attention of the Congress and the Administration; and

(9) Achievement of effective verification and ratification of TTBT and PNET would be a major breakthrough in US-Soviet relations upon which the President should seek to conclude further arms control agreements, especially those for significant reductions in existing nuclear weapons.

B. *Sense of Congress.* It is the sense of Congress that:

(1) The President should be commended for bringing about the recent Geneva meeting on nuclear testing issues;

(2) The President should do everything possible to further the current Geneva talks of nuclear testing experts, including taking into account Soviet views;

(3) The President should seek to expand the experts meeting to the political level as soon as possible in order to negotiate effective verification of TTBT and PNET;

(4) The President should raise this as an issue of high priority with General Secretary Gorbachev at the next summit; and

(5) If effective verification is agreed, the President should seek Senate advice and consent to ratification of TTBT and PNET immediately.

C. *Report.* By February 1, 1987 the President shall submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. This report shall detail:

(1) Whether a CTB, or a ban on tests above the lowest verifiable yield, would contribute to U.S. national security, including our arms control objectives. If the Administration reports that they cannot, the report shall explain why;

(2) Whether a CTB, or a very low permitted yield could ever contribute to U.S. national security, including our arms control objectives, and if so, under what conditions;

(3) Whether a permitted yield below 150 kilotons could contribute to U.S. national security and arms control objectives, and under what conditions; and

(4) Whether an annual quota on tests could contribute to U.S. national security and arms control objectives.

D. *Coordination of the Report.* The President's report will be coordinated by the Director of The Arms Control and Disarmament Agency, with the Secretary of Defense, Secretary of Energy, Secretary of State, Director of Central Intelligence and all other responible officials.

GLENN AMENDMENT NOS. 2641 AND 2642

Mr. GLENN proposed two amendments to the bill S. 2638, supra, as follows:

AMENDMENT NO. 2641

On page 186, between lines 9 and 10, insert the following new section:

SEC. 963. RIGHTS RELATING TO THE USE, RELEASE, AND DISCLOSURE OF TECHNICAL DATA.

(a) RIGHTS IN TECHNICAL DATA.—Subsection (a) of section 2320 of title 10, United States Code, is amended to read as follows:

"(a)(1) The Secretary of Defense shall prescribe regulations to define the legitimate interest of the United States and a contractor or subcontractor in technical data pertaining to a product or process. Such regulations shall be included in regulations of the Department of Defense prescribed as part of the Federal Acquisition Regulation. Such regulations may not impair any right of the United States or of any contractor or subcontractor with respect to patents or copyrights or any other right in technical data otherwise established by law.

"(2) Such regulations shall include the following provisions:

"(A) In the case of a product or process that is developed by a contractor or subcontractor exclusively with Federal funds, the United States shall have the unlimited right to use, release, or disclose technical data pertaining to the product or process.

"(B) In the case of a product or process that is developed by a contractor or subcontractor exclusively at private expense, the contractor or subcontractor may limit the right of the government to use (for other than internal operations and maintenance purposes), release, or disclose to persons outside the Government technical data pertaining to the product or process.

"(C) Notwithstanding subparagraph (B), the Government may use, release, or disclose technical data pertaining to a product or process to persons outside the Government if such technical data is otherwise publicly available or if—

"(i) such use, release, or disclosure—

"(I) is necessary for emergency repair and overhaul; or

"(II) is a use, release, or disclosure to a foreign government that is in the interest of the United States and is required for evaluational or informational purposes;

"(ii) such use, release, or disclosure is made subject to a prohibition that the

person to whom the data is released or disclosed may not further use, release, or disclose such data; and

"(iii) the contractor or subcontractor asserting the restriction is notified of such use, release, or disclosure.

"(D) In the case of a product or process that is developed in part with Federal funds and in part at private expense, rights in technical data pertaining to such product or process shall be negotiated as early in the acquisition process as practicable (preferably during contract negotiations), based upon consideration of the following factors:

"(i) The Statement of congressional policy and objectives in section 200 of title 35, the statement of purposes in section 2(b) of the Small Business Innovation Development Act of 1982 (15 U.S.C. 638 note), and the declaration of policy in section 2 of the Small Business Act (15 U.S.C. 631).

"(ii) The interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture.

"(iii) The interest of the United States in encouraging contractors to develop at private expense items for use by the Government.

"(E) A contractor or subcontractor, or a prospective contractor or subcontractor, that develops a product or process exclusively at private expense may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract, to sell or otherwise relinquish to the United States any rights in technical data that would permit the use by, or release or disclosure of, such data to persons outside the Government except under the conditions described in paragraph (2)(C).

"(F) The Secretary of Defense may—

"(i) negotiate with a contractor or subcontractor to contract for the acquisition of rights in technical data pertaining to a product or process developed by such contractor or subcontractor exclusively at private expense if necessary to develop alternative sources of supply and manufacture; or

"(ii) agree to limit rights of the United States in technical data pertaining to a product or process developed entirely or in part with Federal funds if the United States receives a royalty-free license to use, release, or disclose the data for purposes of the United States (including purposes of competitive procurement).

"(2) In this subsection, the term 'Federal Acquisition Regulation' means the single system of Government-wide procurement regulations as defined in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)).".

(b) VALIDATION OF PROPRIETARY DATA RESTRICTIONS.—Section 2321 of title 10, United States Code, is amended—

(1) in subsection (a)(2), by inserting ", at any time before the end of the 3-year period beginning on the date the final payment is made on the contract," after "may review"; and

(2) in subsection (b)—

(A) by inserting "specific" after "state the" in clause (1); and

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

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

(D) by adding at the end the following new clause:

"(3) state that evidence of acceptance by any Federal agency of a restriction identical to the asserted restriction within the 3-year period preceding the challenge shall serve as justification for the asserted restriction if—

"(A) the acceptance occurred after a review of the accepted restriction under this section; and

"(B) the accepted restriction was asserted by the same contractor or subcontractor to whom such notice is being provided.".

(c) CONFORMING AMENDMENTS.—Section 1202 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2301 note), is amended—

(1) by inserting "and" at the end of paragraph (4);

(2) by striking out "; and" at the end of paragraph (5) and inserting in lieu thereof a period; and

(3) by striking out paragraph (6).

(d) DEADLINE FOR REVISION OF REGULATIONS.—The regulations required by section 2320(a)(1) of title 10, United States Code (as amended by subsection (a)), shall be prescribed not later than 180 days after the date of the enactment of this Act.

AMENDMENT NO. 2642

On page 229, between lines 14 and 15, insert the following new section:

SEC. 1221. NUCLEAR NON-PROLIFERATION INFORMATION.

Section 602 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3281) is amended—

(1) in subsection (c), by inserting "the Department of Defense," after "Department of State,"; and

(2) by adding at the end of the following new subsection:

"(f) Upon request, the Secretary of Defense shall have access to all information regarding nuclear proliferation matters which the Secretary of State or the Secretary of Energy has or is entitled to have, including all communications, materials, documents, and records relating to such matters, including cables from United States diplomatic missions.".

ABDNOR (AND MELCHER) AMENDMENT NO. 2643

Mr. ABDNOR (for himself and Mr. MELCHER) proposed an amendment to the bill S. 2638, supra, as follows:

On page 229, between lines 14 and 15, insert the following:

SEC. 1221. MINUTEMAN EDUCATION PROGRAM.

Notwithstanding any other provision of this Act, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended by the Air Force to award a contract for the conduct of the graduate Minuteman Education Program unless the contract requires the contractor—

(1) to integrate class schedules under the program with fulltime missile crew duty schedules;

(2) to provide a resident faculty, at each Air Force installation where the program is conducted, each member of which has obtained the terminal educational degree provided in the filed the faculty member teachers under the program; and

(3) to provide library resources, at each such installation, adequate to support the program at such installation, including a fulltime librarian who has obtained a degree in library science.

WARNER (AND TRIBLE) AMENDMENT NO. 2644

Mr. WARNER (for himself and Mr. TRIBLE) proposed an amendment to the bill S. 2638, supra, as follows:

On page 317, after line 22, insert the following:

SEC. 2192. RELEASE OF CERTAIN USE RIGHTS HELD BY THE UNITED STATES

(a) IN GENERAL.—The Administrator of General Services shall release to the Virginia Port Authority, an instrumentality of the Commonwealth of Virginia, all residuary rights of use held by the United States in three warehouses located in the city of Norfolk, Virginia, within the area operated as a public port facility and known as the Norfolk International Terminals.

(b) TIME LIMITATION; COMPENSATION.—The Administrator of General Services shall execute such documents and take such other actions as may be necessary to release, within 180 days after the date of enactment of this Act, the rights referred to in subsection (a). The release shall be made without any compensation in addition to compensation paid to the United States for such warehouses and other facilities by the city of Norfolk, Virginia, in 1968.

BINGAMAN (AND DOMENICI) AMENDMENT NO. 2645

Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to the bill S. 2638, supra, as follows:

On page 339, between lines 2 and 3, insert the following new section:

SEC. 3134. EXTENSION OF DATE FOR CERTAIN CONTRACT AUTHORITY

Section 94 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2394) is amended by striking out "June 30, 1986" and inserting in lieu thereof "June 30, 1996".

DOLE AMENDMENT NO. 2646

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill S. 2638, supra, as follows:

On page 306, between lines 6 and 7, insert the following new section:

SEC. 218a. CORRECTIONAL FACILITIES AT FORT RILEY, KANSAS.

The Secretary of Defense shall retain and maintain the correctional facilities located at Fort Riley, Kansas, and take such action as may be necessary to accomplish the renovations necessary to make such facilities adequate for their purpose.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON RULES AND ADMINISTRATION

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration, be authorized to meet during the session of the Senate on Thursday, August 7, 1985, in order to receive testimony on S. 2539, to consolidate and improve provisions of law relating to absentee registration and voting in election for Federal office by members of uni-

formed services, and citizens of the United States who reside overseas.

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

ADDITIONAL STATEMENTS

CONGRESSIONAL GOLD MEDAL OF HONOR TO RED SKELTON

● Mr. QUAYLE. Mr. President, I am proud to join as a cosponsor of S. 2585 to award a Congressional Gold Medal of Honor to Richard "Red" Skelton in recognition of his service to the United States.

As a fellow Hoosier, I take great pride in honoring Red Skelton for his lifetime dedicating to entertaining Americans. Since his debut at age 10 on a medicine show, Red's comedy acts have been humorous parts of tent shows, circuses, Mississippi showboats, vaudeville acts, and radio and television shows. Red has kept people laughing for more than 60 years and continues to do so today with his wholesome sense of humor which is appealing to people of all ages.

Red Skelton was born on July 18, 1913, in Vincennes, IN. He spent most of his childhood in Vincennes and nearby Mansfield, IN. His father, who was a clown with the Hagenbeck and Wallace Circus, died 2 months before Red was born. This tragedy left the family in dire financial straits; to help support his family, Red went to work as a newsboy at the tender age of 7. Though faced with this calamity and other misfortunes, Red never lost his sense of humor or his ability to make others laugh.

Red toiled with his comedy skits on showboats, in circuses, and in burlesque and vaudeville shows until he got his break in bigtime radio in the mid-1930's. He made his Broadway debut in June 1937, and soon after, signed a contract with MGM in 1940. Red went on to star in 48 movies as well as his own "Red Skelton Show," which entertained American families for 18 years.

Red has been honored as a guest and entertainer of nine U.S. Presidents—Roosevelt through Reagan—and he has received private audiences with three Popes. A recent honor bestowed upon this outstanding entertainer and humanitarian was the Hollywood Foreign Press Association's Cecil B. DeMille Award for outstanding contributions to the entertainment industry.

While most people might associate Red Skelton with his famous pantomimes, such as Freddy the Freeloader, Cauliflower McPugg, or Clem Kadiddlehopper, others will surely remember him for his patriotism and service to his country. Red served in World War II, often spending 7 nights of the week entertaining servicemen. His pride and love for America is further reflected in his renowned version of the Pledge of Allegiance.

Throughout the years, Red has written more than 22 film scripts, more than 4,000 short stories, two full-length books, almost 5,000 musical selections, and an additional 64 symphonies. In 1984, he began making videotape cassettes of his reruns, and he has recently completed his third special for Home Box Office. Today, Red continues to keep busy painting, gardening, and developing new programs for television while still making time for 125 appearances a year.

Mr. President, Red Skelton has dedicated his life to comedy and family entertainment. This Hoosier's love and respect for America and his great contribution to the entertainment industry and American family life are most worthy of recognition. Therefore, I am proud to cosponsor this bill to award to Red Skelton this honor which he so richly deserves.●

ENVIRONMENTAL EXCELLENCE IN INDUSTRIAL ARCHITECTURAL DESIGN

● Mr. GOLDWATER. Mr. President, on August 21, the Sperry Corp. Aerospace and Marine Group will dedicate the opening of a 253,000 square foot space systems facility at Glendale, AZ. The occasion of this event offers me a fitting opportunity to note that the nearby Sperry Avionics facility and the architect of both structures, Jack Peterson and Associates, have been honored for excellence in design, energy conservation, and concern for a healthy environment for employees in a growing community.

In June, the Valley Forward Association, an organization of metropolitan Phoenix business leaders, presented Jack Peterson and Associates with the "Crescordia" Environmental Excellence Award for the Sperry Avionics office and assembly building. In addition, the American Institute of Architects conferred Jack Peterson and Associates with two Awards for Excellence in Architecture for the same structure. The building also has received an Environmental Efficiency Award.

Mr. President, it is clear that the impact of environmental excellence is gaining greater recognition in communities nationwide and I think we can all agree that the quality of new industrial architectural design contributes to the life of the community at large, as well as to the lives of users and employees and to the reputation of the industry served.

It is a pleasure for me to take note of this much-honored facility and the awards given to it and Mr. Peterson, on the occasion of the dedication of the new facility where components of the Nation's future in space will be built. Both Sperry Corp. Aerospace and Marine Group and Jack Peterson and Associates are to be commended on this contribution to improving the quality of life in, what we in the greater Phoenix area call, "The Valley of the Sun."●

REPORT ON PREVENTING NUCLEAR TERRORISM

● Mr. NUNN. Mr. President, on June 25 the International Task Force on Prevention of Nuclear Terrorism released the results of its year-long study on the question of nuclear terrorism. In its report, the task force concluded that "the probability of nuclear terrorism is increasing" and warned that "the fact that so far there has been no serious act of nuclear terrorism is no reason for complacency."

The old adage about an ounce of prevention being worth a pound of cure aptly describes the basic thrust of this valuable report. Prepared by a balanced panel of leading international experts in this field—including four top executives, active and retired, of the nuclear industry and two former presidents of the Nuclear Non-Proliferation Treaty review conference—the report offers a realistic and urgently needed roadmap for preventing nuclear terrorism.

I am particularly pleased that the task force has strongly endorsed the concept which Senator WARNER and I have developed for the establishment of United States-Soviet Nuclear Risk Reduction Centers. The task force notes that the centers' assignments could include "principal responsibility for coordinating responses of the superpowers to nuclear terrorist threats" and concludes that the center proposal "is a major step in the right direction for pursuing these options." I join the task force in urging the two governments to give high priority to successfully completing the discussions on the establishment of the centers which were begun in Geneva in May.

Mr. President, I ask that statements by the two cochairmen and the vice chairman of the task force, along with a summary of the group's recommendations, be printed in the RECORD.

The statements follow:

STATEMENT OF BERNARD J. O'KEEFE

As long as I've been concerned about the possibility of nuclear terrorism—and it's been several years now—the subject has been long on wordy observations and rather short on facts. The experts have loved to speculate. Some have dismissed the phenomenon altogether as not on the terrorist's agenda; others have said it is highly unlikely, others that it is probable, still others that it is inevitable but when and where nobody knows.

I want to stress that this international task force, the first independent group to examine the phenomenon, has broken the "bluster" barrier on a terrifying topic. We have refrained from making forecasts; we

have overcome institutional self-interests; we have identified the areas of highest concern and we have made a list of recommendations that are actually doable today.

Here are a few of them. First, all of us would like to live in a world in which we could be sure that the thousands of nuclear weapons in nuclear arsenals never will be exploded except by command of the highest authority in the land. It is of the utmost importance, therefore, to implement readily available, highly sophisticated electronic locks and other self-protecting designs that can prevent anyone, except the highest authority, from exploding them.

Today, we can make it virtually impossible for anyone who has stolen a nuclear weapon to blow it up. Some of our weapons scattered around the world and even some at home don't have these locks and other self-protecting features. They must have them. The cost, in terms of national security, is minimal. I know; I'm in the business. Harold Agnew, another Task Force member, knows; he's in the business.

Second, if terrorists don't steal a weapon, they could make one, assuming they could acquire the needed nuclear material. Task Force member Ted Taylor knows—he's been in the business—as does Carson Mark and three other former weapon designers who worked with Ted on a paper on this subject. So we recommend tightening up the defenses around weapon-usable forms of nuclear material at military and civil plants and in transit. This will add to the cost of nuclear power in those countries that choose to use weapon-usable materials to fuel their reactors, but it's got to be done; the alternative cost is too high.

Third, if all these precautions are somehow breached, we have got to have ways of finding out quickly where the stolen bomb or the nuclear material is hidden. In the United States we have a special team for doing this, but its capabilities are somewhat limited; they could be upgraded if certain types of tracking devices were added to weapons and weapon containers. General Mahlon Gates knows this; he's been in the business and he came to a Task Force meeting to tell us of his concerns.

Along the same lines, plans for informing and evacuating citizens from areas of a nuclear terrorist threat are not as good as they could be. Task Force member Donald DeVito knows this; he's in the business.

Fourth, we should be cooperating more with the Soviet Union on deterring and, if necessary, on thwarting nuclear terrorism which, if it got out of hand, could bring us to the brink of nuclear war. Such close cooperation would be something quite new for us, nor would it be easy. But there are some special intelligence channels that could be explored; they are thought by some intelligence experts like Task Force member Stansfield Turner to be a good idea. He should know because he once ran the business.

Finally, talking about terrorist action is, by definition, speculation. No one can know when or where they might occur. But you can know *how* they might occur. Nuclear terrorism is one way that is becoming increasingly likely, and although the probability thankfully remains low, the stakes are too high for us to ignore the urgent need to implement ways to prevent such a catastrophe. That's everybody's business.

STATEMENT OF REAR ADMIRAL THOMAS D. DAVIES

For more than a year I have been involved in the Nuclear Control Institute's project on preventing nuclear terrorism—first by participating in the conference that ended one year ago today, and then by co-chairing the International Task Force that is releasing its report today. On the day in January that we announced formation of the Task Force, the Challenger space shuttle blew up. Just three months later, the Chernobyl reactor accident occurred.

These technological disasters have reminded us how fragile is man's control over his creations; how the accidental malfunction of a tiny part of a complex, scientific marvel can cause a calamity. In the past, our cleverness has sometimes subsumed our wisdom. We have been too complacent, too over-confident of our abilities to control scientific inventions that can quite literally destroy us all. This complacency is perhaps most freightening when we consider how such accidents can be caused by design—by, say, a group of terrorists determined to generate maximum harm and maximum publicity by stealing a nuclear weapon or sabotaging a nuclear reactor.

The Task Force today offers multiple ways that, if pursued, could help to prevent nations from being held hostage by the threat of nuclear terrorism. There already has been some progress in strengthening potential targets in both the military and civil nuclear sectors against infiltration and attack. Much more needs to be done, however.

The Task Force, citing a confluence of factors, finds that the probability of nuclear terrorism is increasing. It recommends quite specific steps that should be taken to eliminate or at least substantially to reduce the risk of terrorists gaining access to nuclear weapons, to nuclear materials that could be made into weapons and to nuclear powerplants and other nuclear installations. It also proposes ways to improve the capabilities of national intelligence services to detect and to thwart threats or acts of nuclear terrorism, and explores a wide range of commercial, diplomatic and legal approaches that bear on the nuclear terrorist threat.

One approach that I feel particularly strongly about is to pursue arms control measures that would reduce the growth and the spread of nuclear arsenals and help to reduce and eventually eliminate the reliance on nuclear weapons as a means of projecting power or of ensuring common defense and security. Nuclear weapons, I believe, make nations and the world less secure; in terrorist terms, these weapons serve as a tempting example as well as a tempting target. I fully support, therefore, the view of a substantial majority of the Task Force members that negotiation of a strictly verifiable comprehensive test ban is an important step in reducing the arsenals and is also, therefore, a major step in helping to prevent terrorists from "going nuclear."

The radioactive cloud from Chernobyl still drifting around the world is a sober reminder that a nuclear accident anywhere is a matter of grave concern everywhere; it also is an indicator of how vulnerable we all are to the terrorist who might seek to trigger such an accident.

In recent weeks, world leaders of various political persuasions have called for united action through the International Atomic Energy Agency to improve safety and accident-reporting requirements at nuclear powerplants. At the same time, the recent Tokyo economic summit provided evidence that counter-terrorist strategies are rising to the top of the international political agenda. We should take this opportunity to press for increased protection of civil nuclear facilities against the threat of sabotage, especially against the use by saboteur groups of insiders or truck bombs to penetrate nuclear plants' safety and security systems. The minimum physical security guidelines, as laid out by the International Atomic Energy Agency, should be upgraded and implemented worldwide.

Finally, and of equal importance, nations should attempt to break away from institutional and commercial habits that perpetuate the processing and use of ever-increasing quantities of weapon-usable nuclear materials in their commercial nuclear power programs. It is possible to have viable nuclear power programs without these dangerous materials, and every effort should be made to eliminate such materials from the potential terrorist target list as well as from the weapons' banks of nuclear nations.

STATEMENT OF PAUL L. LEVENTHAL

I would like to begin with a few words about what this report is not.

It is not an anti-nuclear statement regarding nuclear weapons or nuclear power. The task force includes four top executives of the nuclear industry, active and retired, including the current president of the American Nuclear Society and the former head of the Los Alamos National Laboratory. The members include weapon designers, weapon testers and the current head of NATO's Weapon-Protection Program.

The report is not a pro-nuclear statement, weapons or power. The task force includes two former presidents of the Nuclear Non-Proliferation Treaty Review Conference and a number of other task force members, myself included, who want to see a sharp reduction in the growth and the spread of nuclear arsenals and the successful completion of a comprehensive nuclear test ban. The members include me and others who favor restraint in the development of nuclear power, especially in the processing and use of civil nuclear fuels that can be made into bombs.

The report is not another "play" on the terrorism issue. Specialists on terrorism comprise one-sixth of the task force members, and they are joined by experts on nuclear weapons, arms control, national security, intelligence, nuclear power, nuclear proliferation, nuclear safeguards, physical protection, crisis management and international law.

In other words, this report is notable not only for what it says but who is saying it. It is remarkable, I believe, because it represents a consensus among 26 members who sometimes hold sharply divergent views on public policy questions but who nevertheless have issued a strong statement on a question that transcends such differences: the question of nuclear terrorism.

Nuclear terrorism indeed is a question. We cannot say with certainty that it will happen, or that it will not happen. We can only pose questions, as we did a year ago at the first public conference to be held on the subject:

Is nuclear terrorism plausible?

What nuclear means could terrorists use and what factors might influence whether they do?

How good is the security over nuclear weapons, materials and installations?

What should be done to prevent, at least effectively to deter, nuclear terrorism?

The "Conference on International Terrorism: The Nuclear Dimension" raised these questions. The task force we convened after the conference sought to provide some definitive answers and to draw a few conclusions.

The good news is that the probability of terrorists turning to nuclear forms of violence is low. The bad news is that it is increasing. There are a number of steps that should be taken to make the probability lower. Some of these are being pursued and some are not. The net balance at this time, in the view of the task force, is tilting toward an increase in the risk of nuclear terrorism. That should be of concern to all peoples of the world. This is an international task force—its membership drawn from nine countries—and its report is directed to all nations.

The report is relatively short and to the point. It is made up mostly of recommendations, followed by brief background explanations. The recommendations alone are listed in one of the attachments to the press release. There are also some 26 background papers commissioned for use of the task force that will eventually be published with the report. A few of these—pertaining to crude weapon design, accident consequences from sabotage, weapons protection, civil liberties questions, U.S.-Soviet cooperation—are available to members of the press today.

Among its recommendations, the task force calls for:

1. Fitting all tactical nuclear weapons with the most sophisticated self-protecting systems—such as coded electronic locks—to help ensure that if the weapons are stolen they cannot be used;

2. Better protecting, and minimizing use of, certain types of power- and research-reactor fuels that, if stolen, could be used by terrorists to make bombs;

3. Better protecting nuclear powerplants and other nuclear installations against sabotage, in particular better safeguards against terrorists' use of insiders or truck bombs to overcome a plant's security and safety systems.

These recommendations address a number of vulnerabilities that could be exploited by terrorists:

1. Thousands of U.S. tactical nuclear weapons, mostly those aboard navy ships, do not have any special self-protecting systems to prevent terrorists or other unauthorized persons, if they gain access to them, from using them.

2. Weapon-usable forms of nuclear material in private hands for use in civil power and research reactors often do not get the same level of protection that governments provide where nuclear weapons and weapon materials are located.

3. Many nuclear powerplants, including those in the United States, do not yet have remotely operated safety systems designed specifically to thwart terrorist efforts to deliberately cause a serious accident, nor are there adequate measures to protect against truck bombs or against terrorists' use of a number of insider collaborators.

The task force has found that the interest of terrorists to acquire nuclear weapons should be regarded as technically, politically and psychologically plausible; that the design of crude nuclear weapons, while not as easy as previously suggested by some experts, is within the reach of terrorists with sufficient support to recruit a team of 3 or 4 qualified specialists; that terrorists, if they could gain entry to a nuclear installation for only a few minutes, could succeed in sabotaging the plant, causing severe consequences, possibly leading to radioactive releases in the event of a reactor core melt.

Under these circumstances, it would be prudent indeed to implement as quickly as possible all of the recommendations of the task force for eliminating or reducing vulnerabilities over the short term. Unfortunately, there appears to be little interest in Government and industry circles to pursue at least some of these measures vigorously or at all. By issuing this report, the task force intends to increase public understanding of the danger, and of the measures needed to lower it, without providing sensitive details to would-be nuclear terrorists.

Let me close by noting two areas in which there were differences, sometimes sharp ones, among task force members. One was on the question of the relevance and the utility of arms control efforts to reduce the threat of terrorists going nuclear. Some members thought there was essential linkage, others thought there was none, but a substantial majority favored arms control efforts to make nuclear weapons less attractive to terrorists or nations—with particular emphasis on a comprehensive test ban. There are some individual views in the report on this issue.

The other principal area of contention was on the appropriate role of weapon-usable forms of plutonium and uranium in civil power and research programs. Some favored unrestricted use, so long as these materials are adequately protected, others favored highly restricted use on the Assumption that many tons of weapon-usable material in commerce cannot be adequately protected over the long term. There were also differences as to whether use of these materials made economic sense today or over the next several decades. A substantial majority, myself included, favored an economic reassessment of the use of plutonium where it is now to be used as fuel in power reactors; prompt consideration of converting research reactors to lower-enriched uranium not usable in weapons; and, to the extent these bomb-grade materials are used in commerce, extraordinary precautions to protect them from terrorists. The Japanese members of the task force submitted a separate view on these issues.

I will close by noting my personal view that widespread use of separated plutonium and highly enriched uranium poses an unprecedented danger to civilization, one that is not being adequately addressed in France, West Germany and Japan—the principal countries committed to unrestricted use of these materials—or in the United States, where nuclear trade policies serve to promote such use in contradiction of the nuclear Nonproliferation Act. I believe some day the world will deeply grieve our failure to seize the opportunity history now provides to cut off the flow of these weapon-usable materials while quantities already produced are still small enough to be manageable. One approach that could be taken, a reciprocal halt in further production by nuclear weapon and non-weapon states, is appended to the report, without recommendation, for further consideration.

If present plans proceed, the existing arsenals of the superpowers will be dwarfed by the hundreds, eventually thousands, of tons of plutonium that will be produced and trafficked for commercial purposes over the next few decades. It is not hard to imagine a variety of future crises that could cause significant quantities of that "peaceful" plutonium being put to non-peaceful use. One such crisis is already upon us: international terrorism.

TASK FORCE RECOMMENDATIONS

SHORT-TERM RECOMMENDATIONS

I. Protecting nuclear weapons

1. Nuclear-weapon states should determine whether their weapons are sufficiently protected to deter or repel terrorists.

2. All tactical nuclear weapons should be fitted with the most advanced self-protecting systems.

3. The U.S. Nuclear Emergency Search Team should be upgraded.

II. Protecting nuclear materials

1. Civil nuclear materials worldwide in forms suitable for use in weapons should be given protection equivalent to government protection of weapons.

2. The cost of protecting weapon-usable forms of nuclear materials should be factored into private decisions to produce and use them.

3. In the meantime, reexamination of civil applications of plutonium can be conducted on economic grounds.

4. Conversion of reactors from weapon-grade uranium fuels to lower-enriched uranium not usable in weapons should be considered at this time, as well.

5. To the extent civil materials suitable for weapons are used, extraordinary precautions should be taken to protect them from terrorists.

III. Protecting nuclear facilities

1. Denial of access to nuclear facilities should be the basic consideration in protecting against sabotage.

2. Thorough vigilance against the insider threat is needed.

3. Guard forces should be thoroughly trained and authorized to use deadly force.

4. The basis used for designing physical protection of nuclear plants should be reviewed to ensure that it accurately reflects the current threat.

5. Power reactors should be protected against vehicular threats.

6. Research reactors should have adequate security provisions against terrorists.

7. Reactor safety designs should be reexamined to protect against an accident caused by terrorists.

8. IAEA physical-protection guidelines should be reviewed and updated.

9. Protection standards should be spelled out unambiguously.

IV. Intelligence programs

1. National authorities should task their intelligence agencies to apply sufficient resources to the threat of nuclear terrorism.

2. Concerted efforts to promote cooperation among national intelligence services, including those of the U.S. and U.S.S.R., should be pursued as part of the effort to counter the nuclear terrorist threat.

3. National intelligence agencies should look for early indicators of nuclear terrorism.

4. National intelligence agencies should develop behavioral and political profiles of protential nuclear terrorists.

5. National intelligence agencies should prepare plans on how and when to inform local officials of a credible nuclear threat.

6. National centers for analyzing intelligence on terrorism should be established and should give high priority to the nuclear threat.

V. Civil liberties concerns

Physical protection and intelligence activities directed at preventing nuclear terrorism always should be exercised with the greatest vigor necessary under the particular circumstances, with full regard to the individual rights of citizens and employees.

With this principle in mind, the Task Force makes the following recommendations:

1. Screening of job applicants and surveillance of employees at nuclear facilities should be conducted in ways to ensure that employment is not denied for activities that represent the exercise of basic rights to free speech and association rather than pose a security threat.

2. Because of the potential danger of emotionally unstable employees and of the insider threat in nuclear plants, employees or job applicants who are to have unrestricted access to vital areas of a plant should be subject to psychological screening and to a check for a national criminal history, including a check of fingerprint records. Any criminal record found, however, should be available to the subject for review, correction or appeal before any adverse action is taken.

3. Plant security personnel should be authorized to use deadly force, but the conditions under which the use of deadly force is appropriate and legal should be clearly spelled out in regulations, taking into consideration the laws and customs of particular countries.

4. In the event of an imminent threat or calamity, national-security interests will prevail over individual rights. However, wide-ranging searches for nuclear devices or materials, and detention of suspects or witnesses in connection with a nuclear terrorist incident, should be undertaken with maximum restraint.

VI. Controlling nuclear transfers

Nuclear transfers among nations should be tightly controlled to help prevent nuclear terrorism.

In this regard, the Task Force recommends:

1. No significant nuclear transfers should be made to a nation that is located in a zone of war or that supports or sponsors international terrorism. Such a policy, if adopted by all nuclear suppliers, would help to deter military attacks on nuclear installations and to deny to terrorists a potential source of nuclear-weapon material and know-how.

2. Export controls and customs-police practices should be reexamined to ensure they are adequate to meet the threat of nuclear terrorism.

3. National criminal laws should be amended as necessary to provide for punishment sufficient to work as true deterrent for violations of nuclear export laws and regulations.

4. There should be prompt and vigorous prosecution of all persons seeking to smuggle weapons-usable nuclear items out of a country.

VII. United States-Soviet cooperation

Cooperative efforts by the United States and the Soviet Union to counter the nuclear terrorist threat should be promoted to the extent possible within the bounds of vital national security interests.

In this regard, the Task Force recommends:

1. Efforts should be made to promote U.S.-Soviet cooperation on intelligence-sharing and on responses to threats or acts of nuclear terrorism. Consideration should be given as to whether joint action against a nuclear terrorist threat might or might not include the use of force by the superpowers.

2. The proposal by Senators Nunn and Warner for establishment of U.S.-U.S.S.R. Nuclear Risk Reduction Centers, whose assignments would include principal repsonsibility for coordinating responses of the superpowers to nuclear-terrorist threats, is a major step in the right direction for pursuing these options and should be negotiated promptly.

VIII. Arms control initiatives

To help promote an international climate that inhibits the spread of nuclear weapons to additional nations or to terrorists, efforts to reverse the nuclear arms race should be pursued by all nations. The superpowers together have a special responsibility to pursue negotiations in good faith toward cessation of the arms race because the degree of reliance they place on nuclear weapons has an influence on their spread.

The Task Force, recognizing that the process of nuclear arms control is related to the special effort to prevent nuclear terrorism, makes the following recommendations:

1. The United States and the Soviet Union should pursue current efforts to negotiate deep cuts in their strategic arsenals with a view toward lessening the threat from nuclear weapons by reducing the risk of early use, improving strategic stability and maintaining credible nuclear deterrence.

2. Ongoing efforts to reduce the size of nuclear arsenals should include the smaller battlefield weapons that are most susceptible to attack or theft by terrorists.

3. Additional nuclear-weapon free zones, which would reduce potential access to nuclear weapons, should be negotiated where it proves consistent with the security interests of the nations concerned.

4. In meeting obligations under existing treaties, all nations should examine the anti-terrorist benefit which would accrue from a strictly verifiable comprehensive test ban.

IX. Convention on physical protection of nuclear materials

The Convention on Physical Protection of Nuclear Materials should be ratified promptly.

1. The Task Force recommends that the Convention on the Physical Protection of Nuclear Materials, which has not come into force for lack of accessions, should be ratified promptly. It is particularly important to secure ratification by the 11 members of the European Economic Community, which would provide more than the needed number of accessions.

2. At the same time, urgent steps should be taken bilaterally and through the International Atomic Energy Agency to establish more stringent minimum requirements for protection of weapon-usable nuclear materials while in *domestic* use, storage or transport worldwide.

X. Role of emergency-management programs

For there to be effective response at the regional and local levels to a nuclear terrorist emergency, there should be cooperation by national governments in providing adequate resources and intelligence information.

1. Emergency management organizations at the regional and local level should be provided the fiscal and human resources needed to cope effectively with a threat or act of nuclear terrorism.

2. In particular, there should be consideration of what arrangements can be made in advance of a nuclear-terrorism crisis to ensure the sharing of information by national intelligence agencies on a timely basis with selected regional and local officials during such a crisis—information needed for decisionmaking on evacuation and other protective measures.

3. The issuance of security clearances to emergency management officials is an essential first step.

XI. Role of the media

To avoid panic as the result of premature or inaccurate information during a nuclear terrorist emergency, guidelines should be established now among media and government representatives on disseminating information in such a crisis.

1. Because of the possibility of widespread panic, injury and death resulting from a credible threat by nuclear terrorists, government officials and media representatives should cooperate in planning how to provide timely and accurate information in such a contingency.

2. To the extent possible, joint guidelines should be developed in anticipation of a crisis by the responsible national government agencies with regard to how and when information will be disseminated during a crisis. The key consideration should be at what point in a crisis, if the threat proves real, there still would be time to order an evacuation in a manner that minimizes injury and death and promotes public order. Leading media representatives and state and local officials should be invited to participate in preparation of the guidelines.

LONG-TERM RECOMMENDATIONS

I. International measures

1. All states should embark on outlawing acts of nuclear terrorism by signing and ratifying the Convention on the Physical Protection of Nuclear Material.

2. International agreements in the wake of the Chernobyl accident should include measures to deal with the terrorist threat.

3. The UN Security Council should approve a resolution on nuclear terrorism.

4. An agreement specifying additional acts of nuclear terrorism is needed.

II. Emerging nuclear technologies

The development of new fuel-cycle technologies should take into account the threat presented by the growing potential for nuclear terrorism.

With this principle in mind, the Task Force makes the following recommendations:

1. Emerging technologies capable of simplifying the production of weapon-usable forms of nuclear material should be followed as a possible route for acquisition of such materials by terrorists.

2. Advanced enrichment and production technologies should be developed with restraint and used only if required to meet national energy needs.

3. Efforts to develop forms of nuclear fuel less subject to proliferation should be further encouraged in the interest of lessening the dangers of nuclear terrorism. In particular, the development of fuels containing thorium in more proliferation- and terrorist-resistant fuel cycles should be considered.●

INVESTING IN OUR YOUTH

● Mr. DURENBERGER. Mr. President, last week I brought to the attention of my colleagues a speech given recently by Dr. Donald Kennedy,

president of Stanford University. I ask that Dr. Kennedy's speech be included in its entirety in the RECORD. I commend his wise words to all of my colleagues and urge them to take to heart his message of the need to make investments now in the America yet to be.

The speech follows:

INVESTING IN THE YOUNG

(Donald Kennedy, President, Stanford University)

It is a pleasure and an honor to address you today. My previous incursions at Bohemia have involved the delightful foolishness of Big Game night: trading identities with my friend Chancellor Mike Heyman and enjoying the wry tasteful witticisms of Coach Joe Kapp. But this is clearly different: the post-prandial hour and the sylvan setting suggest something more uplifting. What I have for you today is not exactly that. But it will, I promise, fit within the constraints decreed by your leadership with regard to brevity; and it will be no more somber than the circumstances require. Scant reassurance, I concede.

First, just one word about the setting. How is it that we like the redwoods so much? They are big, of course, and majestic. They are old—old enough to have personal experience, if that is not too outlandish to apply to a tree, with a time at which grizzly bear, Tule elk, antelope and cougars were all regular visitors to this Grove and its surroundings. But what I like best about the redwoods is a kind of self-sufficiency they possess. In the coast range valleys one of these trees, with its tens of thousands of needles, can condense enough moisture out of a fog to create a steady drip, equal to perhaps ten inches of rainfall over the course of a year. Their sefl-watering supports summer streamflow, creating life where none would otherwise exist.

Majestic, vigorous, self-sufficient—it is no wonder that the coast redwoods have such symbolic appeal to Americans. We are, after all, great ones for developing such images of ourselves. But today I want to talk about the disparity between our images and reality.

It is a story of two portraits. One is of the America we believe ourselves to be. It is a self-portrait that contains elements of our strongest historical traditions—it is a likeness full of robustness, vigor, and above all of youth. The other is different. It takes its form from various contemporary measures of what we are actually doing, as distinct from what we say we are doing. A more shadowy and indistinct likeness, it is also, I am afraid, less flattering.

What are some of the main features of the first portrait—the one we like well enough to hang?

First, we think of ourselves as a nation that praises intelligence, nurtures literacy, and fosters the highest achievements of human intellect. We are justly proud of having provided an educational system that spreads its benefits in an egalitarian fashion, yet rewards excellence and pushes young people to the highest levels of accomplishment. We cite the large percentage of our citizens who graduate from high school, and the impressive proportion who eventually receive post-secondary education. We see ourselves as seriously engaged in educational experimentation and improvement—recalling, for example, the significant high-school curriculum reforms in mathematics and science of the 1960s. So in the educational cultivation of our human resources, we find much to praise—or, at least, to remember.

Second, we see ourselves as youth-oriented society, in the best sense of that phrase. We believe we are sensitive to the needs of the young; Heaven knows we are susceptible enough to their fads! A look at contemporary advertising or at almost any indicator of popular national culture suggests our concern with youthfulness. We often say that the young represent our future, and thus persuade ourselves that we are paying them a great deal of attention.

Third, we see ourselves as a people who have mastered science and technology and employed them to gain enormous improvements in our national life; the strain of "Yankee ingenuity" runs strong in our self-image. We are proud of our inventiveness, and we think of ourselves as a nation that invest heavily in science and technology and then exports the results to less fortunate nations. Part of the notion of American know-how is that we are willing to tend the health of scientific institutions, and keep them strong for our successors; and we are proud to have chosen to do most of our basic science in the universities, so that we train tomorrow's scientists as we do today's research.

This self-portrait adds up to something—a portrait of the investing society. My colleague, the economist Victor Fuchs, would say that it displays a future time preference—it is characterized by an ability to wait for gratification instead of wanting it now.

Well, I'm afraid the makers of TV commercials and the keepers of the statistics may be wiser than the rest of us. The former offer us endless versions of 'having it all, now'; and the latter have compiled a self-portrait a whole lot less encouraging than the one I just gave you. Let's examine this deeper likeness:

First, what is the real picture with respect to our regard for literacy and for the education of our ablest young poeple—the human resources on which our future will depend? Our national literacy figures have slumped badly in relation to those for other 'developed' countries. Only 30% of our 17-year-olds are now classified as 'adept' readers—competent enough to continue to college, or to cope in business or government work environments. Worse, only 16% of Black and 20% of Hispanic 17-year-olds qualified by this standard. And in the dozen years between 1970 and 1982, average scores on the Scholastic Aptitude Test, given each year to college-bound high-school seniors, dropped by 40 point—even after correcting for the social and economic backgrounds of the test-takers. The small rebounds in the past two years may be a source of hope, but it is too early to tell.

Worse still, we have seen a flight from teaching careers on the part of our most capable young people. In the early 1980s it had gotten so bad that the average SAT scores of those students intending to go into teaching averaged nearly 100 points below those for college-bound seniors generally. That was just part of a more generalized mistrust of public service occupations—an attitude encouraged by the corrosive recent tendency of candidates for elective office, and others, to heap scorn on governmental organizations and civil servants whenever they can. Bureaucracy-bashing is a bad national habit, and it may have given us a lost generation in terms of public service. In the world of education, bureaucracy-bashing has taken the form of criticizing schools and teachers for everything that is wrong—instead of wondering whether society may be asking them to do too much for too little.

The excellent recent report by the Carnegie Forum on Education and the Economy, called A Nation Prepared, has given us a more thoughtful diagnosis. We are simply underinvested. We call teaching a profession, yet pay teachers and treat them as though they were blue-collar workers. There is virtually no Federal leadership in innovation and curriculum reform, states and local districts are at war over control and there is little opportunity for the best teachers to advance and to share their special knowledge in a productive way. It is hardly surprising that the dropout statistics are so disappointing, and that performance indicators—even for the best students—are lower than a decade ago.

Thus, although we give the appearance of a nation in which the development of intellectual resources is a matter of deep concern, we have deteriorated seriously in the measures by which nations are judged in that respect.

And more generally—to turn to the second feature of the portrait—our advertised orientation toward youth is belied by our national pattern of expenditures. In recent years, perhaps without really meaning to, we have redirected our society's resources away from the young, and toward those at the other end of the life cycle.

In 1970, for example, approximately equal shares of the GNP in the United States were spent on health and education. A dozen years later, expenditures on health had grown 50 percent larger than those for education. Even considering that the proportion of the elderly in the population increased during this period, the enormous shift of expenditures from the young—for the most part the objects of education—to the elderly—who receive the largest fraction of health-care dollars—represents a significant change in national policy.

Expenditures for social welfare have been shifted in the same direction. Comparisons are hard to make, but by some estimates more than 30 percent of the budget is now spent on older Americans, while just 3 to 5% is spent on children. The consequences are not surprising. For example, the proportion of Americans over 65 who live in poverty was reduced from 24% to 15% between 1970 and 1982. During that same period, though, the proportion of those under 14 who live in poverty grew from 16 to 23%. Thus the positions of elderly and young Americans with respect to this critical social indicator were exactly reversed in just a dozen years.

But what about the last feature—the vigor of our scientific venture. Surely that is realistic!

Well, by some measures it is. Through the first part of this century, we took remarkably good care of American science. Some of the early history is inspiring. It begins in the 1920s with a man who enjoyed this grove, and in whose house I am now privileged to live. Herbert Hoover argued, as Secretary of Commerce in the mid-1920s, that U.S. industry needed the ideas as well as the trained scientists it could obtain from universities. He said this, among other things: "A nation with an output of $50 billion annually in commodities which could not be produced but for the discoveries of pure science, could well afford, it would seem, to put back a hundredth of 1% as an assurance of further progress."

Hoover's rhetoric did not convince the industrial America of 1925. But his ideas did result in more federal funding for basic science in the universities during the 1930s, and may well have helped prepare us for the remarkable events that followed World War II. In the short period of time from 1946 to 1951, we transformed an extraordinary apparatus of military research into a peacetime enterprise located largely in the universities, and funded primarily by government sources—initially the Department of Defense, then the National Institutes of Health and ultimately a new agency created just for the support of basic research—the National Science Foundation.

This system has worked admirably; over the next three decades, it brought us a steady stream of innovation, new technologies, and producitivity improvements. And it has lifted American science to the very top. Two and a half years ago the King of Sweden gave Nobel Prizes to five persons in the four research disciplines—and all were American. Those of you who admit to some California chauvinism will be pleased to know that three were Californians. It was the second time in seven years that Americans had swept the research prizes—a feat previously accomplished only by Germany, in 1905. After the first U.S. sweep, the noted Swedish biologist Sune Bergstrom explored the U.S. success and concluded that it was due to what he called "the democracy of American science"—the unique decision to locate graduate training and research in the same places, so that the experience and widsom of senior scientists could blend with the enthusiasm and vigor of their apprentices. No other industrial democracy has made that commitment, signalled by the location of two-thirds of our basic research in the universities; and none has succeeded as we have.

But we are now harvesting the fruits of a crop planted and grown two decades earlier. Good science requires patient husbandry, and matures slowly. Today's rewards properly belong to the caretakers of the past, whereas we—you and I—are responsible for the future. Thus our continuing Nobel harvest is a little illusory, like a late Indian summer crop that one can't be sure of next year. As to our investment in science, support has been dropping rapidly; and in 1983—the last year for which complete data are available—we spent only 1.9% of our GNP on nonmilitary research and development. By comparison, Japan invested 2.6%, West Germany 2.5%. Although program commitments for basic research have held up fairly well, the capital base for doing that work—the facilities and equipment—have suffered serious erosion.

That phenomenon can be traced back nearly 20 years. Through most of the 1960s, federal support of basic science was adequate to handle both the operating side and the modest capital demands associated with most scientific work. Toward the end of the 1960s, two things happened. First, we witnessed the end of federal support for the construction of research facilities. Second, because of rapid technological changes in the doing of science, the demand for new and more sophisticated equipment rose dramatically. Yet for FY 1984, the last for which complete data were available, the total federal investment in R&D plant in universities is projected at just $50 million.

Herbert Hoover would have approved of the way the private sector is trying to fill in. At Stanford, we are trying to work away at a staggering shortfall of research facilities—at least a third of a billion dollars worth, mostly concentrated in the science and engineering areas to the west of the main Quadrangle, and in the Medical School. Industry and private individuals have been responsible for nearly a hundred million dollars worth of recovery so far. And especially farsighted foundations are occasionally recognizing that capital needs demand special attention right now. The landmark gift of the W.M. Keck Foundation of Los Angeles to build the new CalTech/UC telescope is an especially encouraging case in point. Still, the size of the task is simply too large to be undertaken without public sector leadership.

And to the limited extent that this problem is now being addressed by government, it is being addressed in the wrong way, and that gives rise to a new problem all its own. The budget measure that passed the Congress a few weeks ago added $56 million in facilities as part of the Defense appropriation. But those facilities were not ones that had survived competitive scientific scrutiny within the agency. Instead, they were add-ons, earmarked for institutions in particular states by their friendly representatives without examination for scientific merit. The projects could be good—but we can't know. If Congress continues to make direct appropriations of this kind based on political influences rather than merit review, American Science will be in deep trouble. It needs help; but the wrong kind will sap public confidence and invite mediocrity.

Thus in all three aspects of investing in the young: education, how we distribute society's resources, and how we treat science and our responsibility for innovation; our self-portrait is not really as we see it. And it is not the picture of a nation that cares as much about the future as it thinks. For the social cost of failure to invest adequately in the young is not one we pay today; our successors will pay it; in doing so they will have to cheat their own successors; and so on.

Thus we find ourselves entering a trap. If political neglect of the young and their training continues, we will only enhance intergenerational dependence. The youngsters we slight today will become more dependent, less productive adults later on—and so they will require even more of the societal resources that should go to their children. Only ingenuity and productivity improvement can get us out of that trap; but those things depend on the strength of our educational and scientific systems, which are part of our misinvestment pattern. Scientific and technological decay, political neglect of education and the schools, the juvenilization of poverty are related; all form a trend in America's political economy that could, if we do not arrest it, become a death spiral.

What can we do about it? I have a few remedies to propose.

At the center of the problem is the inability of this government to formulate and pursue a strategy of investment. It is not obvious why that is so difficult; nonetheless, investment is a word that is simply never used or thought about in connection with Congressional budgeting and finance. It must become a shaping force, and I believe that must start with the tax system.

We must develop better tax treatment for encouraging investment, especially in research and other ventures that yield future benefits. Equally, we need to explore new ways to tax personal consumption and to spare personal investment. Neither the present tax structure, nor the one emerging from the spasm of reform we have been witnessing provides adequate incentives to put investment first.

And we should examine our patterns of national expenditure more carefully, with an eye to payoff not tomorrow or next week but in the more distant future. The most highly leveraged expenditures we can make are those on the young, who can repay the investment over long lifetimes of enhanced personal contributions. Nowhere is that more critical than for our very brightest young people, those who carry the creative intellectual spark that could produce dramatic changes in our knowledge of ourselves or our universe.

Perhaps we need a new kind of instrument for evaluating how each national policy affects the welfare of different age segments of the population. Call it a demographic impact statement. If we had one, it would surely raise some interesting questions about current policy. For example, why is all aid to college students means-tested, whereas Medicare and Social Security payments to the elderly are entitlements given without regard to financial need? And why are social security payments indexed to inflation, whereas fellowships and traineeships for young scientists are not?

Surely, too, the government would find it easier to make wise investment decisions if we could do something to improve the way in which Congress budgets expenditures. In our present system, recurring obligations (like the salary associated with a position) and one-time expenditures (like new buildings) are treated just the same. As a result, the Congress can reach a reduction target by taking out one major capital item just as easily as by eliminating dozens of positions. Which will they choose? The big ticket, naturally. It is a formula well calculated to disadvantage capital investment. A separation between recurring or "base" expenditures and capital outlays in the Federal budget process would help to provide a national discipline for taking care of our infrastructure.

Finally, the very richest opportunities for improvement lie in the area of science and education—on which we depend for the human and instrumental resources to supply an innovative society.

Our past neglect in this area can be made up for, if we act quickly. But who will do it? As I have said, industry is helping, but the task is too large and their need to satisfy other, shorter-term demands from their own investors is too great. The universities have fairly impressive endowments, and you are likely all too aware of their eagerness to grow them! But although to some that makes the universities look rich, they are feeling poor. They have grown their endowments only a little faster than inflation, and it is a surprising fact that the endowments of Harvard and Stanford both contribute a lower proportion of the operating budgets of those institutions than they did fifteen years ago.

Well, who can do it? The White House Science Council and its Chairman, Dave Packard, have supplied an answer as well as a diagnosis. The Council said in its recently issued report: "science and technology are critical to our future. Nations everywhere are investing in these capabilities. We conclude that we must rethink and, in many ways rebuild the critically important interactions between universities, government, and industry that have served this nation so well in the past. The federal government/university relationship is too fundamental to the maintenance of our national science and technology base to be taken for grant-

ed, and the industry/university partnership is emerging as critical to exploring that base in order to compete in the world marketplace. One conclusion is clear: our universities today simply cannot respond to society's expectations for them or discharge their national responsibilities in research and education without substantially increased support."

Only the Federal government can manage the sort of financial intervention the Packard panel is advocating.

And its words take us back to where Hoover began—with the educational institutions of America, particularly its research universities. There capacity to support scientific work must be shored up: by direct government support for building and equipment, and by the payment of full audited indirect as well as direct costs of doing sponsored research. We will suffer a dreadful setback if the awarding of funds for research facilities comes to be regarded the Congress as a new opportunity—like the rivers and harbors appropriation—for spreading wealth to their own districts and their own friends. The principle that scientific merit and not geography or some other factor should govern such events is the best guarantee of quality in our scientific enterprise.

What I have just been talking about, you may say, is only a piece of the American future—just a piece of one dimension of domestic policy, just one of a number of areas important to our national security. That is true. But I hope you will ask yourselves this question. If it is not to be our young scientists and their future work that will gain us a secure place among the nations and a better life for our citizens, then what will it be instead? And, more generally, how can we fail to invest adequately in the successor generation given what the stakes are? I cannot believe we will allow this to happen. For the result—the entirely unacceptable result—would be that forty years or so from now a generation will stand where we are now, knowing that things are, for the very first time in American history, worse than they were for their fathers.●

THE CONTINUING WORK OF HON. JOSEPH A. CALIFANO

● Mr. HART. Mr. President, the current issue of National Journal contains on article on the efforts of a leading American public servant, former Health, Education, and Welfare Secretary Joseph A. Califano.

During his tenure in the Cabinet of President Carter, the Secretary tried relentlessly to educate the Congress and the country about the needless drain on our economy caused by escalating health care costs. And that is a battle which Mr. Califano continues to wage in the private sector.

This year, the Secretary published a new book on "America's Health Care Revolution." I commend it to the Senate. The book begins with the story of Mr. Califano's work with the Chrysler Corp. on cost containment in the health care plans of its workers and retirees. Largely through his efforts, the health care bill of these active and retired workers was reduced dramatically without harming the quality of care they received. The volume continues with descriptions of how the policies which worked for Chrysler can be applied throughout the corporate world. And it also contains a number of persuasive proposals—in areas ranging from medical technology to the education of our doctors and nurses—to reduce the health care bill of the Nation.

Among his other publicly spirited activities, Mr. Califano has recently released a report requested by New York Mayor Edward Koch "On Smoking and Health."

Joe Califano, in government and the private sector, is an activist on behalf of the health of the people of this country. As the National Journal article demonstrates, he is a pragmatist interested in policies that work—whether they are private or public solutions. I ask that the text of this article appear in the RECORD.

The article follows:

[From the National Journal, Aug. 2, 1986]

EX-HEW CHIEF HIGH ON THE PRIVATE SECTOR

(By Julie Kosterlitz)

When President Carter asked for the resignation of Health, Education and Welfare (HEW) Secretary Joseph A. Califano Jr. in July 1979, few doctors or hosptial administrators reached for their handkerchiefs. After all, Califano had led ill-fated quests to develop a form of national health insurance and impose cost controls on hospitals; to many, he personified the heavy-handed government regulator.

Today these same groups find it more than a little ironic that the former regulator is reentering the health policy debate by trumpeting the virtues of competition as a solution to many of the nation's health care woes. That's the essence of Califano's new book, *America's Health Care Revolution: Who Lives? Who Dies? Who Pays?* (Random House). "It's like a born-again Christian when one discovers there's another way to do something and takes it on like a brand new idea that's never been thought of by anyone else," said Jack W. Owen, executive vice president of the American Hospital Association.

The book, inspired by Califano's experience as chairman of the Chrysler Corp. board of directors' committee on health care costs, is a likely if somewhat relentless catalog of the shortcomings of the current health care delivery system and an almost Cinderella-like tale of the transformation of some Chrysler employee health plan administrators from know-nothing claims payers to tough purchasers. The Chrysler plans encourage use of generic drugs, second opinions, health maintenance organizations and other competitive programs.

The efforts, Califano said, brought Chrysler's health plans in $58 million under their projected $460 million budget in 1984, and more savings are likely. Chrysler has asked medicare to allow the company to administer the program for its own retirees in a similarly cost-conscious manner, an idea Califano recently discussed with Health and Human Services Secretary Otis R. Bowen.

Califano's book, which also urges more preventive care and lifestyle changes (including a war on smoking), does have a hint of religious zeal: "The gospel lesson is that hard-negotiating buyers, who treat health care like the other products they purchase, can change the system," he writes, "and we are only beginning to realize the benefits of competition." Care will not only be cheaper, but of higher quality, he says, and savings can be used to provide access for the poor.

But in an interview, Califano, 55, acknowledged that there's no guarantee that employers' cost consciousness might not eventually result in stinting on patient care or that the savings employers incur will be ploughed back into care for the poor. In fact, Califano still advocates a major role for government, including imposing the same combination of mandatory employer-provided health insurance and expanded federal health programs for the old, disabled and poor that he proposed while at HEW.

Now managing partner of the Washington office of the New York law firm of Dewey, Ballantine, Bushby, Palmer & Wood, where he has clients in the health field, Califano wrote the book because "I think I know what we should do right now in the health care system, and I wanted to get the attention of some people who could do something about it."

Despite restrained reviews, the book is in its third printing, and Califano has received letters from businesses, medical schools and corporate executives and now gets about 10 speaking requests a week.

To those who say that he has refashioned his views to fit today's thinking, Califano and a number of those who worked with him at HEW respond the charge is unfair. "I'm a little wiser than I was," Califano admitted. "I have a much better sense of what the private sector can do." But he also contended that "when I was at HEW, I used to tell corporate executives to look at their health care costs—I couldn't get them interested." A changing business climate and the swelling federal deficit turned the tide in the early 1980s, he said.

"He was always interested in private-sector solutions," said Karen Davis, a former Califano associate at HEW who's now chairman of the department of health policy and management at the Johns Hopkins University School of Public Health.

Others see the resistance to Califano during the 1970s more as the result of his combative style than of any special tenor of the times. "It was ram it down your throat, fella, instead of work out a system that makes more sense," Owen said.

"Maybe I was a little too contentious, I don't know," Califano said of his HEW years. "But I had to perform a public education function."●

PREVENTING ILLITERACY

● Mr. ZORINSKY. Mr. President, for the benefit of my colleagues who are concerned about the problem of illiteracy, I would like to share one of the many letters I have received on this subject. All teachers have not been given the tools they need to teach reading effectively. I believe it is important to give specific information on what does and does not work in the teaching of reading to all educators so that they can experience the same pride that Mrs. Southern now feels.

I ask that Mrs. Southern's letter be included in the RECORD.

The letter follows:

MARCH 31, 1986.

Hon. EDWARD ZORINSKY,
Russell Senate Office Building,
Washington, DC.

MY DEAR SENATOR ZORINSKY: As a supporter of your legislation on illiteracy I want to share a brief testimony.

This is my 14th year teaching first grade and my 2nd year teaching intensive phonics. Teaching by using this method means seeing little eyes light up when they discover they can blend the letter sounds into words.

Beginning on the 1st day of school the children are given a simple explanation about the alphabet and their sounds. Then we start with one consonant sound and progress into words, adding more consonants and short vowel sounds day by day.

One way success is measured is by the confidence the children have in performing different reading tasks, which I have observed means less discipline problems. The children feel good about themselves. They know they can learn the process in becoming readers. The simple progression in phonics to the more complex letter sounds makes sense to the children when presented in a logical manner. This means children do not have to guess at a word or stop and wait to be told an unknown word.

I have now experienced the pride that goes with knowing I have truly given my First Graders the tools to master reading. Finally, by using Intensive Phonics I honestly feel like a teacher.

Most sincerely,

MRS. MARY ANN M. SOUTHERN.●

DISMANTLING THE NUCLEAR WASTE PROGRAM IS A SERIOUS MISTAKE

● Mr. KASTEN. Mr. President, this morning we had a tough battle in the Appropriations Subcommittee on Energy and Water Development over the very complicated issue of funding our High-Level Nuclear Waste Disposal Program. This issue has already been decided by the Department of Energy. Now is not the time to abruptly, and without compelling reason, toss aside the entire process for the disposal of high-level nuclear waste. I totally oppose reopening this resolved matter.

At issue is across-the-board reductions in funding for the Geologic Waste Disposal Program and the Monitored Retrievable Storage System [MRS]. Such reductions would obliterate the entire program. This issue is far too important to be dealt with at a subcommittee level. There are a number of members on the full committee who share the intensity of my feelings on this matter, and they too must be provided an opportunity to express their concerns.

Although this issue will likely be revisited next week before the full committee, from my perspective, the issue has been resolved. Unraveling the only vehicle we have for the isolation of high-level waste is impulsive and imprudent.

The options with regard to nuclear waste disposal have been thoroughly discussed and fully aired. State and local governments, private citizens, and a broad spectrum of interested organizations participated in the review process. Together we have invested a great deal of time and resources in the development of this national program. The consequences of halting this process are very grave.

Secretary Herrington's decision to indefinitely postpone site-specific work on a second repository is to be commended. This decision was based on the following: First, data that showed significant decreases in the projections of the spent fuel volume generated; second, lack of technical barriers to single-site containment; and third, imprudent fiscal management.

It costs the Nation over $25 billion to find and implement a geologic waste repository. It makes no sense to spend an additional $25 billion for a second site that is not needed.

DOE is trying to meet the goals we set for them in the Nuclear Waste Policy Act. Congress designed the act so that it would be flexible. Congress must resist the temptation of meddling in this program. DOE is responding to both new information and changing national needs. DOE's decision to continue site-specific work on one site is a sound one.

Dismantling the entire Geologic Waste Program does not further our efforts to deal responsibly with disposal of high-level nuclear waste and spent fuel. We must work together to ensure that this country has a safe, reliable, and fiscally responsible Nuclear Waste Disposal Program.●

CUBAN POLITICAL PRISONERS

● Mr. CHILES. Mr. President, a little over 1 month ago America celebrated its birthday in magnificent fashion. I am referring to the festivities which took place on the Fourth of July in New York in honor of the 100th anniversary of the Statue of Liberty.

The celebration was a most fitting tribute to the lady in the harbor who has offered welcome to generations of immigrants searching for a better life in America. The Statue of Liberty epitomizes our long held belief in providing safe haven for the world's oppressed and refuge for those fleeing political persecution. One hundred years after her inauguration, Miss Liberty's torch still serves as a beacon of hope for those seeking a life of freedom and justice.

It is unfortunate that recent U.S. policy has clouded Miss Liberty's message of hope. In an effort to get the Cuban Government to reinstate the suspended December 14, 1984, immigration accord, our State and Justice Department officials were reported to be pursuing a policy of denying former political prisoners entry into the United States except under "exceptional circumstances." It was believed this would force the reinstatement of the immigration accord. In my opinion, this attempt to hold Castro's feet to the fire has put the heat on the backs of innocent political prisoners. It is a misguided and ineffective policy.

Recent reports have indicated that the State Department is now taking steps to speed up the visa application process for political prisoners. I realize the need to obtain an accurate record on the released political prisoners as well as the difficulty imposed by the suspension of the immigration agreement. However, I believe it needs to be made clear that pursuing a policy which denies entry to political prisoners is not going to accomplish anything—least of all a reinstatement of the immigration accord.

I have introduced Senate Resolution 432 in response to the plight of the Cuban political prisoners. While this resolution specifically names 17 recently released prisoners, I intend it to serve as a clear signal that this body will not support placing additional hardship on Cuba's political prisoners. They should not be pawns. Denying them entry is not the way to force a change in Cuban Government policy.

Mr. President, I request that a copy of an article appearing in the June 29, 1986, edition of the Miami Herald be inserted in the RECORD. It reprints excerpts from an article written by Jose Marti that appeared in the January 1, 1887, edition of La Nacion in Buenos Aires. Appropriately, it documents Marti's thoughts on the inauguration of the Statue of Liberty.

The article follows:

[From the Miami (FL) Herald, June 29, 1986]

THE STATUE AS SYMBOL—MARTÍ: "IT WAS A RAW DAY, BUT SELDOM WAS MAN'S REJOICING SO GREAT"

(José Martí, considered one of the Hispanic world's most gifted writers, lived in New York from 1881 to 1895. There he organized the war for Cuban independence that eventually claimed his life. Martí, who became a keen observer of the U.S. scene, witnessed the inauguration of the Statue of Liberty on Oct. 28, 1886. His observations and reflections on the Statue's dedication were published in La Nación in Buenos Aires on Jan. 1, 1887. Here are brief excerpts.)

(By José Martí)

For him who enjoys thee not, Liberty, it is difficult to speak of thee. His anger is as great as that of a wild beast forced to bend his knees before his tamer. He knows the depths of hell while glancing up toward the man who lives arrogantly in the sun. He bites the air as a hyena bites the bars of his cage. Spirit writhes within his body as though it were poisoned.

The wretched man who lives without liberty feels that only a garment made of mud from the streets would befit him. Those who have thee, oh Liberty! know thee not. Those who have thee not should not speak of thee but conquer thee.

It was yesterday, Oct. 28, that the United States solemnly accepted the Statue of Liberty which the people of France have donated to them in memory of the 4th of July, 1776, when they declared their independence from England, won with the help of French blood. It was a raw day: The air was ashy, the streets muddy, the rain relentless; but seldom was man's rejoicing so great.

The emotion was immense. The movement resembled a mountain chain. Not an empty spot remained on the streets. The two rivers seemed like solid land. The streamers, pearly in the fog, maneuvered, crowded from wheel to wheel. Brooklyn Bridge groaned under its load of people. New York and its suburbs, as though invited to a wedding, had risen early. Among the happy crowds that filled the streets there were none as beautiful—not the workmen forgetful of their troubles, nor the women, nor the children—as those old men who had come from the country with their flying cravats and greatcoats to salute, in the commemorative Statue, the heroic spirit of the Marquis de Lafayette, whom they as children had greeted, with waving hands and boughs, because he loved Washington and helped him make this country free.

Is not this nation, in spite of its rawness, the hospitable home of the oppressed? The voices that impel and counsel come from within, from deeper than the will. Flags are reflected on faces, heart-strings are plucked by a sweet love, a superior sense of sovereignty brings to countenances a look of peace, nay of beauty. And all these luckless Irishmen, Poles, Italians, Bohemians, Germans, redeemed from oppression or misery, hail the monument to Liberty because they feel that through it they themselves are uplifted and restored.

Then, when the hour came to draw away the flag that veiled the Statue's face, everyone's heart swelled and it seemed as though the sky had become covered with a canopy of eagle wings. People rushed to the boats as impatiently as would bridegrooms. Even the steamers, dressed to look like great wreaths, seemed to smile, chatter and bustle about as merrily as girls at a wedding feast.

From the time the parade was over, until dusk brought an end to the celebrations on the island where the monument stands, New York City and its bay were like one great cannon volley, a ringing of bells, a column of smoke. . . .

How the people roared when their president, who has come up as they had from the worker's bench, stepped into the official launch to go and accept the image in which every man seems to see himself redeemed and uplifted!

At the grandstand the commander-in-chief of the American Army called in vain for silence, waving his black three-cornered hat.

President [Grover] Cleveland seemed entirely worthy of speaking in her presence. His style too has marrow, his accent is sincere, his voice warm, clear and powerful. He suggests more than he explains. He said such broad lofty things as sound well before a monument. His left hand rested on the rostrum rail, his right he sank under the lapel of his frock coat. His glance had that challenge which becomes honest winners.

His words brought forth applause not so much for the pompous phrase and commanding gesture, as for their vibrating tone and sound sense. If the Statue could be melted into words, they would say the same: "This token of the love and esteem of the French people proves the kinship between republics and assures us that we have a firm ally across the Atlantic in our efforts to recommend to all men the excellence of a government built on the will of the people." "We are not here today to bow our heads before the image of a war-like and fearful god, full of wrath and vengeance, but to contemplate joyfully our own goddess guarding the gates of America, greater than all those the ancient worshiped, a goddess who, instead of wielding the bolts of terror and death, raises to heaven the beacon that lights the way to man's emancipation." The long applause that rewarded this honest man came from loving hearts.

Then a bishop appeared on the rostrum. He raised an age-bitten hand; all around the men of genius and of power stood up. There was a magnificent silence while he blessed in the name of God the redeeming Statue. Guided by the bishop the audience intoned a slow, soft hymm, a mystic doxology. A sign from the top of the torch indicated the ceremony was over.●

NAUM AND INNA MEIMAN: REFUSENIKS SEEK TREATMENT FOR CANCER

● Mr. SIMON. Mr. President, the National Institutes of Health estimates that in 1986 alone, 930,000 people in the United States will be stricken with cancer. Four out of ten of these people will be alive after 5 years if their cancer is diagnosed early enough and they receive proper medical treatment.

Mr. President, this is an alarming figure, but even more shocking is the plight of Soviet cancer victims who are not allowed to seek advanced medical treatment. Cancer is a terrible disease, but in the United States victims have the opportunity to obtain proper medical care and the freedom to go to other countries, if necessary, to receive experimental treatment. My friends, Naum and Inna Meiman, have been denied that right.

Inna Meiman is dying of cancer. She and her husband, Naum, desperately want—and need—to leave the Soviet Union so they may seek alternative medical treatment for Inna. Inna has had four hazardous operations, but her tumor continues to grow and her pain continues to increase. Soviet doctors have said there is nothing more they can do for her, and while she has received invitations from several American, European, and Israeli cancer institutes, Soviet authorities continue to deny her permission to emigrate.

Cancer victims have to bear enough pain and suffering because of their disastrous illness. They should not have to be aggravated by the stressful life of refuseniks. I strongly urge the Soviet authorities to grant Naum and Inna permission to emigrate to Israel.●

ORDER OF BUSINESS

Mr. DOLE. Mr. President, let me indicate that there will be no more rollcall votes this evening and also, the distinguished minority leader earlier gave me a comprehensive agreement which I have looked at and made some changes, but for the most part, it is still that agreement. It is rather lengthy and I think in the interest of our health and time and a few other things, we are going to put off further private consideration of that until tommorrow morning.

I thank the distinguished minority leader for his assistance. It seems to me we are getting closer and closer. We now have, I think, a list of all the amendments on both the Contra and South Africa issues on our side, which we shall deliver to the distinguished minority leader.

ORDERS FOR FRIDAY

RECESS UNTIL 8:45 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 8:45 a.m. on Friday, August 8, 1986.

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

LEADERSHIP TIME

Mr. DOLE. Following the recognition of the two leaders, I ask unanimous consent that if not used, the time of the majority leader be reserved and the time of the distinguished minority leader be allocated to the distinguished Senator from California [Mr. CRANSTON].

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

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. I ask unanimous consent that there be special orders in behalf of Senators HAWKINS, PROXMIRE, BAUCUS, and HUMPHREY for not to exceed 5 minutes each.

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

ROUTINE MORNING BUSINESS

Mr. DOLE. Following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 9:15 a.m. with Senators permitted to speak therein for 5 minutes each.

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

PROGRAM

Mr. DOLE. Mr. President, at 9:15, we will be back on the DOD authorization bill. At 9:45, unless otherwise provided, under the provisions of rule XXII, a live quorum will begin, to be followed by a cloture vote on the Byrd amendment to the DOD authorization bill. I visited with both managers of the DOD authorization bill before they left. They are very optimistic that they can complete action on the DOD

authorization bill at a reasonable hour tomorrow.

Based on the hours we have been staying, reasonable would be any time before midnight, but they are hoping it will be in the afternoon—daylight at least. They believe that with the agreement with the Senator from Massachusetts [Mr. KERRY] on the Asat amendment and one other rather major amendment, they can dispose of a number of the other amendments in rather rapid order.

As the distinguished minority leader pointed out earlier, following the cloture vote on his amendment, in any event, we could have a vote on the DOD authorization bill itself.

I think with the progress that has been made, I would be willing at this time to withdraw that cloture motion if there is no objection.

The PRESIDING OFFICER. Is there objection heard?

Mr. HARKIN. Reserving the right to object, I want to understand what I just heard. Is the distinguished majority leader trying to get unanimous consent to withdraw the cloture petition that was filed yesterday on the DOD bill? Reserving the right to object, I would like to have an explanation of why. I think that ought to sit there. It was filed. It ought to sit there.

Mr. DOLE. What we are trying to do is complete action on the DOD authorization bill and the purpose of that was, as I said earlier, to speed up the handling of amendments. We have had a very good day. As I have noted, I think there have only been about two or three periods where we had any quorum calls all day, so they have been going just as rapidly as they could. I am advised by both managers that they really believe they can finish tomorrow and, therefore, it is my judgment at this time that cloture, even if it were invoked, would probably not speed up the process.

Mr. HARKIN. I again wonder if this might not be taken up again tomorrow morning, seeing what the agreement is like. If an agreement is reached, then maybe all those things can be vitiated at that time.

Mr. DOLE. I think the problem is going to be that there is only a 15-minute period between the time we go on the DOD bill until the first cloture vote is to occur on the Byrd amendment. If we should postpone that, if Senator BYRD should ask that be postponed, we would still have the other cloture vote. And it is going to take, in my opinion, probably an hour to get the unanimous-consent agreement because we are dealing with a rather lengthy agreement, with a total of some 70 amendments. We can raise it again tomorrow morning if the Senator prefers.

Mr. HARKIN. Again, the unanimous-consent request was to vitiate the cloture petition that was filed yesterday on the DOD bill that would ripen tomorrow.

Mr. DOLE. That is correct.

Mr. HARKIN. I have no objection.

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

Mr. BYRD. I would make this suggestion to the distinguished majority leader. It would seem to me that the two cloture petitions that remain could very well be put later in the day because even without any problems in connection with the agreement that we are working on, they would have to be delayed. It is going to take more time than the time that we will have under the order that has been entered by the distinguished majority leader. He may want to think now of delaying those beyond the hour of 9:45. Of course, he will have to do that in any event as I see it.

Mr. DOLE. I know it would certainly please the manager if they could come in and start working on the bill, and it is going to take, I would say, probably private discussions of another hour with the two of us and other Senators and an hour getting the agreement. It would seem to me we could postpone those votes until 1 p.m.

Mr. BYRD. I do not think that the distinguished majority leader will lose any time or any advantage or that anybody will gain any advantage by differing therefrom. Under the distinguished majorty leader's proposal that action on the first cloture motion under rule XXII be delayed until 1 p.m., I do not think the majority leader will lose any time or any advantage. I think it will work to the advantage of all. It would certainly give us more time to work on the agreements, and it will allow the managers of the DOD bill to proceed earlier with action without threat of cloture votes hanging over them.

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

Mr. DOLE. Now, is it necessary to make the same request for the other cloture vote? Would it also be postponed?

The PRESIDING OFFICER. They would both be postponed under the request.

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move we stand in recess until 8:45 a.m. Friday, August 8, 1986.

The motion was agreed to, and 11:51 p.m., the Senate recessed until Friday, August 8, 1986, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate August 7, 1986:

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Frank C. Carlucci, of Virginia, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice William Robert Graham.

DEPARTMENT OF AGRICULTURE

W. Kirk Miller, of Wisconsin, to be Administrator of the Federal Grain Inspection Service, vice Kenneth A. Gilles.

VETERANS' ADMINISTRATION

Thomas E. Harvey, of the District of Columbia, to be Deputy Administrator of Veterans' Affairs, vice Everett Alvarez, Jr., resigned.

FOREIGN SERVICE

The following-named persons of the agencies indicated for appointment as Foreign Service officers of the classes stated, and also for the other appointments indicated herewith:

For appointment as Foreign Service officers of class 1, consular officers, and secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Charles Harold Antholt, of Maryland.
Francis William Conniff, of Nevada.
Harry H. Houck, of New Jersey.
Ernest C. Kuhn, of Ohio.
Paul M. Scott, of Virginia.
Alejandro Sundermann, of Texas.
Robert Allan Van Horn, of Oklahoma.

For appointment as Foreign Service officers of class 2, consular officers, and secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF AGRICULTURE

Francis J. Tarrant, of Maryland.

DEPARTMENT OF COMMERCE

Robert S. Connan, of Pennsylvania.

AGENCY FOR INTERNATIONAL DEVELOPMENT

J. Wayne Butler, of Ohio.
Thomas Fenelon Cornell, of Ohio.
Thomas Lee Marr, of Virginia.
Elizabeth Smartt Flemister Martella, of New Hampshire.
Campbell S. McClusky, of California.
Barbara J. Spaid, of North Dakota.

For appointment as Foreign Service Officers of class 3, consular officers, and secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Robert D. Burkette, of Tennessee.
Joseph Hilliard, Jr., of Washington.
Quincy M. Krosby, of New York.
Mary Bland Marshall, of Virginia.
Janice Zeszutek Ogden, of California.
Leslie V. Rowe, of Washington.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Gary Flynn Fuller, of California.
James Van Den Bos, of Virginia.

U.S. INFORMATION AGENCY

Helen B. Picard, of California.

For appointment as Foreign Service officers of class 4, consular officers, and secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Richard Alan Albright, of Ohio.
Rudolph Frederick Boone, of Florida.
Thurmond H. Borden, of Texas.
Marc Daly Carlisle, of North Dakota.

William Robert Carlson, of Massachusetts.
Lisa A. Carty, of New Jersey.
Michael J. Delaney, of Illinois.
John Frederick DeVleming, of Washington.
Bruce E. Donahue, of Indiana.
David Ross Dreher, of Texas.
Henry S. Ensher, of California.
Kaara Nicole Ettesvold, of the District of Columbia.
Jerome Thomas Farrell, of California.
Mark Foulon, of Washington.
Gordon Gray III, of Nebraska.
Blair Parks Hall, Jr., of the District of Columbia.
Eigil Valdemar Hansen, of New Jersey.
Karl William Hofmann, of California.
Pete Kazuhiko Ito, of California.
Gerard J. Jackson, of Pennsylvania.
Craig Mallory Karp, of Washington.
David J. Keegan, of Florida.
Leonard A. Kusnitz, of Connecticut.
Beverly A. LaVigne, of California.
Sally L. Lindover, of New York.
Cheryl Ann Martin, of Connecticut.
Karen E. Martin, of Washington.
Michael Anthony Matera, of California.
James Edward Maxstadt, of Indiana
James Aidan McVerry, of Connecticut.
Lloyd Woodson Moss, of Florida.
Stephen D. Mull, of Pennsylvania.
Bruce Richard Nelson, of Minnesota.
Gregory Eugenio Phillips, of Virginia.
Kenneth John Pitterle, of California.
Eileen Jane Quinn, of New Mexico.
Charles Aaron Ray, of Texas.
Christopher R. Riche, of Washington.
James Milnor Roberts III, of Florida.
Jack D. Robinson, of Washington.
Theorphilus James Rose, of Florida.
Daniel A. Russell, of Maine.
Claudia H. Serwer, of New York.
Frederick A. Smith, of California.
Eugene P. Sweeney, of Massachusetts.
Linda Thomas-Greenfield, of Louisiana.
Paul G. Wickberg, of Oklahoma.
Robert Cantrell Wood, of South Carolina.
Allen William Yale, of Connecticut.
Thomas Michael Young, of California.
Jack M. Zetkulic, of New Jersey.

U.S. INFORMATION AGENCY

Pendleton Clark Agnew, of Virginia.
Russell A. Bikoff, of New York.
Lynn L. Cassel, of Alaska.
Peter R. Claussen, of South Dakota.
Paul Denig, of New Jersey.
James Crosby Dickmeyer, of Iowa.
Alberto M. Fernandez, of Florida.
Gregory Lawrence Garland, of Florida.
Mary Ellen T. Gilroy, of New York.
Roy A. Glover, of South Dakota.
Adrienne S. O'Neal, of Louisiana.
Hilary Olsin-Windecker, of California.
Elizabeth B. Pryor, of New Jersey.
Donald E. Terpstra, or Texas.
Kathleen Ann Tormey, of California.
Dennis Spencer Wolf, of Ohio.

The following-named members of the Foreign Service of the Departments of State and Commerce, the Agency for International Development, and the U.S. Information Agency, to be consular officers and/or secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular officers and secretaries in the Diplomatic Service of the United States of America:
Carlton Louis Ames, of Florida.
Dale R. Avery, of Pennsylvania.
Joanne Martin Baldonado, of California.
Lora Jane Berg, of New York.
Joan Callahan Bigge, of California.
Nicholas Stephen Bouras, of New Jersey.
Nikki Brajevich, of California.
Sue Lenore Bremner, of California.
Kelly W. Brimhall, of Virginia.
Krystin Lynn Buckey, of Ohio.
Vincent Paul Carver, of Connecticut.
Ralph Dominick Chiocco, of Florida.
Katherine Christensen, of Texas.
Colin Michael Cleary, of New York.
Dawn M. Cooper-Bahar, of Maryland.
Robert Lawrence Daly, of New York.
Robert Lawrence Dance, of Ohio.
David Bryan Edwards, of New Jersey.
Crayon Cornelius Efird, of North Carolina.
Barbara Jean Euser, of Colorado.
David R. Gilmour, of Texas.
Zachary Robb Greenhill, of New York.
Jay P. Gurian, of Hawaii.
Patrick M. Hailey, of Virginia.
Sylvia Lorrain Hammond, of California.
Patricia Ann Havasy, of Virginia.
Danny R. Hildreth, of Virginia.
Jeffrey Martin Hill, of Maryland.
Jeffrey A. Hoover, of Virginia.
Edward Bruce Howard III, of Maine.
Paul Jerome Howard, of Washington.
Jean Anne Winkler Hudder, of Kansas.
Anthony Alonzo Hutchinson, of Washington.
Michael J. Jacobsen, of Maryland.
David Wade Jenkins, of Pennsylvania.
Kathy A. Johnson, of Illinois.
William E. Jones, of Virginia.
Sandra L. Kaiser, of California.
Edward Arthur Kemp, of Massachusetts.
Morgan Adele Kennedy, of Texas.
Marie L. Kish, of Virginia.
William Speer Kuhn III, of Connecticut.
Thomas M. Leary, of the District of Columbia.
Theresa Leech, of Michigan.
Douglas H. London, of New York.
John B. Long, of the District of Columbia.
John M. Louton, of Washington.
Joseph Estey MacManus, of New York.
Megan M. McCall, of California.
M. Lee McClenny, of Washington.
Elizabeth Barkalow McGaffey, of California.
Raymond Gerard McGrath, of Virginia.
Jeffrey A. Miotke, of California.
Calvin Arthur Mitchell III, of New York.
Michael K. Morrow, of Michigan.
Rachel Norniella, of Florida.
Lee Young-Eun O'Donnell, of California.
Paul Christopher O'Friel, of Virginia.
Francisco Luis Palmieri, of Connecticut.
Alison Pentz, of Virginia.
Marcie Ellen Porter, of the District of Columbia.
Linda Louise Powers, of Connecticut.
Robert Powers, of California.
Enrique A. Pardo, of Florida.
Jean Ellen Preston, of New Jersey.
Evelynn Ululani Putnam, of Maryland.
Patricia Raikes, of Iowa.
Edward James Ramotowski, of Connecticut.
Susan A. Sutton Robinson, of Maryland.
Daniel F. Romano, of Washington.
Karen E. Runge, of Virginia.
Norma D. Scott, of Virginia.
David R. Siefkin, of California.
Robert A. Sorenson, of New Jersey.
Michael M. Steere, of Virginia.
Virginia Anne Canil Tadie, of Connecticut.
Thomas Edward Torrance, of California.
Mary Townswick, of Minnesota.
Katherine Rose Von Eckartsberg, of the District of Columbia.
Geraldine George Vought, of Florida.
Nancy R. Wade, of New York.
Roy S. Weatherston, of California.
Michael Q. Whitley, of Virginia.
Charles C. Wilson, of Texas.

Consular officers of the United States of America:
John J. Bodson, of the District of Columbia.
Renato L. Davia, of Texas.
Richard Vincent Groccia, of California.
Larry A. Moody, of the District of Columbia.
Frank W. Skinner, Jr., of Virginia.

Secretaries in the Diplomatic Service of the United States of America:
Johnny E. Brown, of South Carolina.
Robert J. Bucalo, of Pennsylvania.
David K. Diebold, of Virginia.
Paul W. Leinenbach, of New York.
John Andrew Martens, of California.
Harvey Michael Mears, of Ohio.
Earl J. Young, of Oklahoma.

IN THE NAVY

The following-named rear admirals (lower half) of the line of the Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

UNRESTRICTED LINE OFFICER

Roger Francis Bacon
Jerry Creighton Breast
Paul Donald Butcher
Guy Haldane Curtis III
Harry Kenneth Fiske
Raymond Paul Ilg
Jerome Lamarr Johnson
Robert Joseph Kelly
Robert Kalani Uichi Kihune
Henry Herrward Mauz, Jr.
William Tyler Pendley
James Guy Reynolds
Dean Reynolds Sackett, Jr.
James Michael Gleason Seely
John Frederick Shaw
Hugh Larimer Webster
John Raymond Wilson, Jr.

RESTRICTED LINE—ENGINEERING DUTY OFFICER

Malcolm Mackinnon III
Kenneth Cornelius Malley

RESTRICTED LINE—AERONAUTICAL ENGINEERING DUTY OFFICER

John Clark Weaver

The following-named rear admirals (lower half) of the U.S. Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

CIVIL ENGINEER CORPS

Arthur William Fort
Frederick Guyer Kelley

The following-named rear admirals (lower half) of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral in the line and staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICERS

John Edward Love
John Dennis Summers

AERONAUTICAL ENGINEERING DUTY OFFICER (AERONAUTICAL ENGINEERING)

Clay Wayland Gordon Fulcher

SPECIAL DUTY OFFICER (CRYPTOLOGY)

William Joseph Miles

SPECIAL DUTY OFFICER (INTELLIGENCE)

Robert Patrick Tiernan

MEDICAL CORPS OFFICERS

John Duncan Tolmie
James Glen Roberts

DENTAL CORPS OFFICER

Edward John O'Shea, Jr.

JUDGE ADVOCATE GENERAL'S CORPS OFFICER

Robert Edward Wiss

CHAPLAIN CORPS OFFICER

John Joseph Hever

IN THE AIR FORCE

The following-named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

Gen. Andrew P. Iosue [redacted] FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code section 601:

To be lieutenant general

Maj. Gen. Thomas J. Hickey, [redacted] FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. John A. Shaud [redacted] FR, U.S. Air Force.